

In my 2 years in the Senate, the Ronnie White vote, led by Senator Ashcroft's decision to use the Republican caucus to kill the nomination, was the bleakest, most divisive and destructive moment I have experienced in my short stay in the Senate. It was a moment utterly lacking in—to use our President's words in his inaugural—civility, courage, compassion, and character.

But the Ronnie White nomination was just the most visible attempt by Senator Ashcroft to kill a nomination. The list goes on and on: Fletcher, Satcher, Lann Lee, Morrow, Sotomayor, Paez, Dyk, Lynch, Hormel—and there are others.

In just one term in the Senate, Senator Ashcroft devoted himself to opposing—and when possible scuttling and derailing—any nominee, no matter how well qualified and respected, who was in some way objectionable to his world view. It is virtually an inescapable conclusion that with the new power he would have over the selection of judges, Senator Ashcroft would seek out those who agree with his passionate views on choice and civil rights, on a separation of church and state, and gun control, among other issues, when he reviews judges.

I urge my colleagues to read the short article called “Judicial Despotism” that Senator Ashcroft wrote a few short years ago. This was not something written 25 years ago when he was a young man forming his views. In “Judicial Despotism,” he vows to stop any judicial nominee who would uphold *Roe v. Wade*. Nothing could be more results oriented. In the hearings, Senator Ashcroft said he would be law oriented, not results oriented, but this is as results oriented as it gets.

If he is confirmed, I pray that more moderate souls prevail in the selection of judges. But as it now stands, this nomination poses an enormous threat to the future of the Federal judiciary, and I would oppose the nomination for that reason alone.

As I said when I started, this is a sad day—not a day for exultation, for happiness, for parades. It is sad when the Nation is divided. It is sad when a man who has served so long is the focal point of such intense opposition. It is sad when those of us who want to support a new President cannot. It is sad when, as a nation, a nation trying to bind itself together, we find salt thrown in those wounds.

I just hope, and I believe, that we will have better days to look forward to.

Mr. President, I yield the floor.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

#### PROVIDING FOR AN ADJOURNMENT OF THE HOUSE OF REPRESENTATIVES

Mr. HATCH. Mr. President, as in legislative session, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 18, an adjournment resolution, which is at the desk. I further ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from West Virginia reserves the right to object.

Mr. BYRD. I thank the Chair. What are the terms of the adjournment resolution?

The PRESIDING OFFICER. The clerk will report the resolution.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 18) providing for an adjournment of the House of Representatives.

Mr. HATCH. It only affects the House and takes them out until next Tuesday.

Mr. BYRD. I thank the Senator. I have no objection.

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

The concurrent resolution (H. Con. Res. 18) was agreed to, as follows:

#### H. CON. RES. 18

*Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Wednesday, January 31, 2001, it stand adjourned until 2 p.m. on Tuesday, February 6, 2001.*

#### NOMINATION OF JOHN ASHCROFT TO BE ATTORNEY GENERAL OF THE UNITED STATES—Continued

The PRESIDING OFFICER. The Senator from West Virginia, Mr. BYRD, is recognized.

Mr. BYRD. I thank the Chair.

Mr. President, I daresay that each of us has received an enormous amount of correspondence and a plethora of phone calls about the nomination of Senator John Ashcroft to be Attorney General of the United States.

The favorable correspondence tends to emphasize support for the Senator's policy priorities and appreciation of his reputation for honesty and integrity.

The unfavorable correspondence tends to emphasize concern about the Senator's policy priorities and disapproval of the standards that he applied as a United States Senator and in previous offices that he held, but particularly to the standards he applied with regard to the disposition of Presidential nominations.

Mr. President, I speak today for myself as a Senator from the State of West Virginia, as one who has sworn an oath 16 times to support and defend the Constitution of the United States

against all enemies foreign and domestic.

I have heard arguments pro and con with respect to this nomination. I am not here to argue the case at all. I am here merely to express my support for the nomination of John Ashcroft to be Attorney General of the United States. I will not fall out with anyone else who differs from my views. As I say, I am not here to debate my views. I know what my views are. I am going to state them, and they will be on the record. I do not fault anyone else on either side of the aisle or on either side of the question. This is for each Senator to resolve in his or her own heart and in accordance with his or her own conscience.

With respect to that provision in the U.S. Constitution, investing in the U.S. Senate the prerogative, the right, and the duty of advising and consenting to nominations, I find no mandate as to what a standard may be. I am not told in that Constitution that I can or cannot apply a standard that is ideological in nature. I have no particular guidance set forth in that Constitution except exactly what it says. And I am confident, without any semblance of doubt, that as far as ability is concerned to conduct the office of Attorney General, there can be no question about Senator John Ashcroft's ability to conduct that office.

He has held many offices. He has been a Governor of the State of Missouri. He has been a United States Senator. He has been an attorney general of the State of Missouri and, as I understand it, he has been the chairman—I may not have the title exactly right—of the National Association of Attorneys General of the United States. These are very important offices. They are high offices. They are offices that reflect honor upon the holder thereof.

To have been selected for these high offices, John Ashcroft must have enjoyed the respect and the confidence of the people of Missouri and of his colleagues, other Attorneys General throughout the United States.

I, myself, do consider ideology when I consider a nominee, for this office, Attorney General, and in particular for the offices of Federal district judgeships or appellate judgeships, and U.S. Supreme Court Judgeships; yes, I do. I apply my own standards of ideology, and lay them down beside the record, if there be such, of a nominee. And I may reach a judgment based on ideology.

I have no problem with others who want to apply the criterion of ideology. I have no problem with those who say it should not be applied. This is for each Senator to determine.

It is our understanding, based on Senator Ashcroft's record, certainly based on news reports, and other sources from which we might reach a judgment, that Senator Ashcroft is a conservative. I personally have no problem with that. I consider myself a conservative in many ways; in some ways a liberal.

This nomination has been heatedly debated. There have been great and strong passions exhibited. That is all right. I do not have any problem with that. I am glad that Members of the Senate take a matter such as this so seriously. We can feel strongly about these things.

I happen to be a Senator who believes that when it comes to judges, they ought to be conservative. I think that if there is going to be a department of our Government that wishes to be liberal, then that is up to the people, if they wish to elect persons with liberal outlooks, liberal philosophies, to the U.S. Senate or to the House of Representatives—the legislative branch. It is up to the people.

The Chief Executive may be a liberal; he may be a conservative; or he may be both liberal in one instance, conservative in another. Who knows what liberal is and what conservative is? The beauty is in the eye of the beholder—in many instances, certainly. But in my own eye, looking at ROBERT BYRD—and who can see ROBERT BYRD from within?

There is a poem—“Just stand aside and see yourself go by.” I try to look at myself every now and then, especially as I pass the mirror.

When you get all you want in your struggle for self

And the world makes you “King” for a day  
Then go to a mirror and look at yourself  
And see what that guy has to say.  
For it isn't your father, or mother, or wife  
Whose judgment upon you must pass  
The fellow whose verdict counts most in  
your life

Is the [man looking] back from the glass.

But as I see myself, I consider myself to be a liberal on economic matters, generally; and a conservative on social matters. Newspapers indicate that the vehemence of the opposition to this nomination is, in a measure, for the purpose of sending a “shot across the bow” of the Executive, so that in the future when it comes to Supreme Court nominations, the President will be very careful not to send up a conservative.

I do not have a very big gun, but my little shot across the bow would be: Mr. President, send us conservative judges. That is the one department of the Government that I think should be conservative. It should not make the laws. It should not consider itself a perpetual and traveling constitutional convention. It should construe the Constitution and the laws that the legislature makes.

The President was elected as a conservative. He did not get my vote, but he was elected as a conservative. I think that when it comes to the appointment of Federal judges, I hope he will nominate conservatives. That is what he ought to do. He told the people he was conservative; and they should expect that of him.

But entirely aside from that—and this Senator speaks only for himself in this regard—I think appointments to the Federal bench should be of a conservative bent. Judges have no business trying to make the laws.

As far as I am concerned, any other Senator may apply his own standards and say whatever he wants to. I only have to answer for one person, and that is the old boy looking back from the glass when I pause in front of the mirror.

I have heard no Senator indicate opposition to the nominee on the basis of the nominee's religion. I have heard none. But there have been a few little insinuations in some newspapers, in the columns, to the extent that part of the opposition to this nominee may be on the basis of his being a Christian, his adhering to the Christian religion.

Mr. President, I salute the nominee for being someone who has a religion. I think more public officials should have a strong religious bent, and should be willing to enunciate their faith, whether it be Methodist, Jewish, Catholic, Muslim, Baptist, whatever. That is fine.

I am glad that there are people who bring to the realms of government a religious faith. We need more of that. One does not need to be driven into the closet because he has religious faith. One should not allow himself to be driven in the closet. I do not attempt to foist my faith on others, but I can listen to any of them when it comes to their prayers. I can listen—listen—with respect, and I can hear what they say.

I have a son-in-law who is from Iran. He grew up in a family of devout Muslims. Five times a day did my son-in-law's father look toward Mecca and pray. I could have no better son-in-law, none better. I am proud of him. It does not matter to me what a man's religion is. It matters more that he has a religion. It is like the rules of the Senate. It does not matter so much what a rule of the Senate is. What matters most is that there be a rule to go by.

In this regard, I remember the beginning days of the Continental Congress in 1774. That First Continental Congress met on September 5, 1774. The next day, one of the members—it may have been Cushing or Clark, Cushing of Massachusetts or Clark of New Jersey—stood to his feet and moved that there be prayer at the beginning of each session. John Jay, who was an orthodox Congregationalist, objected, as did, I believe, John Rutledge of South Carolina, objected on the basis that this might cause some dissension, some argumentation, so on.

Whereupon Samuel Adams—the real firebrand of the Revolution, along with Patrick Henry—stood to his feet and said: I am no bigot. I can hear a prayer by any of them.

He, too, was a Congregationalist. I could listen to any of them, Adams said. “I move that Mr. Duche, an Episcopalian clergyman, desired to read prayers to the Congress tomorrow morning.”

I feel the same as did Samuel Adams. I can listen to any of them. We all stand before one God, and he will be our judge. Whether I am a Methodist or Baptist or Episcopalian or Catholic or

Jew won't put me at the head of the line. It is my belief in that Creator, the use of my talents as he gave them to me, and my own conscience that will count.

I am for Mr. Ashcroft. I praise him, if he has a religion that he is willing to stand up for. I am not suggesting that he is going to use that in one way or the other as he has to deal with problems that will come before him as Attorney General, but I would much rather believe a man who puts his hand on that Bible and swears to support and defend the Constitution of the United States against all enemies foreign and domestic, I would feel safer believing that that individual will adhere to his oath than I will have faith in an individual who has no manifestation of religion whatsoever or who has no religion.

Here is a man who puts his hand on the Bible, the book our fathers and mothers read, and swears an oath before Almighty God and man. When he says that while he was a Senator he enacted laws but when he becomes Attorney General he won't enact laws any longer, he will enforce the laws, I should think that it would be cynical not to take that man at his word. What else can we demand? A pound of flesh?

I take him at his word. He is a conservative. I am a conservative. He may be to my right on some issues. That is neither here nor there. He will have sworn that he will uphold, support, and defend the Constitution, that he will enforce the law as he found it. I shall believe him.

I wonder if Hugo Black would be confirmed by the Senate in today's political environment. He was confirmed by the United States Senate prior to the revelation that he had been a member of the Ku Klux Klan. He had already been confirmed before that revelation appeared in the Hearst papers in 1937. That is the year in which I married my wife, Erma, 1937. He had already been confirmed.

But there was an effort to have the Supreme Court reject him after that information came to light, but the Supreme Court denied that petition. I am sure that in light of his past, had it been known when the Senate confirmed him, Hugo Black may never have had the opportunity to be the great jurist that he became. So we cannot always look at a person's past and make an accurate judgment. And who am I to look at anybody's past? Look at my own. Someone has said that no man's past will bear looking into. I think it is probably true.

We are talking here in regard to Mr. Ashcroft's past positions on various issues. But when he took those positions, he took them not as Attorney General of the United States, not as one who enforces the laws of the United States.

As a legislator now for 54 years, going on 55, I have taken many controversial positions on issues. I think I would be constitutionally capable of

putting aside my opinions, as I have expressed them in the past—and many of mine have been very strongly expressed—I would be capable, I would like to think, of putting those aside and enforcing the laws of the land without fear or favor, hewing to the line, if called upon to be the Attorney General of the United States. It was never a job I would want. I think Mr. Ashcroft can do that.

The Constitution merely states that the President shall appoint public ministers with the advice and consent of the Senate.

As I say, this is not a specific standard, nor even a mandate to review particular features of the nominee's background or capabilities. Rather, we are enjoined to employ our judgment, a faculty which—however much we may lament it—focuses on different factors in considering nominees for different public offices and varies its approach in response to the needs of the times. Thus, when it comes to our duty to provide advice and consent on Cabinet nominations, we are plainly in an area where reasonable minds can differ, not only about the criteria, but even about the proper result given particular criteria. No amount of pressure politics—and no slickly packaged talking points—can alter this fundamental fact.

I do not subscribe to the view that, barring the taint of criminality or dishonesty, the President is entitled to have his nominations confirmed. I do not subscribe to that view. That is not what the Constitution says. I do subscribe to the view that law enforcement officials of good will and ability can separate their policy preferences from the performance of their official duties.

There is a distinct difference between the role of a Senator as the drafter of laws and the role of the Attorney General as the enforcer of laws. Once Senator Ashcroft places his left hand on the Bible and swears to uphold the laws of the United States, he will be required to enforce even those laws about which he harbors serious reservations. Not only that, but given the fact that John Ashcroft is as I said, is reputed to be a deeply religious man.

I know not whether he is or isn't. I have never been one who has been close to Mr. Ashcroft. I never served on any committee with him. My conversations with him have been very, very few.

He and I have not voted alike on many occasions. So I don't come here today supporting Mr. Ashcroft because I know him well, or because we have been bosom friends, or because we served on committees together, or even because he is a U.S. Senator. But I believe that that solemn vow will be taken seriously by him.

I am attempting to discharge my duty under the Constitution. That is the way I see it.

Let me quote Senator Ashcroft's own words on that subject: "As a man of faith, I take my word and my integrity

seriously," he said. "So, when I swear to uphold the law, I will keep my oath, so help me God."

What more can I ask? Shall I go behind these words and dig up what he might have written on this subject or that subject? Those who feel differently may do so. But in this case, all things being considered, I have reason to believe that when he says he is a man of strong religious faith, he means what he says when he takes the oath. I believe him.

During his confirmation hearings, he stated that he understands this obligation and fully intends to honor it. For example, he indicated that he "will vigorously enforce and defend the constitutionality" of the law barring harassment of patients entering abortion clinics, despite any misgivings he might have about that law.

I take him at his word. Although, I do not agree with all of Senator Ashcroft's views, as I have already indicated, I have no cause to doubt Senator Ashcroft's word or his sincerity regarding his fealty to an oath he will swear before God and man.

As far as I am personally concerned, it would be an act of supreme arrogance on my part to doubt his intention to honor such an oath. I will not prejudge him in such a manner.

Given Senator Ashcroft's background, the position to which he has been nominated, and his assurances to the Senate that he will faithfully uphold the laws of the United States, I believe he should be confirmed.

I yield the floor, Mr. President.

The PRESIDING OFFICER: The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, thank you.

Mr. President, we have heard a lot said by my Republican friends and others that Senator Ashcroft's nomination is opposed by "hard left" or "extremist" groups who are "far out of the mainstream" of American politics. I see a pretty broad group here in these extreme or out of the mainstream groups. I will read for the RECORD the names of those who oppose this nomination.

Alliance for Justice, AFL-CIO, American Federation of Teachers, American Federation of State, County and Municipal Employees, American Jewish Congress, Americans United for Separation of Church and State, Asian Pacific American Labor Alliance, Baptist Joint Committee, California Teachers Association, Campaign for Tobacco Free Kids, Coalition to Stop Gun Violence, Friends of the Earth, General Board of Global Ministries of the United Methodist Church, Handgun Control, Hispanic Bar Association of the District of Columbia, The Interfaith Alliance, Japanese American Citizens League, Justice Policy Institute, Leadership Conference on Civil Rights, National Asian Pacific American Legal Consortium, National Consumers League, National Council of Ju-

venile and Family Court Judges, National Education Association, National Rehabilitation Association, National Voting Institute, Organization of Chinese Americans, Inc., Sierra Club, United Auto Workers, US Action, Victims Rights Political Action Committee, Violence Policy Center, Youth Law Center.

I ask unanimous consent that this more complete list of the organizations and individuals opposing this nomination be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GROUPS OPPOSED TO THE NOMINATION OF JOHN ASHCROFT

AIDS Action, AFL-CIO, Alliance for Justice, American Association of University Women, and ACLU.

American Federation of Teachers, American Federation of State, County and Municipal Employees, American Jewish Congress, Americans for Democratic Action, and Americans United for Separation of Church and State.

Asian Pacific American Labor Alliance, Baptist Joint Committee, Bar Association of San Francisco, California Teachers Association, and Campaign for Tobacco Free Kids.

Center for Reproductive Law and Policy, Coalition to Stop Gun Violence, Common Cause, Common Sense for Drug Policy Legislative Group, and Democracy 21.

Earth Justice Legal Defense Fund, Feminist Majority, Friends of the Earth, General Board of Global Ministries of the United Methodist Church, and Handgun Control.

Hispanic Bar Association of the District of Columbia, Human Rights Campaign, The Interfaith Alliance, Japanese American Citizens League, and The Justice Policy Institute.

Lambda Legal Defense and Education Fund, Inc., Lawyers Committee for Civil Rights Under Law, Leadership Conference on Civil Rights, Mexican American Legal Defense and Educational Fund, and Missouri Legislative Black Caucus.

Mound City Bar Association, NARAL, NAACP, National Office, NAACP, St. Louis Branch, and NAACP, Mississippi State Conference.

National Abortion Federation, National Asian Pacific American Legal Consortium, National Asian Pacific American Bar Association, National Association of Criminal Defense Lawyers, and National Black Women's Health Project, Inc.

National Coalition Minority Businesses, National Consumers League, National Council of Jewish Women, National Council of Juvenile and Family Court Judges, and National Education Association.

National Family Planning and Reproductive Health Association, National Voting Rights Institute, NOW Legal Defense Fund, National Partnership for Women & Families, and National Rehabilitation Association.

National Task Force on Violence Against Health Care Providers, National Voting Institute, National Women's Law Center, Organization of Chinese Americans, Inc., and People for the American Way.

Physicians for Social Responsibility, Planned Parenthood, Public Campaign, Rainbow Push Coalition, Religious Coalition for Reproductive Choice, and St. Louis Black Leadership Roundtable.

Schiller Institute, Sierra Club, Texas Legislative Black Caucus, UAW, US Action, and Victims Rights Political Action Committee.

Violence Policy Center, Voters for Choice, Wisconsin Legislative Black & Hispanic Caucus, Women's International League for

Peace and Freedom, Women's National Democratic Club, and Youth Law Center.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, when the roll is called on the nomination of John Ashcroft to Attorney General of the United States, I will vote "no."

The position of Attorney General is not comparable to other Cabinet positions. As head of the Department of Justice, the Attorney General has enormous independent responsibility and authority, neither of which is subject directly to direction by the President.

The Attorney General also has enormous discretion in choosing where to use the power to prosecute and when to go to court to assert the rights of the People. Historically, the Attorney General is the officer who has enforced the Voting Rights Act and the other civil rights laws which have transformed our nation for the better in the last half century.

Given the great power which has been lodged in this office, it is important that the American people have confidence in the fairness and impartiality of the occupant of that office. It is clear to me that many in our country lack that confidence in John Ashcroft. His past actions and statements raise legitimate concerns about how he would carry out the duties of Attorney General. It is those legitimate concerns that lead me to oppose his nomination.

What are those concerns?

Other Senators have cited actions and statements which they find objectionable. I will mention three.

First, the decision to oppose Judge Ronnie White's nomination to the U.S. District Court for Missouri. In my view, the decision to oppose Judge Ronnie White was both unfortunate and unfair. Judge White's record and views were distorted in the debate on the Senate floor. Perhaps even more disturbing was the way in which Senator Ashcroft determined to oppose Judge White's nomination. Each of us here in the Senate knows that we have ample opportunity to voice objections about judicial nominees from our own state long before a nomination ever reaches the Senate floor. In the case of Judge White, Senator Ashcroft chose to delay serious objection to Judge White until the question came before the full Senate for debate. During that debate, Judge White, the highest ranking African-American jurist in Missouri, was publicly humiliated. This treatment was anything but fair. It was a sad day in the United States Senate.

A second reason for my opposition to Senator Ashcroft's nomination is his implacable opposition to the appointment of Bill Lann Lee to head up the Civil Rights Division at the Justice Department in the previous administration. Senator Ashcroft's opposition was clearly based on Mr. Lee's support for upholding the nation's laws as they

pertain to affirmative action. Mr. Lee testified that he would enforce the Supreme Court's rulings on affirmative action, including those that restricted affirmative action. Senator Ashcroft opposed Mr. Lee's nomination, presumably because he feared that Mr. Lee would actually uphold the law of the land in that regard.

The third reason for my vote will be Senator Ashcroft's opposition to James Hormel as President Clinton's choice to be Ambassador to Luxembourg.

I have never met Mr. Hormel. I was not involved in the committee deliberations on that nomination, but as far as I can determine, Mr. Hormel was opposed because of his admission that he is gay. No other credible explanation for opposing Mr. Hormel has been offered of which I am aware.

It is my view that the person entrusted with responsibility to fairly and evenhandedly administer the law should not be suspected of discriminating against any nominee on that basis.

Other actions and statements could be cited, but I will stop with those three. They are, in my view, legitimate concerns, and in my view those concerns require a vote against Mr. Ashcroft to be our next Attorney General. The position of Attorney General is far too important to our Nation. Our Nation is one that needs to be united rather than further divided at this point in our history. I do not believe he is the right person for this job.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. LEAHY. Mr. President, I ask unanimous consent to have printed in the RECORD a number of editorials regarding his nomination from the New York Times, USA Today, the Akron Beacon Journal, St. Louis Post-Dispatch, and the Pittsburgh Post-Gazette.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Jan. 27, 2001]

WHAT ASHCROFT DID

(By Anthony Lewis)

BOSTON.—Even some conservatives are embarrassed now by the way Senator John Ashcroft killed the nomination of Ronnie White to be a federal judge. He told his Republican colleagues that Judge White, of the Missouri Supreme Court, had shown "a tremendous bent toward criminal activity." It was a baseless smear.

But it was not just dirty politics. It was dangerous, in a way that casts doubt on Senator Ashcroft's fitness to be attorney general.

Judge White was attacked by Senator Ashcroft because, in 59 capital cases before

the Missouri court, he had voted 18 times to reverse the death sentence. In 10 of those 18 the court was unanimously for reversal. Senator Ashcroft hit at cases in which Judge White dissented.

For appraisal of Judge White's record in those cases I rely on Stuart Taylor Jr. of The National Journal, a conservative who is widely respected as a legal analyst. He wrote: "The two dissents most directly assailed by Ashcroft in fact exude moderation and care in dealing with the tension between crime-fighting and civil liberties."

One of the dissents was in a horrifying murder case—the murder, among others, of a sheriff. Mr. Taylor wrote that Judge White's "conclusion was plausible, debatable, highly unpopular (especially among police) and (for that reason) courageous. For John Ashcroft to call it 'pro-criminal' was obscene."

In short, a judge who wrote a thoughtful, reasoned dissent in a murder case was told that it disqualified him for a federal judgeship. Think about what that means for our constitutional system.

Judicial independence has been a fundamental feature of the American system for 200 years and more. We rely on judges to enforce the Constitution: to protect our liberties. But a judge who does so in a controversial case is on notice from John Ashcroft that he may be punished. The judge must reject the constitutional claim, however meritorious, or face a malicious smear.

There is a slimy feel to Senator Ashcroft's behavior with Judge White. One of the Republicans who voted against the judge at Senator Ashcroft's urging, Arlen Specter of Pennsylvania, told Judge White the other day, "the Senate owes you an apology." Commentators have urged Senator Ashcroft to apologize, but he has refused.

That same sense of slipperiness is evident in another matter: Senator Ashcroft's role in blocking the nomination of James Hormel to be ambassador to Luxembourg in 1998. Mr. Hormel is gay. Senator Ashcroft explaining his opposition, said Mr. Hormel "has been a leader in promoting a lifestyle," and that was "likely to be offensive" in Luxembourg.

But 10 days ago, when Senator Patrick Leahy, a Democrat of Vermont, asked whether he had opposed Mr. Hormel because he is gay, Senator Ashcroft replied, "I did not." Why, then, had he opposed the nomination? Senator Leahy asked.

"Well frankly," Senator Ashcroft replied, "I had known Mr. Hormel for a long time. He had recruited me, when I was a student in college, to go to the University of Chicago Law School [where Mr. Hormel was then an assistant dean]. . . . I made a judgment that it would be ill advised to make him an ambassador based on the totality of the record."

After that testimony, Mr. Hormel wrote Senator Leahy that he had not "recruited" Mr. Ashcroft or anyone to Chicago, which needed no recruiting; that he could recall no personal conversation with Mr. Ashcroft then and had not seen him for nearly 34 years. He added that he had asked to talk with Senator Ashcroft in 1998 about the Luxembourg nomination but had gotten no response.

Trying now to appear as someone who will act equitably to all, Senator Ashcroft was not man enough to admit that he had opposed Mr. Hormel because of his sexual orientation. He resorted instead to the false suggestion that he was well acquainted with Mr. Hormel over decades and his "record" was bad.

Supporters of Senator Ashcroft say it is improper to object to him because of his ideology—a president should be free to have cabinet members of whatever ideology he chooses. Even with the greatest latitude for

the cabinet, Senator Ashcroft's extreme-right politics make him a dubious choice for attorney general. But what makes him, finally, unfit for the job is that, in Stuart Taylor's words, "A character assassin should not be attorney general."

[From the USA Today, Jan. 26, 2001]

ASHCROFT RIGHTS RECORD BEARS CAREFUL WATCHING

OUR VIEW: HIS TESTIMONY SAID ONE THING; HIS RECORD ANOTHER

When Senate Democrats forced postponement of a vote Wednesday on a confirmation of John Ashcroft, it was less a victory than a delay of the inevitable. Ashcroft will be attorney general. But whether Ashcroft will perform that office's most vital role—protecting citizens against abuses of power they can't combat themselves—remains very much in doubt.

History has shown this to be the most lasting accomplishment of many attorneys general. Herbert Brownell Jr., who served Dwight D. Eisenhower, advised federal intervention when the doors to a Little Rock school were barred to the first black students. As John F. Kennedy's attorney general, Robert Kennedy led the government's fight against racial violence in the South. And most recently, Janet Reno worked to assure women their constitutional right to an abortion free from threat or violence.

There will be quick and ample opportunity for a confirmed Ashcroft to show such leadership on everything from voting to abortion rights. But the troubling questions remain: Will the nation get the man of measured views portrayed at his recent confirmation hearings? Or the ferocious ideologue who served in the Senate and as Missouri's attorney general and governor?

Ashcroft said all of the right things about being willing to uphold the law. But grudgingly upholding it and actively fighting for it are very different. Ashcroft's long public record raises questions about his commitment, which were enhanced at hearings last week when he distorted, evaded and strained credulity in key areas, particularly civil rights:

Fighting integration. Ashcroft has shown no inclination to fight for civil rights and indeed battled for years against a voluntary St. Louis busing plan that grew out of a lengthy court case. Assertions at last week's hearings that he favors integration were undercut when he twisted his own record.

Ashcroft told senators that Missouri was not a party to the desegregation lawsuit, that it was "found guilty of no wrong" and that when "the court made an order, I followed" it. All distortions. The state was sued in 1977, Ashcroft's first full year as attorney general. Judges repeatedly found state officials liable, once calling them "primary constitutional wrongdoers." A federal judge threatened contempt proceedings against the state for defying orders. And in 1984, another judge wrote, "if it were not for the state of Missouri and its feckless appeals, perhaps none of us would be here."

Meanwhile, according to news accounts, Ashcroft rode the case to higher office: He bragged about his unbridled opposition and the threatened contempt citation. And he ran a scathing TV ad suggesting that a GOP primary opponent was too soft on busing.

Insensitivity on race. Ashcroft's Missouri history doesn't mean he's an overt racist. Money was at issue as well as integration in the St. Louis case. But he certainly seems indifferent to minority concerns. Given ample opportunity to explain his acceptance of an honorary degree from Bob Jones University, a bastion of racial bias, and his praise for a neo-Confederate magazine,

Ashcroft offered limp evasions. He "should do more due diligence" on the magazine, he said, and he'll continue to speak at places here he can "unite people." That doesn't sound like a man who would use the power of his office to fight racial bias.

Ideology over justice. Ashcroft, who ferociously opposed several Clinton nominees with whom he differed ideologically, displayed no better sense of fairness even as he sought Senate approval.

He repeated his harsh attack on an African-American Missouri Supreme Court judge, whom he had labeled "pro-criminal." Ashcroft torpedoed the judge's 1999 nomination to the federal bench even though the judge voted to uphold 70% of the death sentences he reviewed. Also, Ashcroft evaded specific questions about opposition to Clinton nominee James Hormel as ambassador to Luxembourg. According to news accounts, Ashcroft criticized Hormel, a gay businessman, for supporting "the gay lifestyle."

Presidents get, and in most cases deserve, wide latitude to pick a top team that reflects their philosophy, but that comes with a price: They bear responsibility for their appointees' actions. President Bush, who can't afford to offend minority voters by abandoning civil rights, may hold tight rein on the Justice Department. Moreover, much will depend on those named to key jobs just below attorney general, particularly the department's civil rights chief. Those nominees deserve particular scrutiny.

Ashcroft himself faces several early tests of his commitment to fairness. He'll decide whether the U.S. government pursues allegations of voter discrimination in Florida in the presidential election. He'll help determine whether race has been used wrongly to draw new congressional districts nationwide. He'll play a major role in picking new federal judges and potentially Supreme Court justices. And he'll influence the nation's stand on future restrictions on abortion and on the use of race in government hiring and college admissions.

If Ashcroft indulges ideology over fairness, Bush will surely pay the price. But so, too, would Americans who most need the law's protection. That would be the real tragedy.

[From the Akron Beacon Journal, Jan. 24, 2001]

THE PRESIDENT'S MAN—THE UGLY STORY OF THE RONNIE WHITE NOMINATION REVEALS WHAT A DISAPPOINTING CHOICE GEORGE W. BUSH HAS MADE

Trent Lott has declared that John Ashcroft will easily win confirmation as attorney general. The Senate Judiciary Committee was expected to vote today. That has been postponed. Still, the forecast of the Senate majority leader will likely prove true in a week or two. A majority of senators will consent to the choice of George W. Bush.

A president deserves to surround himself with Cabinet officers and advisers in whom he has confidence. That is part of even the slenderest mandate a president may win. It ensures that responsibility for an administration falls on the person who occupies the Oval Office.

Those who've described the confirmation hearings on the Ashcroft nomination as among the toughest ever forget the raucous sessions over Clarence Thomas and Robert Bork, to name just two. The politics involved have been plain. The president hoped to reassure arch conservatives with his choice. Liberal interest groups have kept their own lists, noting the performance of Democratic allies in the Senate.

All of the clatter might have been dismissed as business as usual until Ronnie White, the first black man to sit on the Mis-

souri Supreme Court, testified at the confirmation hearing. Bill Clinton appointed White to a position on the federal district court. In 1999, Sen. Ashcroft, a fellow Missourian, almost singlehandedly defeated the White nomination, and the way he did so raises questions about his judgment.

Ashcroft misled his colleagues. He rallied law enforcement organizations to oppose the White nominations, all the while leaving the impression they had come forward on their own. He grossly distorted the White record, describing the judge as "pro-criminal" and "with a tremendous bent toward criminal activity." He painted the portrait of a judge determined to reverse death sentences.

In truth, White voted to uphold the death penalty in 41 of 59 cases before the Missouri high court. He sided with the majority in 53 of those cases. Ashcroft defended his opposition last week, arguing that he considered the "totality" of the judge's record. If anything, that record, as White quietly and powerfully made obvious, has reflected sound reasoning and a dedication to the law (as many police groups acknowledge).

Sen. Arlen Specter, a Pennsylvania Republican, felt the duty to apologize to White for the way he had been treated. The judge framed the issue of Ashcroft's nomination: "The question for the Senate is whether these misrepresentations are consistent with the fair play and justice that you all would require of the U.S. attorney general."

The White nomination doesn't tell the entire story of John Ashcroft. As a former state attorney general, governor and senator, he is highly qualified to lead the Department of Justice. He has governed from the center and with integrity, enforcing the law whether he has agreed with its direction or not.

His zealotry has also been front and center. He has yet to explain clearly his opposition to James Hormel to be ambassador to Luxembourg, except to suggest that he was offended because the nominee was gay. He persisted in playing racial politics with a lengthy school desegregation case in St. Louis.

The Ashcroft record raises the question: Why didn't George W. Bush nominate someone else to be attorney general, someone who better reflected the themes of his inaugural address, conservative, yes, but far less polarizing and tempted by expediency? Fair play? Justice? John Ashcroft is the president's man.

[From the St. Louis Post-Dispatch, Jan. 25, 2001]

A QUESTION OF FITNESS  
ATTORNEY GENERAL

John D. Ashcroft has spent the better part of his political career at odds with core values of the Constitution—equality, religious freedom, judicial independence and individual autonomy. Now he is nominated to be the people's guardian of those values. The conflict between his record and the duties of the office raises serious questions as to whether John Ashcroft should be confirmed as attorney general.

Disagreeing with Mr. Ashcroft is not reason enough to oppose him. Presidents are entitled, generally, to their pick of Cabinet members. If Mr. Ashcroft were the nominee for secretary of agriculture there would be no problem. But the attorney general vets federal judges, enforces civil rights laws, safeguards the reproductive rights of women and determines the legal position of the United States.

Can Mr. Ashcroft fairly vet federal judges when he believes the judiciary is full of "renegade judges" who have created a "judicial tyranny" where courts are "nurseries for

vice?" Can he guard judicial independence when he has repeatedly denied judgeships for political reasons? Can he enforce the civil rights laws when he has doggedly fought school desegregation, affirmative action and gay rights? Can he protect women seeking abortions when he considers abortion murder?

John Ashcroft is indisputably a man of principle. The problem is those principles put him at odds with the Constitution, with contemporary notions of equality and with the mainstream of the American public.

#### JUDICIAL INDEPENDENCE

Judicial independence is the rock that anchors our judiciary. But Mr. Ashcroft has undermined independence with his attacks on judicial nominees.

Mr. Ashcroft's hostility to judicial independence is an important lesson of the much-told story about his opposition to Ronnie White as a federal judge. Mr. Ashcroft may have been motivated by a feud with Mr. White over abortion policy. But by basing his attack on Judge White's death penalty decisions, Mr. Ashcroft sent a chill through the ranks of state judges hoping to be promoted to the federal bench. Mr. Ashcroft said Mr. White was "pro-criminal" because he had voted to overturn death sentences. In fact, Mr. White had upheld 35 of the 55 death sentences.

Mr. Ashcroft focused on Judge White's lone dissent to the conviction of James R. Johnson in the gruesome murder of a sheriff, two sheriff's deputies and a sheriff's wife. Judge White spoke of his "horror at this carnage" and said Johnson "deserved to die" if he was not insane. But he concluded that Johnson's lawyer was so incompetent that he had not received effective counsel.

A lone dissent in the case that arouses such public passion is the essence of judicial independence. Charles Blackmar, a retired Supreme Court judge, called Mr. Ashcroft's attack "tampering with the judiciary."

Mr. White is not a perfect man, nor is he the nation's keenest jurist. But he upheld the highest values of a judge in his dissent. Will Mr. Ashcroft reject for the federal bench those judges with the temerity to overturn a death sentence?

Mr. Ashcroft's record in Missouri raises similar questions. Judicial nominees say that Mr. Ashcroft asked them their views about abortion before deciding whether to nominate them.

#### CIVIL RIGHTS

Mr. Bush says that Mr. Ashcroft "has a strong civil rights record." As evidence he cites Mr. Ashcroft's appointment of eight African-Americans to Missouri judgeships, a past commendation from the Mound City Bar Association, an endorsement by the *Limelight* newspaper, his support of Lincoln University and his signing of bills honoring Martin Luther King and establishing Scott Joplin's home as a historic site.

The appointment of eight black judges is a substantive accomplishment. The rest is résumé padding. Mr. Ashcroft was only marginally involved in the Scott Joplin house. The *Limelight* is a free, marginal publication, by no means the largest or most influential African-American newspaper in St. Louis. The Mound City Bar Association, a black lawyers' group, does not support Mr. Ashcroft because of the "insidious" way he killed Mr. White's nomination.

The actual Ashcroft civil rights record is weak and regressive. As state attorney general he denied that the St. Louis schools were segregated. He lobbied members of the Reagan Civil Rights Division to switch sides in the St. Louis school desegregation case, and eventually became the desegregation plan's chief opponent.

That plan offered responsible politicians the chance to support phased, voluntary desegregation. But Mr. Ashcroft insisted on calling it "mandatory busing" and leveled a devastating anti-busing TV ad at his opponents in the 1984 governor's race. U.S. District Judge William L. Hungate summed up Mr. Ashcroft's behavior as "feckless," saying he "voluntarily rode (the desegregation) bus to political prominence."

In 1997 Mr. Ashcroft led the opposition to Bill Lann Lee, the Asian-American head of the Civil Rights Division. First, he distorted Mr. Lee's position on affirmative action, saying he favored quotas. Then, he said Mr. Lee should be rejected for holding a position at odds with the Supreme Court's, when in fact Mr. Lee favored affirmative action in limited cases where the Supreme Court said it could be used.

In 1999 Mr. Ashcroft accepted an honorary degree from Bob Jones University, a fundamentalist Christian college that banned interracial dating until last March. Mr. Ashcroft's claim that he did not know about the university's discriminatory policies stretches credulity. The college's tax exempt status was a huge controversy during the Reagan administration.

Mr. Ashcroft's civil rights record raises serious doubts about his commitment to "equal protection" under the law—a seed of liberty scarified by the flames of the Civil War and brought to fruition by the civil rights movement.

#### WOMEN AND REPRODUCTIVE FREEDOM

Mr. Bush says Mr. Ashcroft "has a solid record" on women's issues, citing his appointment of Ann Covington to the Missouri Supreme Court and his support for money to combat violence against women.

But the Women's Political Caucus ranked Mr. Ashcroft last in the nation for appointing women while he was governor of Missouri. As Missouri's attorney general, he opposed the Equal Rights Amendment. When the National Organization for Women boycotted Missouri for opposing the amendment, he stretched antitrust laws to sue the group.

In every office that he has held, Mr. Ashcroft has fought abortion. He supported a Human Life Amendment even before *Roe v. Wade*. In his view, *Roe* and its "illegitimate progeny have occasioned the slaughter of 35 million innocents."

As Missouri's attorney general, he personally sought to limit abortion in an argument to the Supreme Court. As governor, he signed the law that led to the 1989 Supreme Court decision that came within one vote of overturning *Roe*. Mr. Ashcroft has said his top priority is the Human Life Amendment; it would only allow an abortion to save the life of the mother. There would be no exception for rape or incest. Nor could states pass laws permitting abortion. Its tenet that life begins at conception raises questions about the legality of birth control pills, IUDs and the abortion drug RU-486, which Mr. Bush may also seek to restrict.

Mr. Ashcroft has supported a partial birth abortion bill that does not include an exception for the health of the mother, even though the Supreme Court says that exception is required.

Mr. Bush says he does not think the nation is "ready" to overturn *Roe* and says he will focus on bills such as one outlawing partial birth abortion. Mr. Bush and Mr. Ashcroft have also said they will uphold the law protecting women's access to abortion clinics. But Mr. Ashcroft would have ample room as attorney general to advocate positions that would undermine *Roe*. And he could help pick Supreme Court justices who would read it out of the Constitution.

#### RELIGIOUS FREEDOM

Organized prayer in the public schools is unconstitutional. The First Amendment says

the government can't tell us when or how to worship. Yet Mr. Ashcroft has long supported organized school prayer. He also supports school vouchers, as does Mr. Bush, that would direct large sums of public money to church schools. As attorney general, Mr. Ashcroft would have the lead role in developing the administration's legal arguments in favor of vouchers. His opposition to four decades of Supreme Court decisions raises questions as to whether he believes in the boundary between church and state.

Perhaps, in several hours of testimony before the Senate Judiciary Committee this week, Mr. Ashcroft can explain why the nation should not feel uneasy with his stewardship of values and principles at war with his own. Perhaps he can reassure the American people that he will enforce principles he has spent a quarter of a century—his entire career in public life—fighting. But how could a man swear to uphold constitutional values he rejects, without betraying his own core beliefs? And who would place his trust in a man willing to do so?

Mr. Ashcroft should certainly have a chance to explain how. But if Mr. Bush wanted a uniter, not a divider, he has the wrong man at Justice.

[From the Pittsburgh Post-Gazette, Jan. 24, 2001]

#### ASHCROFT: STILL NO—SENATE HEARINGS DON'T ALTER THE CASE AGAINST HIM

The Senate Judiciary Committee could vote as early as today on the nomination of former Missouri Sen. John Ashcroft to be U.S. attorney general. Before last week's hearings by the committee, the *Post-Gazette* suggested that Mr. Ashcroft was the wrong man for the job. Nothing that transpired in the hearings changed our view.

It is true that Mr. Ashcroft, who was nominated by President Bush as a gesture to religious conservatives, assured senators he would enforce laws he didn't agree with. He even made a specific commitment not to seek a reversal of Supreme Court decisions legalizing abortion, which he called "settled law."

Almost four years ago, in a lecture to the Heritage Foundation, Mr. Ashcroft had a different description of the high court's abortion rulings. Referring to a 1992 decision reaffirming *Roe vs. Wade*, he complained that in that ruling "the Supreme Court challenged God's ability to mark when life begins and ends." In the same lecture, he echoed a familiar conservative critique of what he called "appalling judicial activism."

As we observed before, the question is not whether Mr. Ashcroft can put aside his history of being an extreme critic of the federal courts and of some of the statutes and court decisions he will have to enforce. The question is why the Senate should force him to perform the intellectual contortions that transformation would require.

In raw political terms, it made sense for George W. Bush, who received significant support from the religious right in his election campaign, to make what one of his aides called a "message appointment" that would please that constituency. Senators who see the world differently—like Pennsylvania's Arlen Specter—are under not obligation to follow suit by confirming Mr. Ashcroft.

Yet Mr. Specter went on record early saying he would support Mr. Ashcroft "unless something extraordinary" developed in the confirmation hearings. Predictably, no such "smoking gun" materialized. Moreover, the witness Ashcroft opponents had most counted on, Missouri Supreme Court Judge Ronnie White, while eloquent, was in some ways a disappointment. Judge White, an African American, declined an opportunity to impute

racism to then-Sen. Ashcroft's disgraceful derailment of his nomination to the federal bench.

But the issue wasn't whether Mr. Ashcroft is a racist. It was that he unfairly distorted Judge White's record by branding him as "pro-criminal." That charge is more understandable in the context of Mr. Ashcroft's general attitude toward judges he considers appalling activists and subverters of the divine will.

There is no need to impugn Mr. Ashcroft's integrity or his legal skills to oppose his nomination. Unlike other Cabinet officers, the attorney general is beholden not just to the president who appoints him but also to a body of law that, in many respects, is uncongenial to John Ashcroft but vital to women, minorities and other Americans who find his demonization of the courts bizarre.

It was symbolism that led President Bush to nominate Mr. Ashcroft; senators who are uncomfortable with that symbolism—Arlen Specter among them, we hope—should reject the nomination.

Mr. HATCH. Mr. President, since we have a lull, I will take a few moments to make some points I think need to be made in light of some of the statements that have been made. We have been placing matters in the RECORD all day, and hopefully people will read the RECORD and realize some of the arguments that have been made are not only inconsequential but really not right.

Let me rise today to address some of the most common criticisms directed against Senator Ashcroft.

Certain allegations have surfaced again and again, and they misrepresent Senator Ashcroft's record and personal character. I will address some of the most invidious of these charges.

The primary criticism cited by my colleagues in opposition to Senator Ashcroft are his involvement with school desegregation and his actions taken against the nominations of Ronnie White and Bill Lann Lee.

First, let me address the criticisms made against Senator Ashcroft's role in the school desegregation cases in St. Louis and Kansas City. There has been a significant distortion of his role in these cases and there are some things that I would like to make clear.

First, John Ashcroft supports integration. He is not against desegregation and said so repeatedly during the four days of hearings and in response to numerous written questions on the subject. Senator Ashcroft testified, "I have always opposed segregation. I have never opposed integration. I believe that segregation is inconsistent with the 14th amendment's guarantee of equal protection. I supported integrating the schools." Senator Ashcroft is deeply committed to civil rights and has stated that he intends to make this one of his top priorities if confirmed as Attorney General.

Second, all of Senator Ashcroft's actions with regard to desegregation occurred in his role as attorney general, as the legal representative of the State of Missouri. As the State attorney general he was required to defend the interest of the State, his client. The State opposed voluntary desegregation

because it would lead to incredible costs for the State—estimates put the total cost of desegregation at an incredible \$1.8 billion to the State. To put this in perspective, Missouri's fiscal year 2001 budget is \$17 billion. At that time it was much less. In other words, he wanted to prevent, as did virtually everybody in government, a judicial raid on the state treasury, something that all of us ought to be concerned about.

Indeed, the combined costs of the St. Louis and Kansas City desegregation plans have been higher than the costs of desegregation in all the other states combined, with the exception of California. Moreover, the way the plan was structured most of the money was funneled to the white suburbs. In 1996, when the total cost of the program was \$1.3 billion, only between \$100 and \$200 million went to the St. Louis schools. That doesn't sound like desegregation to me. Yet that is what these liberals have been arguing for.

The results of these court-ordered remedies have been truly unimpressive. For instance, test scores actually went down from 1990 to 1995. Scores on the Stanford Achievement Test went from 36.5 to 31.1 at a time when the national mean was 50. It doesn't sound like very good desegregation to me. The graduation rate has remained around an abysmal 30 percent. And as far as actual desegregation, the percentage of African-American students in the St. Louis schools has remained almost identical to what it was when the plan started, about 80 percent.

Yet our liberal friends, both in this body and in the outside groups, would have you believe Senator Ashcroft is doing a terrible thing against desegregation and against integration. And they just plain don't accept his very honest statements that he has always been for desegregation and for integration. He has never spoken against them.

It has been suggested that then-Attorney General Ashcroft's lack of enthusiasm for this plan demonstrates insensitivity toward the needs of the students in St. Louis.

It has been suggested that then-Attorney General Ashcroft's lack of enthusiasm for this plan demonstrates insensitivity toward the needs of the students in St. Louis. But given these unimpressive results and extraordinary costs, I think it seems perfectly understandable that many State officials from both political parties have consistently had doubts about this plan. Indeed, Senator Ashcroft's democratic successor as attorney general took the same position on behalf of the State of Missouri.

Third, some of my colleagues have charged that Senator Ashcroft misrepresented his involvement with the desegregation cases. This is also a significant distortion of Senator Ashcroft's responses to a flurry of questions. The Missouri school desegregation cases are extremely complex

and involve a variety of different factual and constitutional issues. Perhaps Senator Ashcroft made some preliminary statements that were incomplete, but when questioned further, he clarified his answers. Moreover, in an extended response to a written question, he fully detailed Missouri's liability and involvement with the case.

Senator Ashcroft has acknowledged that the State was found liable for desegregation. However, the State was found liable only for an intra-district violation, that is a violation in the one district of St. Louis. The State was never at any time adjudged liable for an intra-district violation involving the St. Louis suburbs—this is the bottom line of a long and somewhat murky legal record.

The fact that Missouri was never found to have committed an interdistrict violation is easily proved. Consider that throughout 1981 and 1982 the parties and the court were preparing for a trial on the very question of interdistrict liability. It goes without saying that a trial on the point would have been unnecessary if liability had already been determined.

In fact there was never a trial on the interdistrict liability. This trial was averted because the suburban schools and the St. Louis Board of Education agreed to a consent decree. In fact, this settlement was hastened when the district court announced that it would have to consolidate city and county school districts if at trial liability is proved of an interdistrict violation. The threat of consolidating suburban and city school districts was enough to prompt the city and county to reach a settlement agreement, an agreement to which the State was not a party. The consent decree entered by the district court did not contain the necessary finding of liability for an interdistrict violation. Thus, a settlement was reached in which the State was required to pay for an inter-district remedy between the city and county although it had never been found liable of an inter-district violation.

Missouri's arguments on appeal against the district court's order had a strong legal basis. The Supreme Court had previously held in Milliken that a district court must find an interdistrict violation before it can order an interdistrict remedy. Indeed, such a remedy must also be narrowly tailored to fit only the particular constitutional violation. There was no finding of liability here, much less a determination by the court that the settlement met constitutional requirements.

Moreover, the State did not willfully refuse to comply with the district court's orders. What the district court ordered was for the parties to the litigation to enter into a voluntary plan for interdistrict transfers of students to suburban schools. But such a plan was an impossibility because the suburban school districts were necessary parties who were not before the court. No satisfactory plan was likely to be

produced under those circumstances. Indeed, no successful plan was produced until the suburban schools were joined and threatened by the district court directly with being placed by the court into the same school district as the city schools.

The district court did criticize the State, but it did not hold the State in contempt. Probably because the court realized that it had essentially ordered the State and other defendants to perform an impossibility.

Finally, Senator Ashcroft has been criticized for being overly litigious in the desegregation cases. But an electronic search reveals that Senator Ashcroft was actually the least litigious of the attorneys general who represented the State during any significant portion of this litigation. During the 8 years that John Ashcroft was attorney general, there are 18 entries relating to this case.

By comparison, during the 8 years William Webster was attorney general, there are 34 entries. And during the 7 years that Jay Nixon, a democrat, was attorney general, there are 22 entries.

Then-Attorney General Ashcroft did bring several appeals to the district court's action. But this is understandable given that the courts never found the State liable for an inter-district violation. A very key point, by the way. Senator Ashcroft's position on behalf of the State was eventually vindicated in the Kansas City school desegregation litigation. That line of cases culminated in Missouri versus Jenkins—in which the Supreme Court held that an interdistrict violation is required before a Federal court can impose interdistrict remedies.

In sum, Senator Ashcroft was a faithful advocate for the State of Missouri. He defended the interests of all state taxpayers through a series of legally justified appeals. The legal theories he advanced on behalf of the State were eventually vindicated by the Supreme Court. As Missouri attorney general he supported improved educational opportunities for children, not the failed and extremely expensive court-ordered remedies developed by the district court. Senator Ashcroft's actions contesting the details of a complicated court-ordered busing scheme does not mean that he opposed segregation. Quite to the contrary, Senator Ashcroft opposes segregation and supports integration, and he represented his client the State in good faith.

Some remarks have been made about some of the judge's crusty remarks. For those of us who have been in litigation before the Federal courts, we are kind of used to those crusty remarks from time to time. Frankly, because one single Federal judge of the approximately 800 district and Federal judges in this country makes a crusty remark, that should not be interpreted as condemnation of John Ashcroft or any other litigant before the court, nor was there any indication of any kind of censure by the court or contempt pro-

ceedings. As a matter of fact, it did not happen. Yet there have been allusions here on the floor that there should have been contempt proceedings. Come on, the law is pretty clear. This has been distorted. It is really offensive to have it distorted in a way that flies in the way of true civil rights, a man who basically has stood up for civil rights throughout his lifetime.

Another topic that has been brought up again and again is Senator Ashcroft's opposition to Judge Ronnie White. Mr. President, I am concerned that some of my colleagues continue to denigrate Senator Ashcroft for his involvement in the nomination of Judge Ronnie White. It has been said that Senator Ashcroft distorted Judge White's record and wrongly painted him as pro-criminal and antilaw enforcement.

But there were many reasons to vote against confirmation for Judge White. In fact, every Republican did so. I have reviewed Judge White's record and several of his dissenting opinions in death penalty cases, and I can understand Senator Ashcroft's opposition to Judge White's nomination to the Federal bench.

For instance in the Johnson case, the defendant was convicted on four counts of first-degree murder for killing three officers and the wife of the sheriff. Johnson was sentenced to death on all counts. On appeal, the Missouri Supreme Court upheld the decision, but Judge White dissented arguing for a new trial based on ineffective assistance of counsel. Judge White thought that Johnson deserved further opportunity to present a defense based on post-traumatic stress disorder. But the majority showed that there was no credible evidence that Johnson suffered from this disorder. Rather, it was clear that defense counsel had fabricated a story that was quickly disproved at trial. For instance, defense counsel stated that Johnson had placed a perimeter of cans and strings and had deflated the tires of his car. At trial, testimony revealed that police officers had taken these actions, not the defendant.

Further, Congressman KENNETH HULSHOF, the prosecutor in the Johnson case testified at Senator Ashcroft's hearings that it was almost impossible to make out an argument for ineffective assistance of counsel because the defendant "hired counsel of his own choosing. He picked from our area in mid-Missouri what . . . I referred to as a dream team."

Judge White has every right to pen a dissent in Johnson and other cases involving the death penalty. Similarly, every Senator has the duty to evaluate these opinions as part of Judge White's judicial record. And that's just what Senator Ashcroft did. At no time did Senator Ashcroft derogate Judge White's background.

I consider Judge White to be a decent man with an impressive personal background. He has accomplished a great

deal and came up from humble beginnings. But his record of dissenting in death penalty cases was sufficiently troubling to cause Senator Ashcroft and others to oppose the nomination.

Some of our colleagues have impugned Senator Ashcroft's motives for voting against Judge White. But Judge White's nomination was strongly opposed by many of Senator Ashcroft's constituents and also by major law enforcement groups, including the National Sheriffs' Association and the Missouri Federation of Police Chiefs.

Sheriff Kenny Jones, whose wife and colleagues were killed by Johnson testified:

I opposed Judge White's nomination to the federal bench, and I asked Senator Ashcroft to join me because of Judge White's opinion on a death penalty case . . . In his opinion, Judge White urged that Johnson be given a second chance at freedom. I cannot understand his reasoning. I know that the four people killed were not given a second chance.

Finally, some of my colleagues have alleged that Senator Ashcroft's opposition to Judge White was underhanded and done with stealth. Well, Senator Ashcroft voted against Judge White's nomination in committee. He expressed his disapproval at that time. If he had held up the nomination in committee without allowing it to proceed to the floor he would have been criticized for delay.

Indeed, Senator BOXER pleaded during a debate about several judges including Ronnie White:

I beg of you, in the name of fairness and justice and all things that are good in our country, give people a chance. If you do not think they are good, if you have a problem with something they said or did, bring it down to the floor. We can debate it. But please do not hold up these nominees. It is wrong. You would not do it to a friend.

Thus, Senator Ashcroft was between a rock and a hard place as how to raise his legitimate concerns about Judge White.

Senator Ashcroft is a man of tremendous integrity, one of the most qualified nominees for Attorney General that we have ever seen. His opposition to Judge White was principled and in keeping with the proper exercise of the constitutional advice and consent duty of a Senator. I regret that we have needed to revisit this issue at such great length.

Now, Mr. President, let me address one final issue that continues to come up. Some critics of Senator Ashcroft have stated that he distorted Bill Lann Lee's record when he was nominated to head the Civil Rights Division. But this is simply not the case. Mr. Lee had a noted record of promoting and preserving race-conscious policies of questionable constitutionality. Opposition to Mr. Lee was not limited to Senator Ashcroft—nine Republicans on the Judiciary Committee opposed this nominee, including myself.

Let me say that I have the highest personal regard for Mr. Lee and the difficult circumstances in which his family came to this country, worked hard, and realized the American dream.

Despite this high personal regard, I was deeply concerned about Mr. Lee's nomination because much of his career was devoted to preserving constitutionally suspect race-conscious public policies that ultimately sort and divide citizens by race. At the time of his hearings, it was clear that he would have us continue down the road of racial spoils, a road on which Americans are seen principally through the looking glass of race.

Senator Ashcroft's principled opposition to Mr. Lee was firmly based in the record. The signs that Mr. Lee would pursue an activist agenda were clear at his hearings. At that time he narrowly defined the rule in *Adarand* and could not distinguish cases that he would bring as Assistant Attorney General from those he brought in the NAACP Legal Defense Fund.

Some have alleged that Senator Ashcroft's opposition to Mr. Lee was based on mischaracterizations. But Senator Ashcroft did not distort Mr. Lee's testimony. When Mr. Lee stated the test of *Adarand* versus *Pena* he said that the Supreme Court considered racial preference programs permissible if "conducted in a limited and measured manner." While this might be correct in a narrow sense, it purposefully misses the main point of the Court's fundamental holding that such race-conscious programs are presumptively unconstitutional. Mr. Lee might have stated that strict scrutiny was the standard articulated in *Adarand*; however, when he described the content of this standard it was far looser than what the Supreme Court delineated. A "limited and measured manner" is a standard far more lenient than the strict scrutiny standard of "narrowly tailored to serve a compelling governmental interest." Mr. Lee's misleading description can properly be assailed as a fundamental mischaracterization of the spirit of the law.

Senator Ashcroft has stated that he opposed Mr. Lee because of his record of advocacy and his distortion of precedent. These failures to properly interpret the law would have serious effects on Mr. Lee's ability to serve as Assistant Attorney General for Civil Rights. Senator Ashcroft's reasons for opposing Mr. Lee were amply supported by the record.

By contrast to Mr. Lee, Senator Ashcroft has repeatedly distinguished his role as a legislator and advocate from that of the Attorney General. He understands that his political advocacy gets checked at the door of the Department of Justice. Senator Ashcroft has repeatedly stated that he would enforce the law as it exists to protect the civil liberties of all Americans. He is committed to defending the constitutional rights of all individuals and has testified that he will make the enforcement of civil rights one of his topmost priorities. As Senator Ashcroft stated,

My highest priority is to ensure that the Department of Justice lives up to its heritage of enforcing the rule of law, and in par-

ticular, guaranteeing legal rights for the advancement of all Americans. . . . [O]ne of my highest priorities at the Department will be to target the unconstitutional practice of racial profiling.

Senator Ashcroft's critics also allege that because Senator Ashcroft opposed the nomination of Bill Lann Lee to be Assistant Attorney General for Civil Rights, Senator Ashcroft will himself be unable to defend civil liberties. But this is an incredible and illogical leap. To oppose the race-conscious policies favored by Mr. Lee is to value the true principles of the civil rights movement—equality of opportunity for all Americans.

At the hearings and in supplemental questions, my colleagues have raised issues concerning Senator Ashcroft's plans for the Civil Rights Division of the Department of Justice should he be confirmed as Attorney General. Let me say that I am confident that Senator Ashcroft will fight for the civil rights and liberties of all Americans. He believes that everyone deserves an opportunity to succeed and that those at the bottom of our society may need a helping hand.

Senator Ashcroft strongly supports "affirmative access" programs. As he testified,

We can expand the invitation for people to participate aggressively so that no one is denied the capacity to participate simply because they didn't know about the opportunities. We can work on education, which is the best way for people to have access to achievement.

Senator Ashcroft wants to encourage achievement and access to achievement. He wants to avoid what President Bush called the "soft bigotry of low expectations" that fuels many race-conscious programs.

It is true that Senator Ashcroft is skeptical about government programs that categorize people by race. Some of these programs might be unconstitutional under the Supreme Court's decision in *Adarand* versus *Pena*. That decision stated that all governmental racial classifications should be subject to strict scrutiny, that is such classifications must be narrowly tailored to serve a compelling governmental interest. The Supreme Court made clear that there was no such things as a "benign" racial classification, and that the government may treat people differently because of their race for only the most compelling reason. This view of governmental racial classifications comports with the development of constitutional protections for civil liberties. Senator Ashcroft is solidly with the Supreme Court on this issue.

We have no reason to doubt that Senator Ashcroft will work long and hard to defend the civil liberties of all Americans.

These are the points that are repeatedly used to denigrate Senator Ashcroft's character and motivation. But when the facts are examined, these charges simply do not stick. Senator Ashcroft is a man of tremendous integrity and probity and I hope that we move quickly to confirm him.

Mr. LEAHY. Mr. President, the Senator from Delaware was going to speak, but if I might, just before he does, and on this issue, the desegregation efforts in Missouri in 1992, when Jay Nixon first ran for attorney general in Missouri, he did recognize the need to settle the St. Louis and Kansas City desegregation issues. He said the State, the cities, and parents needed resolution and certainty after years of non-stop litigation. The St. Louis Post-Dispatch editorial summed up the differences under Jay Nixon. It said:

Their differences in how the State should respond to the Federal court orders of desegregation for St. Louis and Kansas City schools is instructive. The Republican wants to keep fighting although the State lost the case long ago. The Democrat wants to have a settlement.

Mr. Nixon then followed through in this agreement. He was the first Missouri official to sign a resolution on behalf of the State, and he was a supporter of the law that provided the State funding to settle the St. Louis case. In both the settlement agreement and the law to implement it, then Governor, Governor Carnahan, provided the leadership that Governor Ashcroft did not provide.

Senator Ashcroft ran for Governor in 1984 as a strong opponent of the settlement, the settlement finally had in Missouri. He was 8 years as attorney general and 8 years as Governor. In those years he denied liability, opposed a fair settlement, and litigated the questions over and over again.

I will put in the RECORD in a moment a letter from Arthur Benson who, since 1979, has been lead counsel for the schoolchildren in the Kansas City desegregation litigation.

What he said in it is:

While the case proved difficult to settle with the State, it did eventually settle because Jay Nixon and other Missouri officials wanted to settle rather than litigate, and because he wanted to refocus the time and efforts of state officials on improving education.

To this Senator's mind, this is a marked difference from what Senator Ashcroft had done. In any event, Senators have to make up their own minds.

I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ARTHUR BENSON & ASSOCIATES,  
Kansas City, MO, January 30, 2001.

Hon. PATRICK LEAHY,  
U.S. Senate, Dirksen Senate Office Building,  
Washington, DC.

DEAR SENATOR LEAHY: Since 1979 I have been the lead counsel for the plaintiff schoolchildren in the Kansas City school desegregation litigation, now styled as *Jenkins et al., v. Kansas City Missouri School District*, case number Case No. 77-0420-CV-W-1, United States District Court for the Western District of Missouri.

After January 1993 there was a marked change in the manner in which the then defendants of the State of Missouri were represented in this litigation. After January 1993 Attorney General Jay Nixon continued

to defend the legal positions of the State of Missouri defendants vigorously and well. At the same time, however, he never denied the State's responsibility for eliminating the vestiges of its prior de jure segregation. He also expressed interest in settlement, supported legislative initiatives in the Missouri legislature that would provide necessary underpinning for any settlement, and proposed alternatives to the courts in response to remedial proposals of the plaintiffs, all of which were changes from the litigation tactics of the state defendants in this case before 1993.

While the case proved difficult to settle with the State, it did eventually settle because Jay Nixon and other Missouri officials wanted to settle rather than litigate, and because he wanted to refocus the time and efforts of state officials on improving education.

Yours very truly,

ARTHUR BENSON.

Mr. LEAHY. I yield to the Senator from Delaware.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Mr. President, just a few moments ago, I had a phone conversation with Senator Ashcroft—it was not an easy call for me, and I suspect it was not an easy call for him—in which I shared with him my decision not to vote for his confirmation to be Attorney General for our country.

Unlike many of my colleagues in this body, I never served with Senator Ashcroft. We heard a lot about him today from those who know him better than I ever will. While some are full of praise and others are more critical, a number of characteristics about the man emerge. I want to reiterate some of those.

Even his critics will acknowledge that John Ashcroft is a person of intellect, someone with great energy, someone with a wealth of experience within his own State and here at the Federal level, a person of deep faith, someone who was gracious in defeat in his reelection campaign last November. If he were a nominee for Secretary of Education, Secretary of Energy, Secretary of Agriculture, or Secretary of Housing and Urban Development, my vote would be different; I would vote for him. But he is not. He is the nominee for Attorney General for our country.

Senator Ashcroft and I have some common roots. I share his deep faith. We are both Christians. I have been Governor of my State. He was Governor of his State. He nominated many people to serve in that capacity. I nominated many people to serve in that capacity as well, judges and people to serve on my cabinet. Governors of Delaware do not nominate the attorney general of our State. The person charged with law enforcement and prosecuting criminals in our State is the attorney general, who is independently elected.

Some have said to me that the President should have the right to his choice of his attorney. We need to remember that the Attorney General is not just the President's attorney. The President actually has his own attorney,

and all Presidents for a long time have had their own attorneys. The Attorney General is the Attorney General for the country.

There was a fellow named George Wallace who used to be Governor of Alabama. Many of us remember him. When he would run for President, he knew he was not going to win. John Ashcroft is going to win. He will be confirmed today. He knows that, and I think we know that.

When George Wallace used to run for President, he would say to the voters who were skeptical to spend their vote on a guy who was not going to win: Send them a message.

I am struck by the people in my State, people of color, who have said to me in the last month or two since John Ashcroft's name was floated and ultimately submitted by President Bush, that even if Senator Ashcroft is confirmed as Attorney General, we need to send him a message, and the message is that people in my State, particularly people of color, are uncomfortable with this nomination. They are unconvinced that he will be forthright, that he will be consistent, that he will be persistent, that he will be a champion when it comes to ensuring that their civil rights are protected.

John Ashcroft comes from Missouri. It is a show-me State. There are people in my State, especially people of color—and I know there are others in Delaware and in other States—who are concerned about whether or not Attorney General John Ashcroft would ensure reproductive rights for women, civil rights for those who may have different sexual preferences than others of us, people who may feel differently about gun laws. Will this Attorney General enforce the laws of the land and protect those interests as well?

I have heard from too many people in my State—from the minority community—who have said we need to send a message to Washington, to the new administration, that they do not want to be forgotten. They do not want to be left behind. As much progress as we have made in providing a better, equal footing, a level playing field for people of color, we still have a long ways to go.

I regret I have to vote against our new President on this nomination. I will vote yes on every other one. This is one on which I have to take a different course.

I thank Senator Ashcroft for the conversation we just had a little bit ago. I am hopeful he is prepared to send all of us a message, regardless of where we are from, what our color is, what our sexual preference is, how we feel about a woman's reproductive right, and that is: As Attorney General he will enforce rigorously the laws of this land for all of us. I thank the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I rise to support the nomination of John Ashcroft, a person with whom I have

had the opportunity to serve in the Senate for the 6 years he was here before ending that term after the last election.

I think the President of the United States has selected an outstanding nominee to head up the Justice Department. I look forward to working with him.

Despite the campaign that has been launched against him, he will be approved by a sizable margin so that he can do his work and do it without any guilt whatsoever about any of the accusations that have been made against him. I add my voice in support of his nomination.

Despite these well-publicized, well-financed attempts orchestrated by outside groups to smear his good name, I am thankful Senator Ashcroft will survive this reckless campaign that has snowballed into an avalanche of innuendo, rumor, and spin.

From the moment President Bush announced his choice for U.S. Attorney General, some predictable opponents immediately got to work. They circled their wagons and launched an all-out war on our former colleague and his nomination to be Attorney General.

In their zeal to pick a fight with the new administration, the debate in the Senate has melted down into a feeding frenzy for the left wing which sought in the process to lay down markers for their agenda.

Ironically, the President's nominee for the Nation's top law enforcement office in the country is arguably one of the most qualified candidates this body has ever had the privilege to cast its advice and consent on for the office of U.S. Attorney General. He was twice elected Governor of Missouri, served two terms there as the attorney general, and was for 6 years our colleague—all of that public service is remarkable for a person who will go on to be Attorney General.

He has the academic background and the legal background to also be a good Attorney General.

From the 6 years I had the privilege of working with John Ashcroft in the Senate, I can unequivocally say he is a man of his word. And what is so important about being a man of his word is that the case made against John Ashcroft is that in the Senate he pursued changes in law, he pursued public policies that maybe some did not agree with. But that is the job of a Senator: to vote for or against public policy you think is good on the one hand, bad on the other hand; public policy you might agree with on the one hand or might disagree with on the other hand.

They say he is not qualified to be Attorney General because of a lot of things he did in the Senate, representing his constituents—forthrightly arguing points he believed in, and voting on those points. But has integrity and honesty. And being a man of his word is so important because as Attorney General he will take an oath

to uphold the law. He is going to enforce that law, even law with which he does not agree.

He could even be in the position of enforcing some piece of legislation against which he voted on the floor of the Senate because he is a man of his word. And with all the criticism people have had of John Ashcroft, where they disagreed with him as a Senator, and then they criticize him as not being qualified or the right person to be Attorney General, they forget that because he is a man of his word, they have nothing to worry about.

In fact, he is such a man of his word that if he were to tell a fib, you would know it right away. He is that straight laced, that straightforward, that transparent of an individual, that he would tell you the truth because he could not lie. He couldn't get away with lying. And he knows he couldn't get away with lying. That is the sort of a person to have as Attorney General of the United States.

We are going to have a person who is going to be the chief law enforcement officer of the United States. You will never see him being the chief defense counsel for the President of the United States as we have seen over the last 4 or 5 years in the previous administration. John Ashcroft, put in that position, would resign from being Attorney General of the United States.

So the people who are making a case against his being Attorney General, because of votes and speeches and positions he has taken on the floor of the Senate, are comparing apples and oranges; and they are forgetting that a man of his word is going to do what he says, and he takes an oath to uphold the law and enforce that law; and it is going to get done. So I say, once again, he is unequivocally a man of his word.

He testified before the Senate Judiciary Committee that he will enforce the laws of this land, and he is going to do that for all Americans. He said that, and he is going to do it. And his saying that makes me fully confident that he will do so.

He has a sharp command of the law, having filled both shoes of Senator, Governor and state Attorney General. He understands the difference between advancing legislation as a Senator and enforcing the laws on the books as a state Attorney General. And along this line, he has been recognized by the leaders of other States in this area, because he was elected by the National Association of Attorneys General, and elected in another position by the National Governors' Association, to represent and lead their organizations while he was in those two positions for the State of Missouri.

As fellow midwesterners, John and I come from States where agricultural issues are key components of our economy, our culture, and our heritage. We have discussed at length how to address the challenges confronting family farmers in this new century. He shares my concern that we must foster com-

petitive markets and that the family farmer is entitled to a level playing field—the same for independent producers—and he would say, beyond agriculture, fair competition is important for the small business people of America.

He would also say that for passengers in my State who pay extraordinarily high airline tickets to fly from Des Moines, IA, to Chicago, there has to be competition in the airline industry, particularly for rural America.

Based on my experience with Senator Ashcroft's work here in the Senate, I know he is committed to doing what is right for middle America as he enforces these laws that are already on the books. He knows, of course, that I will keep my lines of communication wide open between my office and his when it comes to fighting for the interests of rural America.

In addition to his exemplary professional credentials, there is another issue upon which his supporters and detractors alike agree, and that is, our former colleague, Senator John Ashcroft, is a man of principle. He is a man of his word. Just ask the people of Missouri who, not once but time and time again, placed their trust in him for high statewide elected office.

Senator Ashcroft's career has been stellar. During his career, Senator Ashcroft has worked to establish a number of things to keep all Americans safe and free from criminal activity.

For example, last year Senator Ashcroft introduced a bill to prohibit juveniles from possessing assault weapons and high-capacity ammunition clips. The Senate overwhelmingly passed this Ashcroft legislation. He also voted for the Gun-Free Schools Zone Act that prohibits the possession of a firearm within a school zone. Because the Clinton Justice Department had not made gun prosecutions a priority, Senator Ashcroft led the charge in directing the Justice Department to increase the prosecution of crimes committed with guns. In fact, he sponsored legislation to authorize \$50 million to hire additional Federal prosecutors and law enforcement officers to increase Federal prosecution of criminals who use guns.

John Ashcroft's efforts against drug abuse and trafficking are equally as impressive. A leader in the national fight against the scourge of methamphetamine, John Ashcroft won enactment of the Comprehensive Methamphetamine Control Act of 1996, among other antidrug laws he got passed.

Senator Ashcroft has fought hard for the rights of women and to protect them from domestic abuse. He signed into law a bill, when he was Governor, that allowed women accused of homicide to present battered spouse syndrome evidence in the court in that State. He cosponsored, at the Federal level, the Violence Against Women Act that helped secure \$100 million in increased funding to combat violence against women.

He voted for legislation that prohibits any person convicted of even misdemeanor acts of domestic violence from possessing a firearm.

As Governor, Senator Ashcroft appointed women to the State's appellate courts, including the first two women to the Missouri Court of Appeals and the first woman to the Missouri Supreme Court.

In regard to the tactics used against him, deploying distortion and demagoguery to advance their own agenda, groups inside the beltway, who probably have felt very secure for the last years because they had somebody in the White House who would advance their agenda, now feel a little shut out. They have banded together to engineer a controversy about John Ashcroft where none exists. They rushed to cast judgment, and in the process his opponents sought to paint John Ashcroft as a racist, as somebody tainted by his principles and unfit to lead the Department of Justice.

Obviously, in my view, these critics have been unable to make their case, and I think when this vote is taken, we will find out that they did not make their case.

Despite his critics' best efforts, accusations of racism and bias have not stuck. In fact, throughout his career, Senator Ashcroft has tried to protect the rights of minorities. He signed the Missouri hate crimes bill into law, and in the Senate he held the first-ever hearing on racial profiling. As Governor, he appointed a number of minority judicial candidates. His by-the-book approach to governing rises above and way beyond the decibel level of his detractors, the 200-some organizations that have banded together to make this clean-cut, honest American, great public servant, out to be some very bad person.

It is sad that the aggressive publicity generated by the special interest groups to derail this nomination has painted an unfair image of John Ashcroft in the minds of too many Americans. For example, contrary to the controversy surrounding the nomination to the Federal bench of Ronnie White, John Ashcroft does not have a racist bone in his body. If his opponents are keeping track of his support for black judges, it is ironic that they didn't care to publicize the fact that he, as Senator, voted for 26 out of 28 judges of African American descent. He nominated the first black judge to the appellate court as Governor of Missouri, and the St. Louis Black Bar Association praised him for diversity in his court appointments. The trumped-up charges of racism and bias took on a life of their own, but in fact they ring very hollow when we pull back the curtain of his opponents' red hot rhetoric.

In recent years, misrepresentations and baldfaced lies coming out of Washington have eroded the electorate's faith and trust in public officials, including all of us. Thankfully, that is not the way the majority of the American people operate. To the majority of

the American people, the end does not always justify the means. In fact, seldom is that true. But in the case of this opposition to John Ashcroft, any means is justified for the end they want—to let their grassroots members back home know that even though they don't have the President of the United States always carrying their agenda, as they did the last 8 years, they are going to be a force in this town. And they are a force in this town.

They are also telling Members of Congress, particularly left-of-center Members of Congress: You are on a short leash. We have to be reckoned with. Don't toy around with playing with the Republicans too much or a Republican President. It is also going to help them tremendously with their fund-raising. That is what is at stake here.

The majority of Americans do not operate that way. Not even a majority of their own rank-and-file members at the grassroots operate that way. I was a member of a labor union from 1961 to 1971. If there is one thing I learned as a member of the labor union—and I was voluntarily a member of the labor union because in my State, we have the right-to-work law, you don't have to join—I found out that the political agenda of the labor union leadership of Detroit or Washington, DC, did not represent the political philosophy of my members on the assembly line at the Waterloo Register Company in Cedar Falls, IA. They may have represented our economic interests of collective bargaining, but they did not represent the political interests of the common-sense, conservative blue-collar workers. It is the very same way with a lot of these organizations. When we go back to the grassroots of our States and interact with the rank-and-file members of a lot of these organizations, they do not treat us in our State the way these leaders might treat us out here, as evidenced by the fact of how they treat John Ashcroft. Misrepresentations and baldfaced lies that are used by this group are not the way my friend and neighbor, John Ashcroft, has built up an impeccable record of honest public service. His rock-solid integrity, legal background, and proven ability to uphold and enforce the law will restore the mission of the Justice Department.

It is clear to me that despite his personal beliefs, Senator Ashcroft has proven his ability to uphold the law without the influence of personal bias. For example, as Missouri attorney general, John Ashcroft protected the confidentiality of abortion records maintained by the Missouri Department of Health, even when they were requested by pro-life groups. He has voiced his opposition to violence and his belief that, regardless of his personal views on abortion, people should be able to enter abortion clinics safely. That is the law of the land. Senator Ashcroft's views on abortion are known. But as

Attorney General, those laws would not be something that he could change, as one could as a legislator. As a Senator, as a policymaker, he could change some things he might not agree with and I may not agree with. It is still the law of the land, and we live by it.

Senator Ashcroft believes that people who commit acts of violence and intimidation should be punished to the fullest extent of the law. He knows that if you are going to have a civil society, you cannot tolerate violence on the part of pro-life people any more than you can tolerate violence on the part of union leaders on the picket line.

I conclude by saying that everyone in this institution comes to the Senate with a set of ideals and principles that serve as their guiding compass. Whether it is based upon conservatism, liberalism, or something else, or something in between, each of us in this Chamber has the privilege and responsibility to cast votes of conscience. When the Presiding Officer calls the yeas and nays on this nomination, I hope that the avalanche of unproven criticism will be put to rest as a result of that vote.

I want us to confirm John Ashcroft as our next Attorney General. I have listened to the opponents of John Ashcroft speak here. I have not heard every one of the speeches, but I had an opportunity to be on a television program with a colleague of mine from the other side of the aisle who is going to vote against this nomination, the Senator from Indiana, Mr. BAYH, a person of outstanding ethics, honesty, and moral values. His dad served in this Senate, was an outstanding leader and a person of moral and high ethical values as well.

I would vote for Senator BAYH to be Attorney General of the United States, if a Democrat President nominated him, because he is just the sort of person who, when you look at him, you just know this guy is not going to do something that is wrong. You know he is going to enforce the law.

I hope all of the people who are upright and of strong conviction on the other side, people who have high moral and ethical values—and I know my colleagues on the other side to be in that category—I hope they vote for John Ashcroft to be Attorney General. I could cast a vote for them as well for Attorney General, not because they are my colleagues, but because of what I have seen in their lives. I hope they truly have seen what is in John Ashcroft's life. And I hope those that are against him will have a little guilty feeling about voting against him, unless I see them differently from the way they are and I have been mistaken about John Ashcroft. But I haven't been mistaken about John Ashcroft, and I haven't been mistaken about my colleagues from the other side as well. I just hope there is a lot of soul searching in the next few hours

before we vote because I think this Senator is entitled to an overwhelming vote of support to become the next Attorney General of the United States.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Ms. STABENOW. Mr. President, I regretfully rise today to oppose the nomination of John Ashcroft as Attorney General of the United States. As a new Member of the U.S. Senate, I did not have the opportunity to serve with former Senator Ashcroft. I have only his record and his testimony on which to make this decision. I come to this judgment after supporting almost all of President Bush's other Cabinet nominees. I believe that the President should be given broad latitude in choosing his Cabinet, but the Constitution clearly gives the Senate the responsibility of advice and consent. It is our responsibility to review the actions and backgrounds of the nominees and speak on behalf of the people we represent.

I have listened intently to the judiciary hearings—the questions and the answers—and I would like to commend my colleagues on the Judiciary Committee for the thoughtful and thorough process that was used on this critically important nomination. There is no question that former Senator Ashcroft has a long career of public service. It is that career and the record that he has created that I feel compelled to evaluate as the most important consideration in making my decision. I have always believed that actions speak louder than words, especially when there is a long and consistent public history of questionable actions.

This is especially important given the critical responsibilities and broad discretion given to the office of Attorney General. Let me list just a few of the actions that I find most disturbing. I was extremely troubled to learn of Senator Ashcroft's record as Missouri's attorney general when he strongly opposed a voluntary and court-ordered plan to desegregate many of the public schools in St. Louis. As the Governor of the State of Missouri, this nominee vetoed the Voter Registration Reform Act, which would have clearly increased the participation of minorities in the electoral process.

His record on other antidiscrimination issues is equally disturbing. From his opposition to the ultimately successful appointment of James Hormel as Ambassador to Luxembourg, simply because he was gay, regardless of his qualifications, to his refusal to answer questions during his confirmation hearing about whether he would discriminate against Americans by denying them the ability to gain security clearances simply because of their sexual orientation. His record on women's rights is just as troubling. He has consistently used every opportunity and every power he has had to block reproductive choice for women including the extreme position of suing public health

care nurses in the State of Missouri for providing basic gynecological and contraceptive services. In addition, his very vocal opposition to *Roe vs. Wade* and the basic reproductive rights of women is an issue that not only continues to worry me, but millions of women across this country.

For me personally, one of the most troubling aspects of his record, was Senator Ashcroft's unfair treatment of Judge Ronald White when he spearheaded the U.S. Senate's rejection of his nomination to the Federal bench. This action was highly unusual and extremely unfortunate for Judge White and for the U.S. Senate.

One of the most basic requirements of any nominee to be the U.S. Attorney General is an ability to exhibit a strong track record of fighting for the constitutional rights of all Americans—black, brown, or white, male or female, young or old, rich or poor. In my opinion, Senator Ashcroft's record clearly fails to satisfy that most basic qualification. To the contrary, he has established a 25-year track record of opposing equal opportunities and fair play for too many Americans.

The basic fact remains that the U.S. Attorney General is the people's lawyer, not the President's lawyer. He is the guardian of the constitutional rights of every American citizen. And I cannot in good conscience support a nominee who has spent much of the past 25 years opposing the constitutional rights of far too many of our citizens.

Thank you. I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, if I could engage my friend from Utah, the manager of this nomination, I know our friend from Kansas is here, and the Senator from Iowa spoke for quite a long period of time. The Senator from Michigan spoke for just a few minutes. I think it would be appropriate to have the Senator from California speak. She will probably speak for about 35 or 40 minutes.

Mr. HATCH. I believe Senator BROWNBACK was next.

Mr. BROWNBACK. Mr. President, if I could, I have about 10 minutes to speak. If I could, I would like to go in a back-and-forth order.

Mr. REID. We just didn't want another 2- or 3-minute speech that took 40 minutes.

Mr. HATCH. I rightfully understand that. If the Senator will speak for 10 minutes or less, we would appreciate it.

Mrs. BOXER. If we could have a unanimous consent agreement that following Senator BROWNBACK, Senator REID would be recognized, and then Senator BOXER.

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

The Senator from Kansas.

Mr. BROWNBACK. Thank you, very much. I appreciate the opportunity to be here to speak in favor of our colleague, Senator Ashcroft, to be Attorney General of the United States.

I serve on our Judiciary Committee along with the esteemed Presiding Officer.

I wonder sometimes who people are talking about when I hear people saying he is too far this way or that way to be Attorney General. I wonder. How did he win statewide elections in a swing State such as Missouri for so many different elections. How was he elected president of the National Association of Attorney Generals? How was he elected head of the National Governors' Association—bipartisan groups? If this guy is so far out there on these issues, how on Earth did he get elected to all of these positions? It just baffles me other than to say he is not extreme.

In most of his policy issues he has put forward, he cares strongly with passion. But there is a solid core of Americans, and in most cases a majority of Americans, who strongly believe in and agree with him on issues such as partial-birth abortion and other items. But that really is neither here nor there. The issue is whether he will enforce the law. That is what an Attorney General is required to do and is called upon to do and in States are elected to do. He has done that at the State level as an elected attorney general. He will do that as a national Attorney General, especially for the United States.

I am new to the Judiciary Committee with this session. I am looking forward to serving on that body. But what I found by this process that we have had in the treatment of John Ashcroft is that it is an extraordinarily unfair process, and I think quite undeservedly toward John.

Mr. President, I grew up in a town only about 20 miles from the State of Missouri in a small town called Parker, KS. I have had the opportunity to follow John's career for a long time. Our States share a common border. In the Senate, John and I served together on the Commerce and Foreign Relations Committee. Our offices were even down the hall from each other. John and I were neighbors here in Washington, and he even put me up in his house when my apartment building burned. I submit that he would do that for anyone who needed a roof over their head. But more important than geography or committee assignments, John Ashcroft is my friend. A friend who shared with me his honesty and integrity, his devotion to his creator, his principled character, and his steadfast belief that each of us is put here on Earth, to help our fellow man, and to leave the world a better place for all of our children.

Contrary to the assertions of those who make a living exacerbating the tensions that divide us as a nation, I know John Ashcroft is committed to our Nation's promise of equal justice for all.

President Bush made an outstanding choice for his Attorney General. John Ashcroft is one of the most qualified nominees for the office of Attorney General in history.

But even more impressive than his resume, Mr. President, are John Ashcroft's words and deeds. Article II, section 3 of the Constitution provides that the President of the United States, "shall take care that the laws be faithfully executed." The Department of Justice is the primary government agency charged with the President's constitutional duty to faithfully execute the laws of the United States. John Ashcroft has fulfilled this function as two-time attorney general of the State of Missouri. In that role, John Ashcroft upheld law with which he personally disagreed, and which many of us in this body might disagree with. But as Missouri attorney general, he swore an oath to uphold the law, and he did. Mr. President, there are many issues on which many of us in this body disagree. But we are legislators, we write laws. That is not the role of the Attorney General of the United States. Mr. President, John Ashcroft raised his right hand swore before the Senate Judiciary Committee that he would faithfully enforce the laws of the United States, "So help me God." As a person who feels fortunate to call John Ashcroft a friend, I don't think there is a stronger guarantee than that oath he took.

Some have called Senator Ashcroft's record on civil rights into question. This has been a program of distortion. As Missouri Governor, John Ashcroft signed Missouri's first hate crimes statute into law. As a U.S. Senator, John Ashcroft supported every African-American judicial nominee confirmed by the Senate. As chairman of the Judiciary Committee's Subcommittee on the Constitution, John Ashcroft convened a hearing on racial profiling with Senator FEINGOLD, stating on the record that racial profiling is unconstitutional. John Ashcroft's record speaks for itself; he is a man of integrity dedicated to equal justice under law. There have been other distortions of Senator Ashcroft's record.

Mr. President, I was heartened by Senator FEINGOLD's remarks in the Judiciary Committee executive session yesterday, in which he extended an olive branch of peace and cooperation to our side of the aisle, and we have a Senate more evenly divided than we have had for almost 50 years. Senator FEINGOLD has answered President Bush's call to change the tone in Washington. It is a bold step, a step I hope my colleagues on the other side of the aisle will follow. I had the opportunity to speak personally with the witnesses who testified both for and against John Ashcroft's nomination. Believe me, there is more that binds us together as a people and a nation than keeps us apart. Let us begin this Congress in that spirit which Abraham Lincoln used to help heal a nation, when he warned that "A house divided against itself cannot stand." I intend to vote for John Ashcroft's nomination to be Attorney General of the United States. I encourage my colleagues, on both

sides of the aisle, to follow the spirit of Lincoln, and help renew the ties that bind us together, and to resist the temptation to use this process for political gain, and further divide us as a nation.

I think once John Ashcroft is approved as Attorney General of the United States, he will be an outstanding and extraordinary Attorney General for all American people.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I thank Senator HATCH and Senator REID for reserving this time for me.

As most people know, there were several Members who came out early with a position on John Ashcroft. Most came out for him before the hearings, and I came out against his confirmation. The people who came out for John Ashcroft before the hearings said they knew enough to know they were for him. I said, after looking at the record and being very familiar with the record, I could not support him. I actually asked then-President-elect Bush to reconsider his choice because I believed him when he said he wanted to unite the Nation rather than divide the Nation. I felt this nomination would be very divisive, would raise the very same issues that were raised during one of the most difficult campaigns that I certainly ever remember for President.

I think what I said was borne out. This Presidential election was a mandate. Many people think if all the votes had been counted, it might have come out a different way. That is not the point. The point is, because it was so divisive, whoever won, whether it was Al Gore or George W. Bush, whoever actually took the office—in this case the Supreme Court decided to stop the count, and George W. Bush became President—whoever was President had to know that this was a very divided Nation and that we needed to put up moderate people—moderate people—for important offices such as Attorney General, Interior Secretary, and the like.

For me, it is very rare to oppose a Bush Cabinet nominee. Out of all of them, I have opposed two. I have supported every other one. One thing John Ashcroft said is: I supported 90 percent of President CLINTON's judges.

Well, I supported 90 percent of George W. Bush's Cabinet picks. Therefore, when I choose to say no, it is because I feel very deeply and very firmly that John Ashcroft is not the right choice.

President Bush said he picked John Ashcroft because "he has a commitment to fair and firm and impartial administration of justice." He told us that John Ashcroft is "a man who has a good and decent heart," and he asked us to look into the heart of John Ashcroft.

Believe me, I have done that. And I have looked into the hearts of people who John Ashcroft has hurt. I believe

this nomination should be rejected. I will be very specific.

Judge Ronnie White: Was John Ashcroft's treatment of Judge Ronnie White fair? Did he have a good heart when it came to dealing with Judge Ronnie White? Let's revisit it. The American Bar Association gave Judge White a unanimous qualified rating. Judge White was introduced at his nomination hearing for judgeship in front of the Judiciary Committee with glowing remarks by Senator BOND. With no warning, John Ashcroft championed the defeat of Judge White's nomination on the Senate floor.

I have been in elective life for 25 years; certain things you do not remember and a lot of things you do. I will never forget the day this Senate voted down Judge Ronnie White on a straight partisan vote—the first time in 50 long years that a judge nominee who had been passed favorably through the Judiciary Committee was so treated.

Why would I remember it so clearly? I thought a few people might vote no just as we have on many judge nominations. But I never thought that John Ashcroft would have rounded up and made it a big political issue that all the Republicans would stick with him on this vote. We all know, because we are not children in this body, there are other ways to treat someone who suddenly doesn't look like he will be confirmed. You bring it back to the committee, you have another vote. You don't do what they did to Ronnie White.

I remember that Congresswoman MAXINE WATERS, one of my good friends, came over from the House that day. She was here because she wanted to celebrate the fact that Ronnie White was going to get this judgeship. She and I looked at each other as the nomination went down. It was a humiliating defeat. It was a sad, sad day.

I compliment those Senators on the Judiciary Committee who apologized to Ronnie White. He never, ever should have been treated that way. It was unnecessary to do that to any human being.

So, yes, I have looked into John Ashcroft's heart. And I say how could someone with a good heart do that to another good person? I do not understand it.

I hope Senator FEINGOLD will be listening, too, when he says to President Bush: Why don't you renominate Ronnie White in the spirit of reconciliation?

During his floor remarks, John Ashcroft pointed to Judge White's dissent in a murder case. It was a horrific case. Yet John Ashcroft did not ask any questions of Judge White during the confirmation hearing or even afterwards in written follow-up questions about that case. I think a fundamental guarantee of our system of justice, particularly from someone who wants to be an Attorney General, is the right to give someone you are criticizing the right to be heard.

Judge Ronnie White did not have that right until the Democrats called him up during this hearing. I appreciate the fact that he had that hearing in front of the Republicans and Democrats of that committee. That nomination was sabotaged on the floor of the Senate. It was wrong; it was harsh; it was cruel; it was humiliating; and it was not necessary.

I think that speaks volumes about John Ashcroft's commitment to fairness. On the Senate floor, John Ashcroft said that Judge White was "pro-criminal, with a tremendous bent toward criminal activity." In the Judiciary Committee hearings last week, Judge White noted that after a long career in public service, including elective office, he had never, ever heard himself described that way.

Judge White got the chance to set the record straight. He told the Judiciary Committee that he voted to affirm the death penalty 41 times out of 59 cases. And in 10 of the remaining 18, he joined a unanimous court in reversing. All together, Judge White voted with the majority of the court in 53 out of 59 cases. In only 6 cases did he dissent in a death penalty case, and in only 3 of those was he the sole dissenter. When you add this all up, it turns out that Judge White voted the same way as Ashcroft appointed judges—95 percent of the time.

How did Judge White feel about John Ashcroft's pro-criminal label? This is what he said. He told the Judiciary Committee, "Senator John Ashcroft seriously distorted my record." And he very graciously left it up to the Senate to decide whether that kind of treatment is consistent with fair play and justice that an Attorney General is expected to have.

Conservative columnist Stuart Taylor of the National Journal has written that John Ashcroft's treatment of Judge White is enough to disqualify him for the position of Attorney General.

Of Mr. Ashcroft's actions in the Ronnie White matter, Mr. Taylor wrote that Ashcroft:

... abused the power of his office by descending to demagoguery, dishonesty, and character assassination.

Those are not my words. Those are the words of Stuart Taylor, a conservative journalist for the National Journal.

Let's just say you think everybody is entitled to one mistake, to one mistreatment of another individual. Let's just say that. Unfortunately, in this case, I am going to point to a number of other examples.

Take the case of James Hormel. Ambassador Hormel was nominated in 1997 to be the U.S. Ambassador to Luxembourg. He was approved by the Senate Foreign Relations Committee by a vote of 16-2. One of those "no" votes was cast by Senator Ashcroft. Why did Senator Ashcroft oppose Ambassador Hormel, a very well-known businessman, a beautiful family—why?

Let's check the record. In 1998, when asked about the nomination of James Hormel, Senator Ashcroft said:

His conduct and the way in which he would represent the United States is probably not up to the standard that I would expect.

Senator Ashcroft continued:

He has been a leader in promoting a life-style. . . and the kind of leadership he's exhibited there is likely to be offensive to. . . individuals in the setting to which he will be assigned.

This is the comment of John Ashcroft on the nomination of James Hormel. Clearly, by this statement—

He has been a leader in promoting a life-style. . . and the kind of leadership he has exhibited there is likely to be offensive to. . . individuals in the setting to which he will be assigned.

To me, you don't have to have a degree in psychology to understand what John Ashcroft is saying. He is saying he is a leader in promoting a gay life-style. That is what he is saying.

This issue came up at the Judiciary Committee. When Senator LEAHY asked John Ashcroft if he opposed James Hormel because he was gay, Senator Ashcroft replied:

I did not.

He said:

I made a judgment that it would be ill-advised to make him an ambassador based on the totality of the record.

He went on to say:

I had known Mr. Hormel for a long time.

Ambassador Hormel responds:

There is simply no truth in Mr. Ashcroft's statement that he had any objective basis or personal knowledge upon which to vote against my nomination.

He went on to say:

He refused to give any specific example of anything in my record on which to base his opposition. I can only conclude Mr. Ashcroft chose to vote against me solely because I am a gay man.

Is this fair? I already talked about Ronnie White. Senator Ashcroft never had the courtesy to ask Ronnie White any questions about the case that he said disqualified Ronnie White for a judgeship. And he led a fight here on the floor such that we have not seen in 50 long years to defeat Ronnie White. And he refused to meet at that time with Ambassador Hormel.

Ambassador Hormel said: I want to meet with you, Senator Ashcroft.

No. He refused. And Mr. Hormel stated he cannot remember having a single conversation with the Senator.

Then, in his answers to a written follow-up question after the Judiciary Committee hearings last week, John Ashcroft changes his story. Ashcroft stated that:

[B]ased on the totality of Mr. Hormel's advocacy, I didn't believe he would effectively represent the United States in Luxembourg, the most Roman Catholic country in all of Europe.

So we have different answers. First, it was the totality of his knowledge of Mr. Hormel, whom he knew so well. Then Mr. Hormel says: He didn't even want to meet with me. And then he changes his answer again.

He hurt James Hormel deeply by not allowing that Ambassadorship to come up for a vote. I think that kind of hurt says to me that when I look at his heart, I don't see the kindness and the caring about other people.

So, you would say, OK, that was two. That was Ronnie White and James Hormel. Do we stop there? Unfortunately, we don't. We go to Margaret Morrow. Was John Ashcroft fair to Margaret Morrow, the first woman to head the Los Angeles Bar Association and the California Bar Association, nominated to the Federal district court in May of 1996, and not until 2 whole years later were we able to finally get a vote? And I must thank Chairman HATCH for that—by February 11, 1998.

Why did it take so long? Simple: John Ashcroft placed a secret hold on Ms. Morrow's nomination. The hold kept Morrow from having a vote on the Senate floor; it kept her from having a fair up-or-down vote.

I do not think that is fair. That was hurtful. He said she was an "activist judge." In fact, Ms. Morrow had overwhelming Republican support, to the contrary.

Robert Bonner, a U.S. attorney appointed by Ronald Reagan, supported her. Many Senators from the Judiciary Committee, including Senator HATCH, supported her. James Rogan supported her. And yet he put this hold on her. Finally, we were able to get him to back off. For 2 years, that court ran without Margaret Morrow on it, and now she serves proudly after getting a vote of 67-28.

He was so out of line on that. A strong majority supported Margaret Morrow.

You have heard the stories: Ronnie White, James Hormel, Margaret Morrow, human beings with faces and hearts and pulses who were hurt by John Ashcroft, hurt deeply by John Ashcroft. But there is more.

Bill Lann Lee, was John Ashcroft fair to him when he was nominated to be Assistant U.S. Attorney for Civil Rights? When he arrived here in 1997, he had a long record at the NAACP of fighting discrimination. Yet even Lee's former corporate opponents came to lobby for him—what a wonderful person he is.

He supported the law, the law of giving people a chance, affirmative action laws. John Ashcroft did not like that law, which, by the way, he will be sworn now to uphold. He blocked Bill Lann Lee's nomination, and Bill Lann Lee never got an up-or-down vote. He served as an acting head of that division.

I know the story of Bill Lann Lee. He is an incredible example of the American dream. He worked his way up from the bottom of the economic ladder. His father ran a laundry where they sweated every single day to help their son get an education, and this is the way he was treated in the greatest nation in the world. It was hurtful. It was very hurtful to Bill Lann Lee. It was very

hurtful to the people in this country who were looking to Bill Lann Lee as a role model.

This is what John Ashcroft said about Bill Lann Lee:

We don't need an individual who is trying to go against the Constitution as recently interpreted by the Supreme Court. We need someone who is going to say I'm here to provide the administration.

Bill Lann Lee said under oath that he would uphold the Constitution, just as John Ashcroft is saying he will. Yet he did not give Bill Lann Lee a chance. He hurt this man deeply.

That is a story of looking into the heart of someone. I think you have to be judged by not only your words but your deeds in totality, so I have not given one example; I have given four. I could give more. I will not.

I want to talk about the Southern Partisan. I want to talk about the fact that John Ashcroft as a Senator in 1998 gave an interview to the Southern Partisan magazine. Put in a most straightforward way, this magazine promotes racism.

This is a picture of a T-shirt that is advertised in this magazine. This is a portrait of Abraham Lincoln, and they sell this on a T-shirt. This is Latin. It says: "Thus be it to tyrants." It is a picture of Lincoln: "Thus be it to tyrants." Those are the words that were uttered by the assassin of Abraham Lincoln. Abraham Lincoln was quoted by Senator BROWNBACK, and he made a beautiful speech. This is sold by this magazine. The words of John Wilkes Booth are underneath: "Thus be it always to tyrants."

In his interview, John Ashcroft praised the magazine and its mission:

Your magazine also helped set the record straight. You've got a heritage of doing that, of defending southern patriots. Traditionalists should do more. I've really got to do more. We've all got to stand up and speak in this respect or else we will be taught that these people were giving their lives, ascribing their sacred fortunes and their honor to some perverted agenda.

Now he says he did not know about the magazine. Let's look at that.

First of all, there was an amazing exchange in the committee between Senator BIDEN and John Ashcroft. Senator BIDEN gave John Ashcroft the opportunity to denounce this magazine. He said: What do you think of it now that you know what they do, what they stand for, the T-shirt, and the rest? John Ashcroft basically did not answer him. Senator BIDEN was taken aback because he had the opportunity to say: This is a racist magazine; I'll never talk to them. He did not say it. He said: I deplore what is deplorable. That was his response to Senator BIDEN.

He had a chance. He said:

On the magazine, frankly, I can't say that I knew very much at all. . . . I've given magazine interviews to lots of people . . . and I regret that speaking to them is being used to imply that I agree with their views.

If you go back to what he said when he spoke to them, he said:

Your magazine also helped set the record straight. You've got a heritage of doing that, of defending southern patriots. . . .

So how does he say he never heard of the magazine when you look at his quote and he knows of the magazine, because he says:

Your magazine also helped set the record straight. You've got a heritage of doing that, of defending southern patriots. . . .

And it goes on. It does not ring true.

He had a chance in simple language to say: I will never talk to them again. He did not do it.

We could look at Bob Jones University, and I will not go into the details of that, but we have to believe that he knew about the racist policies when he accepted their degree because those policies were the subject of a huge Supreme Court case that was decided when he was attorney general of Missouri.

The case was *Bob Jones v. the United States*. It was on the front page of the major newspapers when it was decided. In that case, the Supreme Court reversed the university's tax exempt status because of the racist policy that John Ashcroft said he did not know about. But he was an attorney general at the time that decision came down.

Again, I think he could have said more at the hearings to distance himself from the university's policies.

These are the things that say to me, out of the 280 million Americans in our country, there has to be someone who is better suited for this job.

We have heard a lot about a woman's right to choose. Regardless of your feelings on it—I happen to be of a mind that the Government has no business telling a woman about her reproductive health care in the beginning of a pregnancy, which is *Roe v. Wade*; that is the law of the land—I would hope we could come together when it comes to preventing unwanted pregnancies by contraception. That seems to be an area of common ground where both sides could come together. Because if you do not get pregnant, if you do not want a child, you do not have to have an abortion. It works. It will lower the number of abortions.

But when John Ashcroft was attorney general, he sued nurses who were giving contraception to women. Let me repeat that. He went against settled law in Missouri when he was attorney general. He tried to stop nurses, through the courts, from handing out contraception. It was settled law that those nurses could do it, but John Ashcroft argued that Missouri law did not allow for it.

The Missouri Supreme Court ruled against John Ashcroft. It strongly pointed out his interpretation was out of step with settled law. This is what the Missouri Supreme Court had to say:

We believe the acts of the nurses [providing contraceptives, breast and pelvic exams] are precisely the types of acts the legislature contemplated. . . .

The Court believes that it is significant that while at least forty states have modernized and expanded their nursing practice laws during the past fifteen years, neither counsel nor the Court have discovered any

case challenging nurses' authority to act as the nurses herein acted.

In other words, in 40 States, not one other attorney general ever sued nurses and tried to stop them from providing these services to women. On this occasion, it was in rural clinics. So when John Ashcroft says he is going to uphold settled law, I am sure he said that when he was the attorney general of Missouri.

Then, if we look at other issues concerning women, he also sued the National Organization for Women. When he was an attorney general in the 1980s, he sued NOW to stop their campaign to win ratification of the Equal Rights Amendment. Now, maybe he does not agree with the Equal Rights Amendment, he does not want women to be equal through the Equal Rights Amendment. Maybe he does not believe it is necessary, for whatever reason. But to sue a woman's organization for 3 years—losing at every step but never giving up; taking it to the U.S. Supreme Court after the Circuit Court of Appeals, and they all rejected his arguments—it seems to me, since that was also settled law in a case from 1961, we have to question: What does he mean when he says he will accept settled law?

Voluntary desegregation: Others have spoken about this. How do you fight a voluntary desegregation plan that everyone came together and said was a good way to help our kids? Well, he figured out how to do it. And I will tell you, his rhetoric was very strong. He called the voluntary plan an "outrage against human decency" and an "outrage against the children of this State."

The conservative *Economist* magazine described Ashcroft this way—and it turned out he and his opponent were both arguing:

The campaign quickly degenerated into a context over who was most opposed to the plan for voluntary racial desegregation. . . .

The court roundly criticized then-Attorney General Ashcroft. They said:

The court can only draw one conclusion . . . the state has, as a matter of deliberate policy, decided to defy the authority of this court.

From the *St. Louis Post-Dispatch* in 1982, Ashcroft was "making himself a familiar advocate before the Supreme Court, most often as the antagonist of civil rights interests."

So here you have a nominee, who is supposed to firmly uphold the civil rights laws, being called an antagonist of civil rights interests in an article in 1982.

This was an election where many African American voters believed they were disenfranchised. They are looking at this Senate and thinking they cannot believe that this is the individual George Bush would put before us. Why do I say that? Because there is a case on point about voter registration. While John Ashcroft was Missouri Governor, he vetoed a bill that would have allowed volunteers to register voters in

the largely African American city of St. Louis; in other words, a bill to allow the League of Women Voters to encourage voter registration.

The very interesting bottom line of this case is, in the white parts of the county he allowed this voter registration to go on. When he vetoed the first bill, he said he had a problem with it. But then he vetoed it again. It seems to me that anyone who believes that we ought to have our voting rights be sacred in this Nation would have problems voting for this nominee.

The *St. Louis Post-Dispatch* noted at the time:

Gov. John Ashcroft has decided that [some citizens] . . . should continue to be treated differently from others on the matter of voter registration.

So, Mr. President, I am sure you are glad to hear I am about to sum up, to finish. What I have tried to do in this presentation is to speak from my heart because that is what George Bush asked me to do. He said: Look in your heart and look in the heart of John Ashcroft. I believe that he meant for me to do that.

In my advise and consent responsibility, I have looked into the heart of John Ashcroft. And how can I do it? By looking at the way he treats other people. My mother taught me to do that. You can say a lot of things in life. You can tell your kids, be good to your neighbor, but if they see you walk past your neighbor, if your neighbor is lying on the street, they know something is not right.

When I talk to people and see people such as Ronnie White—a beautiful family man, qualified, the American dream personified—humiliated on the Senate floor, I cannot look away from that. When I see Margaret Morrow hanging and twisting in the wind for 2 years because John Ashcroft put a secret hold on her, I have to look at that. When I see James Hormel, a distinguished man, humiliated, hurt, turned down for an Ambassadorship because he happened to be a gay man, I cannot look away from that. And when I see Bill Lann Lee, whose father and mother sweated in a laundry so that he could get the American dream—when I see him hurt and humiliated—I cannot look away from that.

Maybe my colleagues can, and they see other things that I do not see. I respect them so much. And I respect their right to feel strongly, just as I do on the other side of this issue. But I have taken this time because I feel so deeply about this.

The Attorney General is the Nation's guardian of civil rights, of human rights, of women's rights, of the environment, of sensible gun laws. He or she must be moderate to bring the country together. What did John Ashcroft say about moderates? He said:

There are two things you find in the middle of the road: A moderate and a dead skunk, and I don't want to be either.

Mr. President, I have looked into the heart of John Ashcroft. I do not think he is the right person for this job.

I yield the floor.

Mr. HATCH. Mr. President, another topic that keeps being brought up again and again is Senator Ashcroft's opposition to Judge Ronnie White. I am concerned that some of my colleagues continue to denigrate Senator Ashcroft for his involvement in the nomination of Judge Ronnie White. It has been said that Senator Ashcroft distorted Judge White's record and wrongly painted him as pro-criminal and anti-law enforcement.

But there were many reasons to vote against confirmation for Judge White. In fact, every Republican in the Senate did so. I have reviewed Judge White's record and several of his dissenting opinions in death penalty cases, and I can understand Senator Ashcroft's opposition to Judge White's nomination to the federal bench.

For instance in the Johnson case, the defendant was convicted on four counts of first-degree murder for killing three officers and the wife of the sheriff. Johnson was sentenced to death on all counts. On appeal, the Missouri Supreme Court upheld the decision, but Judge White dissented arguing for a new trial based on ineffective assistance of counsel. Judge White thought that Johnson deserved further opportunity to present a defense based on post-traumatic stress disorder. But the majority showed that here was no credible evidence that Johnson suffered from this disorder. Rather, it was clear that defense counsel had fabricated a story that was quickly disproved at trial. For instance, defense counsel stated that Johnson had placed a perimeter of cans and strings and had deflated the tires of his car. At trial, testimony revealed that police officers had taken these actions, not the defendant.

Further, Congressman KENNETH HULSHOF, the prosecutor in the Johnson case testified at Senator Ashcroft's hearings that it was almost impossible to make out an argument for ineffective assistance of counsel because the defendant "hired counsel of his own choosing. He picked from our area in mid-Missouri what . . . I referred to as a dream team."

Judge White has every right to pen a dissent in Johnson and other cases involving the death penalty. Similarly, every Senator has the duty to evaluate these opinions as part of Judge White's judicial record. And that's just what Senator Ashcroft did. At no time did Senator Ashcroft derogate Judge White's background.

I consider Judge White to be a decent man with an impressive personal background. He has accomplished a great deal and come up from humble beginnings. But his record of dissenting in death penalty cases was sufficiently troubling to cause Senator Ashcroft and others to oppose the nomination.

Many of my colleagues have impugned Senator Ashcroft's motives for voting against Judge White. But Judge White's nomination was strongly op-

posed by many of Senator Ashcroft's constituents and also by major law enforcement groups, including the National Sheriffs' Association and the Missouri Federation of Police Chiefs.

Sheriff Kenny Jones, whose wife and colleagues were killed by Johnson, testified, "I opposed Judge White's nomination to the federal bench, and I asked Senator Ashcroft to join me because of Judge White's opinion on a death penalty case. . . in his opinion, Judge White urged that Johnson be given a second chance at freedom. I cannot understand his reasoning. I know that the four people killed were not given a second chance."

Finally, many of my colleagues have alleged that Senator Ashcroft's opposition to Judge White was underhanded and done with stealth. Well, Senator Ashcroft voted against Judge White's nomination in committee. He expressed his disapproval at that time. If he had held up the nomination in committee without allowing it to proceed to the floor he would have been criticized for delay.

Indeed, Senator BOXER pleaded during a debate about several judges including Ronnie White,

I beg of you, in the name of fairness and justice and all things that ace good in our country, give people a chance. If you do not think they are good, if you have a problem with something they said or did, bring it down to the floor. We can debate it. But please do not hold up these nominees. It is wrong. You would not do it to a friend.—*Cong. Rec. S. 11871, Oct. 4, 1999.*

Thus, Senator Ashcroft was between a rock and a hard place as to how to raise his legitimate concerns about Judge White.

Senator Ashcroft is a man of tremendous integrity, one of the most qualified nominees for Attorney General that we have ever seen. His opposition to Judge White was principled and in keeping with the proper exercise of the advice and consent duty of a senator. I regret that we have needed to revisit this issue at such great length.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER (Mr. AL-LARD). The Senator from Arizona.

Mr. KYL. I ask unanimous consent to have an op-ed piece, which responds to one of the points that Senator BOXER was raising, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JOHN ASHCROFT, AMERICAN PARTISAN

(By Thomas G. West)

Frustrated by the absence of any real dirt on Senator John Ashcroft, his ideological enemies have descended into dishonesty and distortion. He is being attacked as a racist and a defender of slavery. A quotation from his 1998 interview with "Southern Partisan" magazine has been denounced with particular venom.

Those circulating that quotation suggest that Ashcroft was praising the confederate cause, including slavery. But in context he was praising the antislavery principles of America's Founding Fathers. I should know, because he was talking about my book.

Here is how the full quotation reads in the original: "Ashcroft: Revisionism is a threat

to the respect that Americans have for their freedoms and the liberty that was at the core of those who founded this country, and when we see George Washington, the founder of our country, called a racist, that is just total revisionist nonsense, a diatribe against the values of America. Have you read Thomas West's book, "Vindicating the Founders"?"

"Interviewer: I've met Professor West, and I read one of his earlier books, but not that one.

"Ashcroft: I wish I had another copy: I'd send it to you. I gave it away to a newspaper editor. West virtually disassembles all of these malicious attacks the revisionists have brought against our Founders. Your magazine also helps set the record straight. You've got a heritage of doing that, of defending Southern patriots like [Robert E.] Lee, [Stonewall] Jackson and [Jefferson] Davis. Traditionalists must do more. I've got to do more. We've all got to stand up and speak in this respect, or else we'll be taught that these people were giving their lives, subscribing their sacred fortunes and their honor to some perverted agenda."

Ashcroft's language is telling. It is a clear reference to the final words of the Declaration of Independence, where the signers "pledge to one another our lives, our fortunes, and our sacred honor." The "perverted agenda" to which Ashcroft alludes is the ideology of proslavery, which he is utterly rejecting here.

"Southern Partisan" has been described, correctly, as a magazine that defends the South in the Civil War. But Ashcroft has just pointed out, correctly, that "liberty"—not slavery—was "at the core" of the founding, and that Washington was not a racist. His praise of the three Confederate leaders, therefore, must be taken in context as an expression of respect for men of honor and talent, but in no way for the proslavery policies of the Confederacy.

Ashcroft was deploring, quite sensibly, that people are being taught to despise and hate the Founders, instead of respecting them for creating the first country in history dedicated to the principle that "all men are created equal."

My "Vindicating the Founders" shows that this dedication led directly to the abolition of slavery in the northern states, and to the 1787 law banning slavery from the territories north of the Ohio River. These states became the American heartland that later, following Lincoln's lead, stood up for the founding principles, won the Civil War, and abolished slavery throughout the country.

Contrary to opponents of his nomination, taken as a whole this interview shows that Ashcroft is an admirer of the "liberty that was at the core" of the American founding. He is therefore likely to be especially respectful toward the original meaning of the Constitution, which was designed to secure "the blessings of liberty to ourselves and our posterity."

The deeper point that Ashcroft was pointing to is this: Liberals today generally agree with Bill Clinton, who said in a 1997 speech that Thomas Jefferson's view of equality meant that "you had to be white, you had to be male, and . . . you had to own property." Because Clinton and other liberals misunderstand the founding so badly, they believe in a "living Constitution" whose meaning changes to keep up with the times. Or, as Clinton put it in the same speech, our history is the story of "new and higher definitions—and more meaningful definitions—of equality and dignity and freedom."

John Ashcroft believes in the original definition of equality and liberty: that all human beings deserve to be free and to keep the property they earn with their own hands, rather than have it taken away by a government that pretends to know better than they do what to do with that property.

In the incoming Bush administration, with Ashcroft as Attorney General, perhaps America has a chance to go back to the genuine principles of the Founders, without trying to come up with "new and higher definitions" of them, as has been the habit of the past eight years.

Ashcroft has also been unjustly vilified for a speech at Bob Jones University in 1999. His words, "We have no king but Jesus," have been denounced as narrow and bigoted—as if the Constitution had some sort of religious test that excludes serious Christians from public office. Yet in that speech, as in the "Southern Partisan" interview, Ashcroft singled out for his highest praise the Founders' inclusive vision of equal rights for all.

To his Bob Jones audience, Ashcroft quotes with reverence the Declaration's famous phrases, including "endowed by our Creator with certain inalienable rights." He celebrates the fact that Christians, indeed most Americans, believe these rights come from "our Creator," not from a merely "civic and temporal" source in "Caesar" or "the king." For, as Ashcroft knows, if our rights come merely from government, then government may one day decide to take them away.

In this conviction he expresses his agreement with the greatest statesmen and heroes of the past, from Washington and Jefferson to Lincoln and Reagan.

Based on these two Ashcroft pronouncements—his "Southern Partisan" interview, and his Bob Jones speech—a fair-minded reader would conclude that Ashcroft is just the kind of man that America needs as its next Attorney General: a man devoted, to the depth of his heart, to the great principle of the equality of men that has made America the greatest nation on earth.

Mr. HATCH. Mr. President, I wish to discuss some civil rights issues surrounding the nomination of Senator Ashcroft to be Attorney General. At the hearings and in supplemental questions, my colleagues have raised issues concerning Senator Ashcroft's plans for the Civil Rights Division of the Department of Justice should he be confirmed as Attorney General. Let me say that I am confident that Senator Ashcroft will fight for the civil rights and liberties of all Americans. He believes that everyone deserves an opportunity to succeed and that those at the bottom of our society may need a helping hand.

Senator Ashcroft strongly supports "affirmative access" programs. As he testified, "We can expand the invitation for people to participate aggressively so that no one is denied the capacity to participate simply because they didn't know about the opportunities. We can work on education, which is the best way for people to have access to achievement."

Senator Ashcroft wants to encourage achievement and access to achievement. He wants to avoid what President Bush called the "soft bigotry of low expectations" that fuels many race-conscious programs.

It is true that Senator Ashcroft is skeptical about government programs that categorize people by race. Many of these programs would be unconstitutional under the Supreme Court's decision in *Adarand v. Peña*. That decision stated that all governmental racial classifications should be subject to

strict scrutiny, that is such classifications must be narrowly tailored to serve a compelling governmental interest. The Supreme Court made clear that there was no such thing as a "benign" racial classification, and that the government may treat people differently because of their race for only the most compelling reason. This view of governmental racial classifications comports with the development of constitutional protections for civil liberties. Senator Ashcroft is solidly with the Supreme Court on this issue.

Some of my colleagues and certain special interest groups have especially questioned Senator Ashcroft's ability to support and defend civil liberties because he opposed the nomination of Bill Lann Lee to be Assistant Attorney General for Civil Rights. Well, all but one Republican in the Judiciary Committee opposed this nominee. Let me say that I have the highest personal regard for Mr. Lee and the difficult circumstances in which his family came to this country, worked hard, and realized the American dream.

Despite this high personal regard, I was deeply concerned about Mr. Lee's nomination because much of his career was devoted to preserving constitutionally suspect race-conscious public policies that ultimately sort and divide citizens by race. At the time of his hearings, it was clear that he would have us continue down the road of racial spoils, a road on which Americans are seen principally through the looking glass of race. As the Supreme Court has held, that would be unconstitutional.

Indeed, it is now clear that we were right to oppose the nomination of Mr. Lee. Over the Senate's objections, President Clinton made a recess appointment of Mr. Lee to head the Civil Rights Division. His record has been one of pursuing constitutionally suspect, race-based policies at great cost to civil liberties.

Under Mr. Lee's leadership, the Civil Rights Division has waged a war against testing standards in public sector employment based on what he considers to be the "adverse impact" of such testing. He has repeatedly sought to replace objective hiring processes with devices designed to boost minorities.

In 1998, a federal judge, a Carter appointee, assessed an unprecedented \$1.8 million attorney fee award against the Civil Rights Division for a lawsuit against the city of Torrance, California. The Judge found the suit "frivolous, unreasonable and without foundation." Despite this embarrassment, the Division continues to argue that using test results and hiring those who score best on the test is, in the words of one civil rights division deputy, "the worst possible way to select applicants."

Furthermore, under Mr. Lee, the Civil Rights Division has continued the legal challenge to Proposition 209, a measure that prohibited government discrimination of Californians on the

basis of race, gender, or national origin. These suits continue despite the fact that Proposition 209 has repeatedly been upheld by federal courts.

Finally, under Bill Lann Lee, the Division continued to defend the federal contract set-aside struck down by the Supreme Court in *Adarand*.

At the time of Mr. Lee's nomination I made a lengthy speech on this floor. I regret that Mr. Lee's tenure has shown that my concerns were not unfounded. Mr. Lee's actions show that he was unable to distinguish the substantive role of being a law enforcer for all citizens from being a private activist litigator charged with pushing the limits of the law.

Senator Ashcroft's principled opposition to Mr. Lee has been vindicated over time. Not only was Mr. Lee an activist, but he continued to pursue his activist agenda once in a position of trust for all Americans. The signs that he would do this were clear at his hearings at which he narrowly defined the rule in *Adarand* and could not distinguish cases that he would bring as Assistant Attorney General from those he brought in the NAACP Legal Defense Fund.

By contrast, Senator Ashcroft has repeatedly distinguished his role as a legislator from that of the Attorney General. He understands that his political advocacy gets checked at the door of the Department of Justice. Senator Ashcroft has repeatedly stated that he would enforce the law as it exists to protect the civil liberties of all Americans. He is committed to defending the constitutional rights of all individuals and has testified that he will make the enforcement of civil rights one of his topmost priorities. As Senator Ashcroft stated, "My highest priority is to ensure that the Department of Justice lives up to its heritage of enforcing the rule of law, and in particular, guaranteeing legal rights for the advancement of all Americans. . . . [O]ne of my highest priorities at the Department will be to target the unconstitutional practice of racial profiling."

Senator Ashcroft will be a faithful guardian of our civil liberties, and it is for this reason and many others that I wholeheartedly support his nomination to be Attorney General.

Mr. President, some claim that Senator Ashcroft will not uphold the law with regard to abortion.

I think it would be appropriate at this time to set the record straight on John Ashcroft's record and commitments regarding abortion—an issue we have heard a lot about during this confirmation process.

While Senator Ashcroft's critics have spared nothing in their attempts to distort his record and create fear, Senator Ashcroft's record over 25 years as a public servant, and his testimony before the Judiciary Committee during his confirmation hearing, demonstrate his lifelong commitment to the rule of law and his respect for the uniquely

different roles of a legislator and a law enforcer. Senator Ashcroft has proven that he can objectively interpret and enforce the law—even where the law may diverge from his personal views on policy. His record and character demonstrate that he can be, as he has pledged, “law oriented and not results oriented.”

Contrary to the fear-mongering of his critics, Senator Ashcroft will enforce the law protecting a woman’s right to an abortion. He was very straightforward in his testimony before the Judiciary Committee when he stated that, in his view, *Roe versus Wade* is settled law and that the Supreme Court’s decisions upholding *Roe* “have been multiple, they have been recent and they have been emphatic.” He said he would enforce the law as interpreted by the Supreme Court.

When asked whether he would seek to change the Supreme Court’s interpretation of the law, Senator Ashcroft stated that “it is not the agenda of the President-elect to seek an opportunity to overturn *Roe*. And as his Attorney General, I don’t think it could be my agenda to seek an opportunity to overturn *Roe*.” He also stated that as Attorney General, it wouldn’t be his job to “try and alter the position of the administration.”

Senator Ashcroft clearly recognized the importance of not devaluing “the currency” of the Solicitor General’s Office by taking matters to the Supreme Court on a basis the Court has already stated it does not want to entertain. He noted that in this way, “accepting *Roe* and *Casey* as settled law is important, not just to this arena, but important in terms of the credibility of the Department.”

He said he would give advice based upon sound legal analysis, not ideology or personal beliefs. He made a commitment that “if the law provides something that is contrary to my ideological belief, I would provide them with that same best judgment of the law.”

From Senator Ashcroft, those are not just words. Throughout his career, he has demonstrated that he can do just that.

For example, as Missouri Attorney General, Senator Ashcroft did not let his personal opinion on abortion cloud his legal analysis. He protected the confidentiality of abortion records maintained by the Missouri Department of Health—even when they were requested by pro-life groups.

Likewise, when asked to determine whether a death certificate was required for all abortions, regardless of the age of the fetus, Attorney General Ashcroft—despite his personal view that life begins at conception—issued an opinion that Missouri law did not require any type of certificate if the fetus was 20 weeks old or less. His legal analysis was fair and objective and unaffected by what his policy views may have been.

There has also been, what I consider, unfounded skepticism over whether

Senator Ashcroft would vigorously enforce clinic access and antiviolen- ce statutes. Being pro-life is not incon- sistent with opposing violence at clinics. The primary focus of the opposi- tion has been the Freedom of Access to Clinic Entrances Act of “FACE”. Sena- tor Ashcroft supports the FACE law, and always has.

Senator Ashcroft testified specifi- cally on how he would enforce FACE and other clinic access and antiviolen- ce laws. He stated clearly that he would enforce these laws “vig- orously”, that he would investigate al- legations “thoroughly” and that he would devote resources to these cases on a “priority basis.”

He further stated that he would maintain the appropriate task forces which have been created to facilitate enforcement of clinic access and antiviolen- ce statutes.

These statements are totally con- sistent with Senator Ashcroft’s long record of speaking out against violence and his belief that the first amendment does not give anyone the right to “vio- late the person, safety, and security” of another.

Senator Ashcroft has always spoken out against clinic violence and other forms of domestic terrorism. He has written to constituents about his strong opposition to violence and his belief that, regardless of his personal views on abortion, people should be able to enter abortion clinics safely. He voted for Senator SCHUMER’s amend- ment to the bankruptcy bill that made debts incurred as a result of abortion clinic violence non-dischargeable in bankruptcy.

Senator Ashcroft has always con- demned criminal violence at abortion clinics—or anywhere for that matter—and believes people who commit these acts of violence and intimidation should be punished to the fullest extent of the law. As Attorney General he’ll do just that.

Access to contraceptives is another area that I think Senator Ashcroft has been unfairly criticized. His critics make dire predictions about the future that are totally unsupported by Sena- tor Ashcroft’s testimony. Senator Ashcroft could not have testified any more clearly on the issue of contracep- tion. He stated that: “I think individ- uals who want to use contraceptives have every right to do so . . . [and] I think that right is guaranteed by the Constitution of the United States.” He also testified that he would defend cur- rent laws should they be attacked. What more can he say? Is there any- thing a pro-life nominee could say to please the pro-abortion interest groups?

Senator Ashcroft’s opponents take great pains to say that they do not op- pose him on ideological grounds. Well you could have fooled me. Their argu- ment is that someone who has been ac- tive in advocating a particular policy position cannot set that aside and en- force the law fairly. I don’t believe

they can be serious. Does this mean that a person of character and integ- rity who had been active in the pro- choice movement could never be Attor- ney General? And what about the death penalty? Could we have no future At- torney General, regardless of how hon- est and well-qualified, who opposed the death penalty? Of course not. In fact, Republicans voted to confirm Janet Reno, despite her personal opposition to the death penalty, because she said she could still enforce the law even though she disagreed with it.

If this is not about ideology, then we should get to the business of con- firming Senator Ashcroft. He has given strong and specific assurances to the Senate on abortion and other ques- tions. These assurances are backed up by his proven record as Missouri attor- ney general and Governor. Most impor- tantly, they are backed up by Senator Ashcroft’s personal integrity and de- cency—characteristics he holds as is known personally by almost every Member of this body.

Members know John Ashcroft is a man of his word—it’s time that they act on it and confirm him as Attorney General.

Mr. President, some have criticized Senator Ashcroft’s handling of voter registration in Missouri. Some of my colleagues have charged that as Gov- ernor, John Ashcroft essentially blocked two bills that would have re- quired the city of St. Louis Board of Election Commissioners to deputize private voter registration volunteers. These bills were opposed by both Democrats and Republicans in St. Louis. Opposition included the bipar- tisan St. Louis County Board of Elec- tion Commissioners, the St. Louis Board of Aldermen President Tom Villa, and St. Louis circuit attorney George Peach. Tom Villa was a noted Democratic leader, and St. Louis cir- cuit attorney George Peach was a Dem- ocrat who was the prosecutor in the St. Louis area. All of these people opposed the legislative plan. The recommenda- tions of these officials was one of the reasons that John Ashcroft vetoed the bills.

It was insinuated during the hearings that these actions were taken out of some kind of partisan or racial motiva- tion, because the city of St. Louis is predominantly black and Democratic. But this implication is seriously dis- credited by the history of voter reg- istration in St. Louis and earlier Fed- eral court cases.

The city board has a long history of refusing to deputize private voter reg- istration deputies, long before John Ashcroft appointed anyone to that board. Indeed, in 1981 a lawsuit was filed against the members of the St. Louis board concerning the failure to deputize voter registration deputies. The Federal District Court for the Eastern District of Missouri explicitly rejected charges of racial animus. The court found that the board properly re- fused to deputize volunteers to prevent

fraud and ensure impartiality and administrative efficiency. Moreover, these conclusions were sustained by the eighth circuit, in an opinion by Judge McMillan, a prominent African-American jurist.

Some have also claimed that then-Governor Ashcroft refused to appoint a diverse group of commissioners to the election board. This is simply untrue. Mr. Jerry Hunter, the former labor secretary of Missouri, testified that Senator Ashcroft worked hard to increase black representation on the St. Louis City Election Board, but his efforts were stalled by State senators.

Mr. Hunter testified that, "Governor Ashcroft's first black nominee for the St. Louis City Election Board was rejected by the black State senator, because that person did not come out of his organization." When then-Governor Ashcroft came up with a second black attorney, this candidate was also rejected by two black State senators. As Mr. Hunter stated, "[F]rom the beginning, any efforts to make changes in the St. Louis City Election Board were forestalled because the state senators wanted people from their own organization." Apparently for these State senators the political spoils system was more important than the voters of St. Louis.

Finally, my colleagues imply that these voter registration issues will make Senator Ashcroft less able to deal with allegations of voting improprieties resulting from the Florida vote in the Presidential election. Yet Senator Ashcroft has repeatedly testified, "I will investigate any alleged voting rights violation that has credible evidence. . . . I have no reason not to go forward, and would not refuse to go forward for any reason other than a conclusion that there wasn't credible evidence to pursue the case."

Mr. President, a number of my colleagues have continued to express concerns about Senator Ashcroft's actions with regard to conducting a telephone interview with a magazine called *Southern Partisan*. Their concern is what message that interview might have sent to the country. It is clear, however, that Senator Ashcroft has forthrightly and forcefully condemned racism and discrimination, and he has left no doubt or ambiguity regarding his views on that matter.

During his confirmation hearings, Senator Ashcroft said, "Let me make something as plain as I can make it. Discrimination is wrong. Slavery was abhorrent. Fundamental to my belief in freedom and liberty is that these are God-given rights." And in his responses to written questions, he said, "I reject racism in all its forms. I find racial discrimination abhorrent, and against everything that I believe in." It is clear to me that John Ashcroft believes in equal treatment under the law for everyone. He believes in it, and he has committed to fight to make it a reality for all Americans.

Now, as to the magazine itself, Senator Ashcroft contritely admitted that

he does not know very much about it. He confessed that he should have done more research about it before talking to them. And he said that he did not intend his telephone interview—or any other interview he has participated in during his career—as an automatic endorsement of the editorial positions of those publications. John Ashcroft went even further than that. He said, "I condemn those things which are condemnable" about *Southern Partisan* magazine. This was a strong statement against any unacceptable ideas discussed in that publication. And it was the strongest statement possible from someone who did not personally know the facts.

Despite Senator Ashcroft's contriteness and strong words, some Senators and interest groups have demanded that Senator Ashcroft go out on a limb and add his derision based upon an acceptance at face value of all the negative allegations concerning that magazine. In my opinion, Mr. President, this led to one of the most profound moments of the confirmation hearings. A member of the committee pushed Senator Ashcroft to label the *Southern Partisan* magazine as "racist"—even after Senator Ashcroft explained that he did not know whether that was true. The profound part was John Ashcroft's response. He said, "I know they've been accused of being racist. I have to say this, Senator: I would rather be falsely accused of being a racist than to falsely accuse someone else of being a racist." This exchange tells volumes about Senator Ashcroft's moral character, deep sense of fairness, and his fitness for the office of Attorney General. It would have been a lot easier for him just to say, "Yes, I agree with anyone who uses that term about someone else." Doing so would have saved him from further bashing by the committee and the press. It would have been politically expedient. But John Ashcroft choose to take the high road, not to heap disdain onto something he didn't know about just because it would have suited his interests to do so. This was a vivid example of good judgment and good character.

This is not to say that John Ashcroft defended anything about the magazine. Clearly he did not. In fact, when Senator BIDEN asked him whether the magazine was condemnable because it sells T-shirts that imply that Lincoln's assassin did a good thing, he answered: "If they do that, I condemn" it. And he clarified that "Abraham Lincoln is my favorite political figure in the history of this country." What John Ashcroft did was state his absolute intolerance for racism and bigotry, and he did so honestly without creating a straw man, a scapegoat, or a fall guy.

I think we need to ask anyone who is not satisfied with John Ashcroft's answers what they really want. What do his accusers think justice is? I surely hope that no one in this body would say that justice means the knee-jerk condemnation of things they do not

know about, so long as that condemnation is politically expedient.

Mr. President, I think this issue has shed light on why John Ashcroft will be a fair and principled Attorney General. As he told the Judiciary Committee, "I believe racism is wrong. I repudiate it. I repudiate racist organizations. I'm not a member of any of them. I don't subscribe to them. And I reject them." These are straightforward words from an honest man. I look forward to having such a man running our Department of Justice.

Mr. President, I heard one of my colleagues today criticize Senator Ashcroft's view of the second amendment. While I disagree with these vague criticisms, I do believe that one of the biggest challenges that Senator Ashcroft will face as Attorney General is to increase the prosecution of federal gun crimes. Where there is little consensus in Congress regarding new gun control legislation, there is widespread consensus that current gun laws can and should be prosecuted more vigorously.

While the Clinton administration has increased the regulation of licensed gun dealers, it has not increased the prosecution of Federal gun crimes in a like manner. For example:

Between 1992 and 1998, prosecutions of defendants who use a firearm in the commission of a felony dropped nearly 50 percent, from 7,045 to approximately 3,800.

It is a Federal crime to possess a firearm on school grounds, but the Clinton Justice Department prosecuted only eight cases under this law in 1998, even though more than 6,000 students brought guns to school. The Clinton Justice Department prosecuted only five such cases in 1997.

It is a Federal crime to transfer a firearm to a juvenile, but the Clinton Justice Department prosecuted only six cases under this law in 1998 and only five in 1997.

It is a Federal crime to transfer or possess a semiautomatic assault weapon, but the Clinton Justice Department prosecuted only four cases under this law in 1998 and only four in 1997.

As his testimony to the Senate Judiciary Committee made clear, Senator Ashcroft will reverse this trend and make gun prosecutions a priority. In the Senate, John Ashcroft was one of the leaders in fighting gun crimes. For example, in response to the decline in gun prosecutions by the Justice Department, Senator Ashcroft sponsored legislation to authorize \$50 million to hire additional Federal prosecutors and agents to increase the Federal prosecution of criminals who use guns.

In addition, Senator Ashcroft authored legislation to prohibit juveniles from possessing assault weapons and high-capacity ammunition clips. The Senate overwhelmingly passed the Ashcroft juvenile assault weapons ban in May of 1999.

Senator Ashcroft voted for legislation that prohibits any person convicted of even misdemeanor acts of domestic violence from possessing a firearm, and he voted for legislation to extend the Brady Act to prohibit persons who commit violent crimes as juveniles from possessing firearms.

In order to close the so-called "gun show loophole," Senator Ashcroft voted for legislation, which I authored, to require mandatory instant background checks for all firearm purchases at gun shows.

Senator Ashcroft sponsored legislation to require a 5-year mandatory minimum prison sentence for Federal gun crimes and for legislation to encourage schools to expel students who bring guns to school.

Senator Ashcroft voted for the Gun-Free Schools Zone Act that prohibits the possession of a firearm in a school zone, and he voted for legislation to require gun dealers to offer child safety locks and other gun safety devices for sale.

As a former state attorney general and president of the National Association of Attorneys General, Senator Ashcroft knows that criminal laws are useless if not enforced. Given his proven commitment to fighting gun violence, there can be little doubt that Attorney General Ashcroft will make gun prosecutions a priority for the Justice Department.

Mr. President, I would like to address one more issue concerning Senator Ashcroft's position on gun enforcement. Some special-interest groups have made the ridiculous assertion that an Ashcroft Justice Department would not defend the constitutionality of certain gun laws. As Senator Ashcroft noted at his hearing, there is a longstanding policy for the Solicitor General's office to defend Federal statutes in court if there is a reasonable basis for doing so. In other words, the Justice Department will defend Federal statutes even if that particular administration does not agree with the statute as a matter of policy. This longstanding policy applies to all Federal statutes, except those which infringe on the prerogatives of the President. This longstanding policy promotes the integrity and the consistent administration of Federal law.

At his confirmation hearing, in response to Senator KENNEDY, Senator Ashcroft pledged to "vigorously defend" the constitutionality of the ban on possession of firearms by persons convicted of domestic violence. In fact, Senator Ashcroft voted for the legislation that prohibited persons convicted of domestic violence from possessing firearms. And in response both to Senators FEINSTEIN and KENNEDY, Senator Ashcroft pledged to maintain the Justice Department's position of defending the constitutionality of the assault weapons ban. In short, Senator Ashcroft made clear that the Justice Department would defend and enforce Federal gun laws whether or not he

agreed with such laws as a matter of policy.

Senator Ashcroft's record as Missouri attorney general supports his pledge to defend and enforce gun laws regardless of his personal beliefs. For example, as the attorney general of Missouri, John Ashcroft issued an opinion which interpreted state law to prohibit prosecuting attorneys from carrying concealed weapons, even though some prosecuting attorneys conducted their own investigations and faced dangerous situations. This is a classic example of John Ashcroft upholding the law even when he did not agree with it.

In short, John Ashcroft is a man of integrity and great ability. With John Ashcroft as Attorney General, I am confident that the Justice Department will enforce Federal gun laws with unprecedented zeal.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. ROBERTS. Mr. President, I rise today, as many of my colleagues have done, in support of my friend and our friend, Senator John Ashcroft, to be Attorney General of the United States.

It is always interesting, as the distinguished Senator from California has indicated, to look at people's views in a situation such as this. And I must say that while I respect the Senator's views and her comments, I guess what I will describe as allegations, I do have a different view. This does not add up to the John Ashcroft I know as a neighbor.

We have heard the debate. It has been considerable. We have all heard the charge that Senator Ashcroft is somehow not fit to serve as Attorney General. But that really does not square with the John Ashcroft I know.

We in Kansas have watched our neighbor and observed his record for a great number of years. We think we know this man. Again, I don't think the record really squares with the charges and the allegations that have been tossed about for the last several weeks.

As Missouri attorney general, John Ashcroft strictly enforced laws that differed from his own beliefs. I repeat that. That seems to be the crucial issue here. He strictly enforced laws that actually differed from his own beliefs, including firearms—we have heard a lot of talk about firearms—whether prosecuting attorneys could actually carry concealed weapons; here is one on abortion and that dealt with the confidentiality of hospital records on numbers of abortions that were performed; whether a death certificate was legally required for fetuses under 20 weeks; church and state; the availability of funds for private and religious schools, and the distribution of religious materials in public schools; quite a few environmental regulations; and also in regard to affirmative action.

If Senator Ashcroft could not honestly enforce the law, wouldn't somebody have documented such an instance by now in relation to these laws

he did enforce that involved strong beliefs with which he did not agree? I don't think they have, despite the rhetoric.

I will talk a little bit about experience. John Ashcroft, regardless of your view about his stance on the issues or his ideology or selected quotes, is the most experienced Attorney General nominee in American history. Boy, that is a strong statement, but consider the facts. Of the 67 persons who have served in that office since the founding of the Republic, only one, John Ashcroft, has served as State attorney general—that is two terms—and Governor of his State—two terms—and as a U.S. Senator with service on the Senate Judiciary Committee.

As Missouri AG, John Ashcroft was elected the president of the National Association of Attorneys General. As Missouri Governor, he was elected chairman of the National Governors' Association. If John Ashcroft's execution of these earlier public trusts was as far "out of the mainstream" as his critics now claim, wouldn't his fellow State attorneys general or Governors, including Democrats, have noticed and said something?

His colleagues universally admire his devotion to his faith. Mr. BYRD, the distinguished Senator from West Virginia, spoke to that earlier today and made some excellent comments. Does that not imply he is then a man of conscience, that he will do what he says he will do? John Ashcroft himself said:

My primary personal belief is that the law is supreme; that I don't place myself above the law, and I shouldn't place myself above the law. So it would violate my beliefs to do it.

He will enforce the law.

Perhaps the most serious of the charges against the Senator, our former colleague, is that he is somehow—and I don't like to use this term, but it has been bandied about—a racist because of his opposition to Justice Ronnie White. I do not think, in knowing the man and in looking at the record very carefully, there is any evidence of racial bias in Senator Ashcroft's record.

Among other initiatives—and this has been said before on the floor, and it deserves repeating—this is a man who signed Missouri's first hate crimes statute into law. He signed into law the bill establishing a Martin Luther King, Jr., holiday in Missouri. He appointed the first African American woman to the Missouri Court of Appeals. He has been a leader in opposition to racial profiling.

In my personal view, there were good reasons that Senator Ashcroft opposed the White confirmation and that every Republican Senator then voted no. Justice White, during his tenure on the Missouri Supreme Court, was notable for his anti-death-penalty and procriminal bias, which led to strong bipartisan opposition from the law enforcement community to his lifetime appointment to the Federal bench.

Let me point this out. More than 70 percent of all elected officials in Missouri, including sheriffs, are Democrats; and 77 of the 114 Missouri sheriffs, including many Democrats, were on record in unprecedented opposition to Justice White's confirmation. The Missouri Federation of Police Chiefs and the National Sheriffs Association were also against that confirmation. I voted no. I did not know at the time when I cast that vote of Justice White's African American status. I didn't know that. As a matter of fact, in talking with fellow Republicans, many of us did not know that. John Ashcroft never mentioned that. That wasn't the reason we opposed him.

Senator Ashcroft's opponents accuse him of being out of the mainstream and in support of private ownership of firearms. They say his support of firearms as a guard against government tyranny is "talk of a madman." I think we ought to look at the record.

As State attorney general and Governor, John Ashcroft conscientiously enforced both State and Federal gun laws, even those with which he disagreed. That again is the crucial issue. His record does contrast sharply with the CLINTON Justice Department's failure to enforce existing Federal gun laws, even while calling for new ones.

The second amendment to the U.S. Constitution was adopted to preserve a traditional right of the people as a guard against government encroachment, and that point is beyond dispute. If John Ashcroft is "a madman" or "out of the mainstream," so were James Madison, Alexander Hamilton, Thomas Jefferson, Noah Webster, Abraham Lincoln, Hubert Humphrey, and other notable Americans who held that same view.

Despite the harsh words being hurled in Washington about this nomination, many in our Nation's heartland, in Kansas and Nebraska, Oklahoma, Missouri, know, understand, have seen him up close and personal as neighbors. We know he is an outstanding public servant and will make an outstanding Attorney General.

Listen to what the Atlanta Journal and Constitution has to say about this nomination:

Ashcroft is certainly conservative, and he is certainly religious. But 88 percent of his fellow citizens report that religion is important or very important in their lives, a figure that has barely varied over the past 20 years. Seventy percent or more believe the nation would be better off if it were more religious, and 79 percent favor prayer or at least a moment of silence in the public schools. So who's out of the mainstream?

Ashcroft strongly opposes abortion on moral grounds; 55 percent of the people say it is "morally wrong most of the time." The nominee would like to see sharp restrictions on when an abortion would be legal; only 28 percent of Americans think it should be legal under any circumstances. He absolutely opposes partial-birth abortion; so do 66 percent of Americans. Who are the extremists on this issue?

Actually, none of these attacks on Ashcroft's beliefs has much real meaning be-

cause he has already demonstrated, as Attorney General of Missouri, that he is perfectly capable of following the law as it is, rather than as he might wish it were.

Again, that is the basic point I make.

Maybe it is difficult for his opponents to believe that he could so carefully separate his personal views from his task as chief enforcer of the nation's laws because they have so much trouble doing that themselves. But we believe he can and will do so and that the American mainstream which was invoked so frequently at his hearings will be well served and satisfied with the job that he will do.

I certainly agree that America will be well served with Senator Ashcroft's confirmation by the Senate. I intend to vote for him. I urge my colleagues to do the same.

One other thing: John Ashcroft and I spent a little time together—3 days—up in the wilds of Alaska. We were up there at the invitation of Senator TED STEVENS. There is a fishing contest up there. The Presiding Officer is very skilled, by the way, in taking part in that whole fishing contest. The proceeds are used to improve the habitat on the Kenai River.

We had a great deal to say to each other, both Senator Ashcroft and myself, when we were fishing in that kind of circumstance. We didn't talk about anything that involved racism, or Bob Jones University, or selected quotes, or whatever; we talked as individuals and as friends. I did not hear a bitter or prejudicial word. We talked about what things mean in life basically. We talked about family and of the Lord's creation. We talked as fellow men. We talked about the privilege to serve in the Senate. We told a lot of stories about human beings, we talked a lot about fishing, and we talked a lot about friendship. I think when we can spend time with a man in that kind of circumstance, we really get to know him.

Personally, I just want to say I am having a lot of trouble figuring out whom the critics are talking about in regard to the John Ashcroft I know and respect. I think he will make a great Attorney General. And, quite frankly, I think at the end of the day when he reaches out in an act of friendship and trust across the aisle to many of his critics, we are going to be just fine.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I gather that the order set is that Senator DODD will speak and then Senator COCHRAN.

The PRESIDING OFFICER. There is no order at this point.

Mr. KERRY. Mr. President, I ask unanimous consent that the order be as follows: That following Senator DODD, Senator COCHRAN speak, and that I be permitted to speak following Senator COCHRAN.

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

The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, first of all, at the outset I commend my colleagues

on the Judiciary Committee, the chairman of the committee, Senator HATCH, and Senator LEAHY, the ranking Democrat, and the respective members of the committee for the manner in which they conducted the confirmation hearing for the position of Attorney General of the United States and for the manner in which they treated John Ashcroft, President Bush's nominee for this position.

It is a difficult job, particularly when the nomination is controversial. I think the members of the Judiciary Committee, both Republicans and Democrats, conducted themselves with great dignity, and I commend them for it.

Mr. President, I am going to vote to confirm John Ashcroft as U.S. Attorney General. I would like to take a few minutes of the Senate's time to explain my reasons.

Let me say at the outset that I hope Mr. Ashcroft will listen to what I have to say here this afternoon. My comments are delivered primarily for the benefit of my colleagues and my constituents. But they are also directed to John Ashcroft.

It is important that John Ashcroft understand that my support of his nomination is not unqualified. It is given, rather, only upon extensive reflection and despite concerns about what kind of Attorney General he will make.

I have listened attentively to the comments of our colleagues both in support of and in opposition to this nomination. I respect immensely their views. I have considered the practices and precedents of the Senate in deferring to presidential cabinet appointments. And I have reflected upon my own practices over the past two decades in the Senate in considering such appointments. During that time, I have supported an overwhelming number of Cabinet nominees. But I have, on the rarest occasions, opposed Cabinet nominees supported by the majority of members of the Senate and by a majority of my own party. It also bears mentioning that I have supported nominees opposed by most members of my party and, in one instance, also opposed by a majority of the Senate.

My concerns about this particular nominee can be reduced to three in particular:

First, whether he will uphold and vigorously enforce our laws—especially those with which he personally disagrees.

Second, whether he will treat other people in public life as he wishes to be treated—particularly those with whom he may disagree.

And third, whether he will seek to unify rather than divide our nation on critical issues facing our nation, especially the issue of racial justice.

Let me address these concerns in order.

First, as to John Ashcroft's disposition to enforce the law. The Attorney General, as we all know, is our nation's

primary law enforcement officer. This is an office of unique importance.

Except perhaps for the president himself, no other individual can or should do more to protect the public's safety, and to promote the ideal of equal justice that is the North Star in our constellation of laws.

Like many others in public life, John Ashcroft is a man of strong convictions. He should be commended, not faulted, for that fact. But the question that arises with respect to his nomination for this particular office is whether those convictions—on matters such as a woman's right to choose and gun safety—might well preclude him from enforcing laws on those and similar issues with which he may disagree.

This is a threshold question. If the nation's top law enforcement officer cannot enforce the law, how can anyone say he should nevertheless assume the office? If the public cannot know with reasonable assurance that their Attorney General will uphold our laws vigorously and free of personal bias, then how can we be confident that respect for the law will not be weakened?

If minority Americans, women, and others cannot rely on the Attorney General to safeguard their liberties, how can other—indeed, all—Americans not worry that their rights might one day be placed at risk, as well?

John Ashcroft has minced no words about his positions on issues like a woman's right to choose and gun safety. He has advocated positions contrary to current law. That is his record. It is also, I might add, his right—just as any of us has the right to advocate legal change.

But that is far from saying that he cannot faithfully enforce the law. There is more to his record that deserves consideration. This is a man who was elected not once, but five times by a majority of the people of his state—as their attorney general, governor, and Senator. He has devoted nearly three decades of his life to public service. He has, as far as anyone knows, upheld the public's trust throughout that time.

If his nomination were to be decided on the basis of experience alone, he would have been among the first, rather than the last, of the President's Cabinet nominees to be considered by the Senate.

As Attorney General and Governor, the record suggests that he did, in fact, uphold and advocate laws with which he disagreed. He endorsed Democratic proposals to fund new roads and schools. He signed legislation to increase the penalties for crimes motivated by bigotry. He supported additional resources for legal services for the indigent.

During his confirmation hearing, he swore under oath that he would uphold the law "so help me God." He did so repeatedly and fervently. He swore that he would respect *Roe v. Wade* and *Planned Parenthood v. Casey* as the law of the land. He swore to uphold the

federal law that prevents violence and intimidation at family planning clinics. He testified that the Brady law and the assault weapons ban are constitutional.

He also testified that mandatory trigger locks, gun licensing and gun registration are all constitutional. And he vowed to hire without regard to sexual preference (although he did not, I should add, pledge to continue Attorney General Reno's policy of excluding sexual preference from security clearance decisions).

I do not expect that John Ashcroft will change his views as Attorney General. But I do, have every right to expect, based upon his commitment to God Almighty, before the Judiciary Committee that he will keep his word to uphold the laws of the land, even those with which he profoundly disagrees.

Mr. President, I would love to have the complete and total assurance he would do that. I cannot honestly conclude that he would not. Thus, it compels me to give him the benefit of the doubt because he has taken that oath fervently, before God Almighty, and members of the Senate Judiciary Committee.

A second concern I have about Senator Ashcroft's nomination is how he has treated other people. I refer very specifically to his conduct toward Judge Ronnie White, Ambassador James Hormel, and Bill Lann Lee, former head of the Justice Department Civil Rights Division.

Other colleagues have spoken and will speak about these cases in greater detail. Suffice it to say his treatment of their nominations went beyond the bounds of good manners and common decency. Too often, John Ashcroft refused to meet with these people; he failed to give them an opportunity to respond to the allegations, and he distorted, in my view, their records.

In the case of Mr. Hormel, he deemed the wholly private matter of sexual orientation to be a factor "eligible for consideration" in whether he ought to be nominated.

In the case of Judge White, he actively worked for his defeat—without first giving him a chance to respond to misleading statements made against him on the Senate floor.

His treatment of these men was cavalier at best—callous and calculated at worst. It is particularly troubling because my own limited experience with Senator Ashcroft was of a quite different nature.

We worked together on only one issue that I recall—ending the embargo on food and medicine to Cuba. In that effort, he took a position that engendered considerable opposition in his own caucus. At all times, I found him reasonable and trustworthy.

But there is nevertheless a record here of going after people in a harsh and unfair manner. I have always been suspicious of people who try to build a political career in part on the bones of

their personal adversaries. Attacking motives, using people as political scapegoats, acting with reckless disregard to the reputations of others—these are the kinds of actions that I find contemptible, and that unfortunately have become all too common in public life today.

I hope John Ashcroft will change and turn away from such behavior in the future. I believe that he can. As the saying goes, "There is no sinner without a future, and no saint without a past." I believe John Ashcroft is a decent human being, and I take him at his word.

If his flaws loom large, it is at least in part because they have been aired and examined in the magnifying light of public life.

And while I will not excuse these flaws—particularly in his treatment of others as a public official—I will not engage in the same form of pay-back politics that seems to have a growing currency in our time. That is not to suggest that those who oppose him will have engaged in such tactics. On the contrary, I can well understand the principled basis of their opposition.

That said, I will not do to John Ashcroft what has been done to too many people in recent years—including people like Ronnie White, James Hormel, and Bill Lann Lee. These individuals do not deserve the treatment they received. No one does. Not even John Ashcroft.

My third and final concern is closely related to the first: whether his views on the critical domestic issues of our day would preclude him from using his office not just to uphold the law, but to uphold the spirit of freedom and equal justice that permeates every one of our laws.

I find it not a little ironic that our new President, who calls himself a "uniter, not a divider", nominated for Attorney General a man who throughout his career has plunged so divisively into the most divisive issues of our time: civil rights, women's rights, equal rights, gun safety.

On a different level, I am not in the least surprised. The President chose a nominee who reflects his own views on many of these same issues. I did not expect him to nominate a Democrat.

Like nearly all of our colleagues, I have time and again supported Cabinet and other nominees with whom I disagreed on critical issues.

Like them, I have a high degree of tolerance for differences of opinions when such nominations come before us—including on such issues as choice and guns. Indeed, I supported the nomination of Governor Thompson as Secretary of Health and Human Services, despite our strong differences on issues related to a woman's right to choose.

There are certain differences that, I would argue, none of us should tolerate. And in that respect, the issue in John Ashcroft's public record that concerns me the most is the issue of race.

If I thought John Ashcroft was a racist, I would oppose him as strongly as

I possibly could on any other issue I have ever faced in my 25 years of public service. I urge each of our colleagues to do the same. We must not tolerate intolerance. But I do not believe that such a potent word applies to John Ashcroft. And it is lamentable, to say the least, that some outside of the Senate have used it to describe him.

We of all people here in the Senate appreciate that words have meaning. So when someone uses a word such as "racist" to describe actions that, however objectionable, are not racist, then they reduce the impact of that word at those moments when it is most applicable.

While by no means a path-breaker, as governor, John Ashcroft appointed more African-American jurists to the bench than any of his predecessors. He appointed a number of women, as well. His wife has taught at Howard University, a predominantly black institution. People of color testified in support of his nomination. Even Judge Ronnie White—about whom I will say more in a moment—said that he does not believe Senator Ashcroft's opposition to his nomination was racist in nature.

In the Senate, he held a hearing on and condemned the practice of racial profiling. He supported twenty-six judicial nominees of African-American descent.

And it should not go unmentioned that at least one member of his Senate staff—a devout Jew—has written that he found Senator Ashcroft not only tolerant, but supportive of his religious beliefs and the practical demands that those beliefs placed upon his time.

Nevertheless, I am deeply troubled by many of his actions in this area. Most notably, he vehemently and persistently opposed efforts to integrate the St. Louis public schools. In fact, his actions were so vexatious that he was nearly cited for contempt for failing to comply with court orders to submit a plan to desegregate the schools of that fine city. He walked up to the line of disobeying the law—even appearing to boast of that fact when he ran for Governor for the first time. Those actions trouble me deeply.

The record suggests that in times past John Ashcroft has submitted to the temptation to divide Americans along racial lines.

The same record also suggests that he is someone without personal bias on matters of race, who has tried to heal rather than deepen our nation's ancient racial wounds. I hope that it is that John Ashcroft who, if confirmed, will lead the Department of Justice. Our nation has traveled too far—and we have too far still to go—to relent for even a moment in the struggle for equal justice.

I realize that my vote for John Ashcroft may not be decisive. But I hope that it will be informative—informative most of all to John Ashcroft. Listen well, John Ashcroft. There are those of us here today who could easily

vote against your confirmation, but have decided to give you a second chance—an opportunity that you denied to Ronnie White, Bill Lann Lee, James Hormel, and others.

I hope this vote will not be in vain. I hope that John Ashcroft will uphold his pledge to enforce the laws of our land. I fervently hope that he will work to unite rather than divide our nation. And I hope, for the sake of our nation and this institution, that this vote will in some small measure help bring about an end to the growing predilection to treat nominations as ideological battlefields.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I am pleased to support the Senate confirmation of John Ashcroft as Attorney General of the United States. He is well qualified for the job, having served as attorney general of Missouri, as Governor of Missouri, and with distinction as United States Senator.

I first met John Ashcroft in 1992 at the Missouri Republican Convention in Springfield, MO, when I was a surrogate for the campaign of President George Bush.

Two years later, John invited me and our colleague from New Mexico, PETE DOMENICI, to come to Missouri and campaign with him when he was a candidate for the Senate.

I was very impressed with John Ashcroft on both occasions. He was an articulate and intelligent advocate for commonsense solutions to our country's problems. He impressed me as a serious-minded, dedicated, and energetic force in shaping public opinion on issues that should be addressed by our Government.

I enjoyed very much being a part of his campaign effort and I was delighted when he was elected to the Senate.

In the Senate he has been very active in the legislative process. He has initiated reforms in trade sanctions policy and juvenile justice which I have been pleased to support and cosponsor. He is one of the most sincerely respected members of our Republican Conference, and I consider him to be one of my best friends in the Senate.

I take issue with the critics who have questioned his candor and his character. There is no basis whatsoever for those charges. I am surprised and disappointed that he has been characterized so unfairly by some in this body.

I am confident he will prove by his exemplary service as Attorney General that he is fair minded, thoughtful, and true to his word, and his oath, as he carries out his important duties.

The President has selected a good man to be Attorney General. He has withstood the slings and arrows of his opponents, and he is still standing.

When I was elected to Congress, I was given by my mother a poem by Josiah Gilbert Holland, which I have kept close to my desk for the past 28 years. It says in part:

God give us men! A time like this demands  
Strong minds, great hearts, true faith, and  
ready hands;

whom the lust of office does not kill;  
whom the spoils of office cannot buy;  
who possess opinions and a will;  
who have honor;

who will not lie;  
who can stand before a demagog and damn  
his treacherous flatteries without winking!

Tall men, sun-crowned, who live above the  
fog, in public duty and in private thinking.

That poem describes my friend and fellow Senator, John Ashcroft. I am proud of his service in the Senate, and I am confident he will make me just as proud as he serves our Nation as Attorney General of the United States.

The PRESIDING OFFICER (Mr. SESSIONS). Under the previous order, the Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, contrary to what some people may believe, thinking about how people make this choice and given some of the arguments that have surfaced in the course of this nomination, I suppose some people might think this is sort of automatic for some folks on different sides of the aisle. I want to make clear that I do not feel that way at all. I think there are many different crosscurrents with respect to anybody's nomination, and I certainly do not disagree with the comments of my good friend and colleague, Senator DODD, who spoke a few minutes ago about what has happened to the nomination process, or to the review over the course of the last years here in this city.

While I certainly raised questions early on with respect to this nominee, I tried, in the course of this process, to refrain from making any final judgments until the hearings were held, until questions were asked, until Senator Ashcroft himself had an opportunity to lay out the record, so to speak.

I listened very carefully to what Senator DODD said a moment ago about not making choices on ideology. I agree with that. My opposition, which I announced yesterday, to Senator Ashcroft's nomination, is not based on ideology. I might say, however, that our friends on the other side of the aisle in the Republican Party have certainly made ideology a significant component of their opposition to many people in the last years. Even Senator Ashcroft himself has engaged in a process of making judgments about people's fitness to be judges, people's fitness to be in the Attorney General's office—Bill Lann Lee—on a matter of ideology.

In fact, I am told by some members of their party that they, themselves, have been the victims of ideological decisionmaking with respect to positions they might or might not be able to fill within the party itself. Perhaps there is the deepest irony at all, that people such as Tom Ridge, Governor of Pennsylvania, or Governor Keating, were themselves the subject of bitter dissension within the Republican Party over whether or not they might be fit to

serve as Vice President of the United States, or hold some other office of importance, on the basis of ideology.

So we need to be careful and thoughtful about who comes to that part of this debate with clean hands. But I am confident that all of us would agree with Senator DODD, that we would like to see an end to that kind of division.

There is another reason why this is difficult. It is because Senator Ashcroft comes to this question with all the advantages of a colleague. We know him. Many of us know him well enough to consider him a friend in the context of the Senate and like him personally. We certainly respect his conviction and his dedication to public service.

As colleagues have noted, he was elected by the citizens of his State as attorney general, as Governor, and as Senator.

But the truth is, in the final analysis this is not a vote or a decision about those personal relationships. This is not a vote about personality. And it is certainly not a vote that calls on us to somehow ratify the traditional expectations of the Senate, which are understood by everyone in the Senate and often are found very confusing to many people in the country who measure us and what we do by a different standard.

The office of Attorney General is obviously not a political reward, left simply to the victors of national elections or to the crosscurrents of ideology within a particular party. It is one of the most sensitive positions of public trust. It is an office in which all Americans must have a deep and abiding faith that its occupant will enforce the laws with equal justice, with fairness, and impartiality.

In other words, the person who comes to that office must come to it with a level of acceptance by the public at large about their moral and legal bonafides that they bring to the office in a way that is beyond dispute.

It is very clear that there were others whom a uniting, not a dividing, President might have chosen for this job. I think everyone in the Senate would agree that if our colleague, former Senator John Danforth, had been chosen, you would have had a person who espoused all the ideology, the full measure of conservative views—he is an Episcopalian minister; he is pro-life—but he would have brought absolutely none of the controversy that has come with this nominee, which raises doubts—I am not saying certainties but doubts—in the minds of many people about this nominee's either willingness or capacity to apply the law in the way he has suggested he would in the course of these hearings.

In fact, after closely examining the record set forth in those hearings, and the record as attorney general of the State of Missouri, I conclude that record makes him the wrong person for this job at this time.

This is, without any question—I think everybody in the Senate would agree—a special time in our history.

We have a President of the United States who was elected not with the popular vote of the country but for the third time in history by the electoral college. We have a President who was elected effectively by one vote, some would argue by the one vote in the electoral college, but there are many others in the country who would argue it was the one vote in the Supreme Court of the United States. There are many in the country, whether legitimately or not, who have a deep sense of alienation and outrage over what happened in the application of law in the course of the last months in our Nation.

Because this election was so divisive, because the President himself has come to office saying that he acknowledges the deep need for him to be a unifier and not a divider, I believe, therefore, this nomination is particularly troubling.

Senator Ashcroft's record reveals a series of actions—not beliefs; I want to distinguish this. I heard colleagues defending Senator Ashcroft again and again saying he should not be held accountable for his deep-rooted beliefs that reflect those who elected him. I am not holding him accountable, *per se*, for those beliefs. I believe, however, there are a series of actions that ignore the kind of need we face at this point in time to have an Attorney General come to office not needing to prove that the years in the past were somehow an aberration or a mistaken impression but, rather, who brings the full force of their history of commitment to civil rights, a commitment to a series of issues that are the law of the land.

In effect, we are being asked to accept the nomination of an individual who, by definition, will have to wake up every single morning and curb his natural political instincts in order to do this job. I do not think that is an unfair statement because on all of those key issues where the Attorney General is so critical, whether it is guns or the law of the land with respect to *Roe v. Wade*, women's choice, or the law of the land with respect to civil rights in many areas, Senator Ashcroft again and again in his political life has been on the other side of those particular issues.

There is a very simple question to ask yourself: Is that really what you want in an Attorney General of the United States?

In my judgment, reviewing the record of the hearings and reviewing the record of Senator Ashcroft's stewardship as Attorney General, there are occasions where the Senator took actions that do not call to question today his ideology but call to question his judgment in pursuit of that ideology.

Yes, Senator Ashcroft testified that he would enforce the laws with which he disagrees. But take, for instance, the voluntary school desegregation case in St. Louis, or the nomination of Judge Ronnie White, or the nomination

of James Hormel to be Ambassador to Luxembourg, or the nomination of David Satcher for Surgeon General. Each of these, in my estimation, reveals a response by Senator Ashcroft that exhibited an exercise of judgment that I believe calls into question his ability to provide for the kind of moral and legal force necessary in the job of Attorney General.

I am not convinced that you can simply dismiss each and every one of the instincts that led to the exercise of that judgment in each of those cases. Let me be very specific about each and every one of those.

When he was Missouri attorney general, as we know—others have talked about it—Senator Ashcroft opposed the court-appointed voluntary desegregation plan for St. Louis. We know school desegregation is a controversial public policy, and there are many people who appropriately at various times in the country, in one place or the other, found fault with certain approaches to various voluntary desegregation plans. That is not the measure of my concern.

What is deeply troubling to me is that despite the problems with the existing law and despite the problems that were found with the proposed voluntary remedy, Senator Ashcroft, in a position of leadership on this issue, duty bound to bring people together and to try to lead the community through this difficult time, failed to come up with an alternative that would have ameliorated the divisions of the community and, most importantly, would have addressed the segregated conditions. When children are trapped in schools that do not work, when cities are divided by racial lines, there is a choice that can be made: You can be a voice for reconciliation or you can be a voice for division.

When Senator Ashcroft chose to politicize the issue beyond all proportion, which is what many people in the community have testified, he chose the latter, and that is a matter of judgment, not belief.

Perhaps the most disturbing element in his record was the treatment of Judge Ronnie White. Many people have brought those facts to the floor, and I obviously am not going to go through all of them again. I remember that debate well. I remember the language which characterized this good person. He was called procriminal. It was said that he had a tremendous bent towards criminal activity—a judge had a tremendous bent toward criminal activity. It was claimed that he was the court's most liberal judge on the death penalty and did not care "how clear the evidence of guilt."

That is not true. Those words are simply not true. Of course he cared about guilt, and if you read his decision, his decision said nothing about whether or not he was not guilty or whether or not he should not, if guilty, be subjected to the death penalty. He did not think this man had a fair trial.

I do not believe an Attorney General of the United States should interpret

some judge's opposition to the lack of a fair trial to become on the floor of the Senate a rationale for a party-line vote, fully divided by virtue of his leadership on his protestations and characterizations of this judge.

As is now well known, Judge White had a strong record of supporting capital punishment and often voted with Mr. Ashcroft's own appointees on the Missouri Supreme Court. Indeed, he had a tougher record on the death penalty than some of Senator Ashcroft's own nominees. Judge White voted for the death penalty in 41 of 59 cases that came before him, and he voted with the majority 53 times, including cases in which he favored reversal.

So that is not an issue of ideology. That is not a matter of belief on which I choose to cast my vote. It is because I believe that Judge White was inappropriately characterized on the floor of the Senate. I believe that was a reflection of a judgment about another human being, about our politics, about life in our country. I do not believe, as some have claimed, at all—and I hope we would never insinuate—that Senator Ashcroft is racist. I do not think there is any evidence of that. I do not believe that he is. I think that is inappropriate to this debate. But I do think that it was an unfair distortion of Judge White's record branding him as procriminal. And the handling of that nomination in itself raises serious questions about judgment, about fair-mindedness, and about fair play.

Judge White, quite eloquently, made that very point during his testimony before the Judiciary Committee when he said: I believe that the question for the Senate is whether these misrepresentations are consistent with fair play and justice that you would require of the U.S. Attorney General. That is not a matter of ideology; that is a matter of judgment.

I am also troubled that when David Satcher's nomination for Surgeon General came before the Senate with great bipartisan support, again, Senator Ashcroft filibustered and described him as a "promoter of partial-birth abortion."

David Satcher had led the Centers for Disease Control in Atlanta with distinction. He had been a leader at a medical college in Tennessee. He had the full backing of Senator FRIST and Senator THOMPSON, both of whom are people of enormous integrity. They told us that David Satcher would not promote abortion. They told us that you could not question his character or his integrity. But John Ashcroft said that this individual would "promote a heinous act, partial-birth abortion." Why? Simply because David Satcher believed that a ban on the procedure—which he was in favor of—ought to include an exception for the life and health of the mother.

The kind of distortion we saw for David Satcher raises a question, not about ideology but about judgment and fairness and fair play.

I am also troubled by Senator Ashcroft's judgment about the so-called alleged "totality of the record" with respect to a good man named James Hormel. I regret to say it, but I can only interpret the "totality of the record" as a code word for opposition to James Hormel because he was gay.

Why do I draw that conclusion? Because in the course of debate, and in the course of comments publicly, Senator Ashcroft, at the Foreign Relations Committee, never doubted that Mr. Hormel was a competent businessperson, never doubted or questioned his record of philanthropy or commitment to his community, never doubted or questioned his effectiveness as a dean, or the job he had done prior to entering the business at the University of Chicago. Senator Ashcroft was only one of two people on the Foreign Relations Committee to vote against him.

During the confirmation hearings a couple weeks ago, he again reiterated it was the "totality of the record" but, once again, without any explanation.

As we know, Mr. Hormel was finally appointed by a recess appointment. But in my judgment, Mr. Hormel was opposed for a status offense. Senator Ashcroft did raise questions about the propensity or likelihood Mr. Hormel might have about "promoting a certain kind of lifestyle." I think every single one of us understands that is a code word in and of itself for his sexuality.

I would add that the people of Luxembourg, far from raising this question themselves, did not share that concern. And so it was that Senator Ashcroft sought to deny Luxembourg an Ambassador that they were asking to have appointed.

I do not believe the American people should have an Attorney General who leaves even doubts—even doubts—about whether or not being gay is a status offense.

I am also troubled by the lack of sensitivity that was displayed, even in the aftermath of the interview that took place with Southern Partisan magazine in 1998. Another colleague has gone into that at great depth on the floor, and I will not spend a lot of time on it.

It is one thing to have done the interview and, I suppose, to have suggested later that you did not know what the magazine did or who they spoke to or what audience they talked about. It is another thing when you are a nominee for Attorney General not to acknowledge that there are, indeed, questions that would arise in an interview of this nature with that kind of magazine.

This is a magazine that praises John Wilkes Booth for assassinating Abraham Lincoln. It has editorials against interracial dating. When you read the interview itself, and you recognize the folks the Senator was trying to talk to, and what he was appealing to, it seems to me that there are serious questions, again, about judgment, about the judgment of what the message is to a large part of America who sees that maga-

zine and those who adhere to its philosophy as those who have never gotten over the fact that slavery was ended in the South.

I would have liked—I think many of us would have liked—to at least have heard a disavowal of those views or an expression, recognition that some of the views are, in fact, inappropriate and appeal to some people's worst instincts rather than best instincts.

I think those are the kinds of expressions that ought to come from somebody who is going to try to represent the healing of the divisions that have occurred over the course of the last years. I might add, they are not just the healings from the difficulties of the election. They are the healings from the problems of racial profiling. They are the healings from the problems of discrimination in housing. They are the healings from the problems of so many people of color who wind up in prison instead of in college. They are the divisions that occur because so many in this country still believe that the law is stacked against them rather than working for them.

The choices that an Attorney General will make are obviously critical to our ability to move forward and not backward with respect to those kinds of divisions. It is these particular acts of personal judgment that I believe raise the most serious questions about the appropriateness of Senator Ashcroft assuming this remarkably sensitive position.

As a former prosecutor—I see Senator REID is on the floor; and he shares that prior occupation—I think for many of us there is an acute sensitivity to the judgments that an Attorney General makes on a daily basis: what cases will be taken on; what particular task forces might be created in order to try to address people's sense of grievance in the country; certainly, obviously, the power of the Solicitor General; the power of choosing who will sit on what courts; the power of deciding what you will appeal to the Supreme Court of the United States; and, most importantly, what you will investigate and how. All of these are issues of judgment, too.

I believe the issues I have raised put before the Senate serious questions about the exercise in that judgment. I believe that in the end, notwithstanding what I have said, there is always a feeling by each of us with respect to a colleague that these votes are difficult. I don't pretend that it is not in this regard. That is true for all of us on our side. We have to make a choice. It is our responsibility and it is our oath to the Constitution to make the best judgments we can about the choices that are put in front of us.

I believe the important thing at this moment in time in this particular position, above all, is to have a nominee who is free from this kind of controversy, who comes to this job not with the questions that have been raised in the Senate and this revisitation of the kind of divisiveness that so

many of us are tired of. That is not something we asked for. That is something we were given by virtue of the President's choice to send us this nominee.

With this nominee comes these questions about his ability to assume this job that requires such a special sensitivity, such a special sense of the need to bring the country together and to be able to apply the law equally and fairly to all.

It may well be that every concern I have expressed is wiped away when John Ashcroft takes this job on, as we know he will. There is no question about whether he is going to be confirmed. But there is a question about whether or not we will ever, in the next few years, again have to revisit some of the questions that have been raised in the course of these hearings and in the course of this debate.

My prayer is that we won't, and nothing, obviously, would please me more than to say to John Ashcroft: I am glad I sounded my warning bells, but I am equally glad that you proved us wrong and were the kind of Attorney General that the country needed at this moment.

It may well be that all of our colleagues are absolutely correct in predicting that that is what we will have. If it is, so much the better for the Nation and so much the better for John Ashcroft. It is important for us to place as part of the record, as he assumes this job, the concerns that we have on behalf of so many people in this country who need to see the law applied more fairly and need to have a better sense of due process and of equal justice under the law. I hope, in the end, this administration and this Attorney General will produce that.

Mr. HATCH. Finally, Mr. President, I wish to speak about John Ashcroft's ability, if and when he becomes Attorney General, to enforce laws that he spoke against or even voted against as a legislator.

As you know, Mr. President, opponents of Senator Ashcroft are accusing him of being unable to set aside his opinions on certain laws sufficiently in order to enforce those laws.

And I have to give those opponents credit for their creativity. They have developed a brand new test for cabinet appointees. Eight years ago, when the Senate unanimously confirmed an Attorney General whose personal views opposed the death penalty and the imposition of mandatory minimum sentences for convicted criminals, none of the anti-Ashcroft crusaders accused Janet Reno of being unable to set aside her personal views.

But while I admire the creativity of this new approach, I am deeply troubled by the substance beneath it. What's being proposed is to disqualify from high office anyone who has previously taken a side on a legislative proposal.

It is simply not true that a legislator is so tainted by efforts to change laws

that thereafter he or she cannot perform the duties of attorney general. Outside this Chamber, and outside of the Washington Beltway, Americans understand that people can take on different roles and responsibilities when they are given different positions. Americans know that lawyers can become judges, welders can become foremen, engineers can become managers, and school teachers can become school board leaders. And Americans know that a Senator, whose job is to propose and vote on new laws, can become an Attorney General, whose job is to enforce those laws that are duly passed.

There aren't many people who know as much about the different roles in government as John Ashcroft. He has been in the executive branch—as an Attorney General for 8 years. He has been chief executive as Governor for 8 years. And he has been in the legislative branch as a United States Senator for 6 years. Each of these positions have required an understanding of the differing roles assumed by the three branches of government.

It is in this context that John Ashcroft told the Senate what he will do as Attorney General. He said he will enforce the laws as written, and uphold the Constitution as interpreted by the Supreme Court. This is a concise yet profound statement about the proper role of the Attorney General. And it is more than just a statement, because it is backed up by the unquestioned integrity of John Ashcroft, a man who will do what he says. He will enforce the law as it is written, even in those instances where he would have written it differently.

Still, some members of this body are unconvinced. They apparently think that John Ashcroft will not do what he said. Of course they would not call him a liar—at least not explicitly, anyway. They are saying that, try as he might, he simply cannot enforce the law because he wants so badly for the law to say something other than what it actually says.

Some who have adopted this view are accusing John Ashcroft of changing his views. They accuse him of having a "confirmation conversion." By this they mean that people who take off their legislator's cap, and put on an attorney general's hat, cannot adapt from the role of law writer to law enforcer without being insincere. This is a ludicrous proposition. John Ashcroft has not undergone a confirmation conversion; he has been the victim of an interest group illusion.

Members of this body know something that the public may not: There is an unspoken rule that a nominee does not answer questions in public between their nomination and their confirmation hearing. This is done out of respect for the Senate—whose job it is, after all, to listen to the nominee rather than the media. But savvy special interest groups take advantage of the time in between to wage a war of words against nominees they dislike. Many of

those words are exaggerated or unsubstantiated attacks. The result can be the fabrication of a false public record.

Mr. President, I am asking my fellow Senators to resist the temptation to label it a "conversion" when a nominee simply corrects the misperceptions created by special interest groups. I am asking my colleagues to look at John Ashcroft's real record, and at own words—in his confirmation hearings, and in his answers to the voluminous written questions—rather than relying on the press releases of issue advocates.

If you only listen to interest groups, you might conclude that John Ashcroft would bend or ignore the law in order to put more guns in people's hands. But you would be wrong. As Missouri's Attorney General in 1977, John Ashcroft wrote Attorney General Opinion No. 50, in which he interpreted state law to prohibit prosecuting attorneys from carrying concealed weapons even while engaged in the discharge of official duties. This is hardly the kind of decision that someone bent on eliminating gun laws would want to reach.

The special interest groups also want us to believe that John Ashcroft cannot enforce abortion laws because of his personal view that life begins at conception. But 20 years ago, as Missouri Attorney General, John Ashcroft had—and did not take—the opportunity to bend the law to favor his view. His 1981 Attorney General Opinion No. 5 barred the Missouri Division of Health from releasing statistics revealing the number of abortions performed by particular hospitals—even though such statistics would help the pro-life movement make its case. Similarly, in Attorney General Opinion No. 127, dated September 23, 1980, Attorney General Ashcroft determined that a death certificate was not required for all abortions, despite his personal view that abortion terminates human life. Are these the kind of decisions that you would expect from an unrestrainable zealot?

But the special interest groups do not stop there. They have also attacked John Ashcroft for his religious views, inferring that he would use his position to blur the lines between church and state. The fact is, however, that John Ashcroft has turned down several opportunities to do just that. In a 1977 Attorney General Opinion, No. 102, Ashcroft forbade public school districts from using federal education funds to benefit nonpublic including parochial school children. He did so even though the federal grant in question specifically allowed private and parochial school children to benefit. In similar decisions, Attorney General Ashcroft prevented the State of Missouri from providing transportation for nonpublic school students [Attorney General Opinion No. 148], and determined that a board of education lacked legal authority to allow the distribution of religious material on school property [Attorney General Opinion

No. 8, February 8, 1979]. Don't expect to see these decisions listed in the press releases concerning John Ashcroft's "extremist views."

Another area of falsification concerns John Ashcroft's record on the enforcement of environmental laws. To hear some interest groups talk, you would think John Ashcroft wants to allow polluters to ignore the regulations that protect the planet. Again, his record shows the opposite. In Attorney General Opinion No. 123-84, Ashcroft declared that underground injection wells constitute pollution of the waters and are therefore subject to regulation by the Missouri Department of Natural Resources. He also opined that it would be unlawful to build or operate such a well without a permit from the Clean Water Commission. And in another opinion, Ashcroft decided that operators of surface mines must obtain a permit for each year that the mine was unreclaimed. In reaching this opinion, Ashcroft concluded that a continuous permit requirement facilitated Missouri's intention "to protect and promote the health, safety and general welfare of the people of this state, and to protect the natural resources of the state from environmental harm." This settlement was echoed in an opinion concerning recycling that John Ashcroft wrote in 1977. In Attorney General Opinion No. 189, Ashcroft decided that Missouri's cities and counties could require that all solid waste be disposed of at approved solid waste recovery facilities, rather than landfills. That opinion was based on the arguments that "recycling of solid wastes results in fewer health hazards and pollution problems than does disposal of the same types of wastes in landfills" and that "public welfare is better served by burning solid wastes for generation of electricity, thus conserving scarce natural resources." I suggest, Mr. President, that these are not the words of a man who is intent on ignoring the law and destroying the environment.

My final example, Mr. President, is on the topic of minority set asides. As you know, among the tactics of the anti-Ashcroft forces has been to bring baseless racial allegations. And, again, this is being done in indirect and subtle ways, implying that there is something hidden and unrestrainable about John Ashcroft that should concern minorities. Thus my colleagues will be pleased to learn that, as Missouri's Attorney General, John Ashcroft issued an opinion which cleared the way for the Missouri Clean Water Commission to award a 15 percent state grant to the Metropolitan St. Louis Sewer District to establish a minority business enterprise program.

These examples—all of which predate the public smear campaign against John Ashcroft—demonstrate that Mr. Ashcroft has a record of enforcing the law. John Ashcroft has not undergone a confirmation conversion. Rather, he is a victim of interest group

illusion. The artists behind the lobbying groups aligned against him have made his true record disappear in a cloud of smoke. And they are attempting to convince the public that his distinguished record of advocacy as a legislator is a straitjacket from which he cannot escape. But let me tell you what I see in the crystal ball. John Ashcroft is going to be an excellent attorney general. He is going to enforce the laws of this land fairly and forcefully. He will do so even when he might have written the law differently as a legislator.

Mr. President, the issues that have been raised in objection to Senator Ashcroft's nomination are largely policy issues. There is no objection on his qualifications, his credentials, or his integrity. The attempt to paint him as extremist on policy grounds is countered effectively by his five elections to statewide office in Missouri, and his elections to head the National Association of Governors and the National Association of Attorneys General.

Mr. President, John Ashcroft is qualified, not extreme on policy, but his policy positions are largely irrelevant because he has demonstrated that he understands his role as law enforcer, as distinguished from that of a policy advocate.

I hope we will give him the benefit of the doubt if any doubt exists. I believe he will enforce the laws even-handedly and be a fine Attorney General.

Mr. President, I would also like to respond to the issue of whether there have been religious attacks on Senator Ashcroft.

Article VI of our Constitution, while requiring that Officers of the government swear to support the Constitution, assures us that "no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States." I fear that with regard to the nomination of John Ashcroft to be Attorney General of the United States, we are coming very close to violating the spirit, if not the letter of that assurance.

Mr. President, John Ashcroft has been attacked as a dangerous zealot by many of his opponents, who suggest that his faith will require him to violate the law, or as a liar who cannot be trusted when he says he will uphold the law, even when he disagrees with it, as he has in similar circumstances in the past.

I think the corrosive attacks on a qualified nominee because of his religious beliefs not only weakens our constitutional government, but also undermines the ability of citizens in our democracy to engage in a meaningful dialog with each other. When such attacks are made on the ground that a man's faithful conviction will prevent him from discharging the duties of his office, whole segments of our democracy are disenfranchised, and the American heritage of religious tolerance is betrayed.

Let me point to just a few instances of these amazing attacks on Senator

Ashcroft, made on largely religious grounds, since he was nominated.

Let me begin with the testimony of Professor James M. Dunn, who testified at our Senate hearings as an expert on religion issues. I begin here because Professor Dunn is the most explicit in his religious attack on Senator Ashcroft.

Professor Dunn says explicitly what others have coyly and carefully implied. He says, and I quote what is essentially the thesis statement of his testimony before the Judiciary Committee: "the long history of Senator Ashcroft's identification with and approval of the political agenda of religious, right-wing extremism in this country convinces me that he is utterly unqualified and must be assumed to be unreliable for such a trust."

Let me quote that point again, "the long history of Senator Ashcroft's identification with and approval of . . . religious, right-wing extremism in this country convinces [Professor Dunn] that he is utterly unqualified and must be assumed unreliable for such a trust."

That is about as baldly as the matter can be put, John Ashcroft is "utterly unqualified" and "unreliable" because of his "religious, right-wing extremism."

As if the name-calling were not enough, to make this an even more stunning assertion, the case Professor Dunn offers to prove this perceived "extremism" is that John Ashcroft was the "principal architect" of the so-called "charitable choice" legislation which was passed by the Congress and signed by President Clinton in 1996.

To suggest that duly passed legislation, adopted by two branches of government controlled by different political parties is outside the mainstream is simply ludicrous, and suggests that the one outside the mainstream is not Senator Ashcroft, but rather his critics. This is a point that could be made on a number of policy fronts.

Well, I am disappointed when policy disagreements deteriorate into name-calling, but considering the source I am particularly disappointed. I would hope that the United States Senate would never countenance such attacks in the consideration of this, or any other, nominee. I hope no weight will be given to such intemperate vitriol, nor more guarded attacks made in the same spirit. And I hope that none of my colleagues would join in such attacks, whether explicitly stated or couched in more careful language.

But I am glad that at least Professor Dunn's clear statement can put to rest the question of whether Senator Ashcroft is being attacked in part on his religious beliefs. Dunn is not alone, either. For example, Barry Lynn, of Americans United for Separation of Church and State, in attacking Senator Ashcroft's nomination also cites charitable choice—again, a law adopted by two branches of government controlled by two different parties—as an

instance of Ashcroft's "extreme views." And to underscore the broader point, Lynn points to the apparently decisive fact that "Religious Right leaders find Ashcroft's fundamentalist Christian world view and his far-right political outlook appealing." Let us be clear here: the charge is guilt by association with religious people.

As a number of my colleagues have suggested that the nominee might want to apologize for some of his associations or take the opportunity to dissociate himself from them, I would invite my colleagues to show a similar indignation for these attacks on people of faith, and dissociate themselves from these intolerant statements, unless they too would like their silence to be considered approval of such intolerance. Perhaps there needs to be greater sensitivity shown here.

In addition to such explicit attacks, others attack Senator Ashcroft because his religious beliefs can be viewed as diverging from the legal results favored by far left liberal interest groups.

For example, in the area of abortion, Ms. Gloria Feldt, the president of Planned Parenthood Federation of America criticized Senator Ashcroft for "his belief that personhood begins at fertilization," saying that his view is "one of the most extreme positions among those who oppose a woman's right to make her own reproductive choices, John Ashcroft actually believes that personhood begins . . . at the moment that sperm meets egg, the moment of fertilization." Well, call it extreme if you will—that word is a hobby horse of the far left liberal groups who oppose this nominee—but I understand that is the position of a number of churches, including the Catholic church. What is striking and chilling about this attack is the implication that anyone who holds this belief, including believing members of many churches, including the millions of believing Catholics, are unfit for the office of Attorney General because of their "extreme positions." Surely, the Senate cannot take the position that faithful Americans who adhere to the pro-life doctrines of their churches, or even those who are pro-life on secular grounds, are unfit for office because of this view.

Besides undermining our basic assumptions supporting the rule of law, this critique leads to a second, and more chilling result for religious tolerance, namely that of Senator's judging a nominee on the basis of their views of the nominee's religious faith and that faith's priorities. John Ashcroft responds to those who criticize him for his beliefs about abortion and the beginning of life, for example, by stating that his religion requires him to follow the law as written when he is filling an enforcement role, and his oath to do that will be binding on him. Those who challenge his veracity on this point are picking and choosing which of Senator Ashcroft's religious beliefs they feel

are genuine or which religious principle has priority for him. I think this moves dangerously close to the line of imposing a religious test on a nominee.

Perhaps we can ask a nominee the general question whether there is anything that would keep them from fulfilling their duties, but I do not think it appropriate to assume that someone is unfit for a job because we have preconceptions about what their sect believes and then criticize them if their answers do not fit our preconceptions of what they should believe. We need to tread very carefully here. And we would do well in such matters to give the benefit of the doubt to the nominee. We have certainly given the benefit of the doubt to the last President when we had qualms about the quality or credentials of some of his nominees, or their policy positions. But we owe a special duty to resolve doubts in favor of a nominee when questions stem from our assumptions about a nominee's religious beliefs, especially in the face of the nominee's contradiction of our assumptions.

Mr. President, I think we would all do well to remember what we know about John Ashcroft, and not be influenced by a caricature painted by those extreme groups whose distortions of this honorable man are driven largely by their own narrow political interests. We know John Ashcroft is the sort of person whose word is his bond. And if his religion is relevant, it speaks for him as a person who will discharge the office of Attorney General with honor and dignity, with impartiality, according to the law.

I think if we examine our hearts, we will find nothing that disqualifies John Ashcroft to be Attorney General. And we cannot, in good conscience, say that all those Americans who believe as he does are outside the mainstream of American opinion. No, they are solidly within the history of American pluralism and freedom, including religious freedom. We know John Ashcroft will faithfully discharge his duties and honor his oath of office no matter what the liberal pressure groups assert. I hope we will similarly honor our oaths, rejecting what has become in essence a religious test for this nominee, and vote to confirm this honorable man to the post of Attorney General.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, the Senator from Illinois wishes to speak now. He has indicated he will take about 10 minutes. Following that, I ask unanimous consent that I be allowed to speak and, following that, Senator KENNEDY.

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

The Senator from Illinois.

Mr. FITZGERALD. Mr. President, I rise in support of John Ashcroft in his nomination as our Nation's Attorney General.

This nomination debate and the consideration of John Ashcroft's nomina-

tion is much different for me than my consideration of all the other nominees to President Bush's Cabinet. It is different for the reason that in the case of most other nominees, I do not know those individuals personally. Of course, I did know Senator Abraham who served well with us and has now been confirmed as our Nation's Energy Secretary. But with the exception of Senators Abraham and Ashcroft, most of the nominees come to me just from what I have heard, what I have seen in the newspapers, what others have written about those people. I do not have the personal experience that I have had in the case of John Ashcroft.

I knew John Ashcroft before I joined the Senate over 2 years ago. I got to know him a little bit during the time I was running for Senator from Illinois. Then, of course, once I was sworn into office, I had the privilege of working with John Ashcroft on a regular basis. I worked with him for 2 years side by side, sometimes day in and day out.

My State of Illinois is right next door to the State of Missouri, so perhaps I have had the privilege of getting to know John Ashcroft and working with him more closely than many of the other Members of this body.

We, of course, have many issues that Illinois and Missouri share in common. We have a similar agricultural economy where corn and beans are the prevailing crop. We also have the Mississippi River that divides our two States. We are frequently working together on issues of concern to the Mississippi River. We also share the Greater St. Louis metropolitan region. Most of that region is in John's State of Missouri, but a large portion of it, maybe 20 percent of it, actually is across in the eastern part of the Mississippi River and in my State of Illinois. We were constantly discussing issues of job creation and economic opportunities in the Greater St. Louis region.

In addition, I had the opportunity to work closely with John insofar as he was a supporter of a bill that I sponsored last year to improve the standards on child safety seats in this country. The bill went through the Senate Commerce Committee. In fact, I believe John was chairman of the subcommittee in which that issue was first taken up.

I also worked very closely with Senator Ashcroft on the issue of sanction reform. Both John and I and many others, representing particularly midwestern States, were very concerned that some of the sanctions our Government put on other countries, banning the sale of products from our country to other countries around the world that may have had records in one regard or another, were hurting people that they were not intended to hurt and were not affecting the governments. At the same time, they were shooting our own farmers in the foot.

I supported John's efforts to lift the sanctions with respect to food and medicine that our country had placed

on a number of nations around the world.

There are many other issues. In fact, my staff gave me two pages of issues that I worked very closely on with John Ashcroft. I am not going to go through and rebut one by one all the little points that have been made. In fact, I think many people have already done a good job rebutting some of the disinformation that has been put out. I think Senator Ashcroft did an outstanding job defending his own record before the Senate Judiciary Committee.

Of the people I have known over the course of my public life, I would have to tell my colleagues that John Ashcroft has few equals in terms of character and integrity. John Ashcroft is a man of utmost character and integrity—as much, if not more so, than anyone else I have ever met in public life.

When I heard that President Bush had nominated John Ashcroft to be Attorney General, I knew that I had disagreed with John Ashcroft on many issues during the course of the last 2 years. I had voted differently than he on any number of issues, maybe some of which have been used as an argument against John Ashcroft. But I thought: Thank God that President Bush has had the wisdom to put someone who is absolutely unimpeachable, irreproachable, and an absolute straight arrow in that office of Attorney General.

I believe character and integrity are, hands down, the most important qualifications for that job and, indeed, just about any job in public life. Many people have raised the question, Will John Ashcroft enforce the laws? Clearly, there are many laws on the books that he would not have voted for and did not vote for, or, if they came up again, would not vote for. There are many laws on the books that many of us would not have voted for.

But when the question comes up about John Ashcroft enforcing the laws, the thought that has gone through my head is, I know John Ashcroft well enough to believe with wholehearted confidence that if John Ashcroft says he will enforce the laws, he will enforce the laws. He is so stellar, so 24-carat is his honor and integrity, that I believe him without question.

One of the other things that really has not been discussed or brought up in adequate defense of John Ashcroft—as bright as all my colleagues are in this illustrious body, the Senate, so many of whom are brilliant and had brilliant academic careers—is that I have to say John Ashcroft is one of the brightest and most articulate public servants with whom I ever had the privilege of serving. I think you can see that if you look at his early career and his undergraduate degree from Yale. He attended the University of Chicago Law School, a renowned institution in my home State. And many people do not

even know that this man, who has spent most of his life in public office in so many different elected posts in the State of Missouri, was in fact a co-author, I believe, with his wife of a business law textbook. It is hard to imagine when he found the time to do that. But so brilliant, so talented, and hard-working is John that he has a remarkable degree of accomplishment in academics, in public service, and in music and other areas. He is a wonderful, outstanding man.

Finally, without belaboring this subject on which I think the points and counterpoints have been made now thoroughly on both sides of the aisle, the final thought with which I would like to leave the Senate is that the attacks that have been made on John Ashcroft simply don't compute with the John Ashcroft from my neighboring State whom I knew and served with day in and day out for 2 years.

I don't think even the people of Missouri would recognize the characterizations of this man whom they elected to be their attorney general, their Governor, and their Senator and who has had such a long and distinguished career. And even before he was an elected officer, he was the State auditor of the State of Missouri. He is one of the most qualified people ever to be nominated for the office of Attorney General.

I urge my colleagues, some of them who may disagree with votes John Ashcroft may have taken in his many years in the Senate, to reconsider and think about how important is his character and integrity, and just the fact that we can all sleep well at night knowing we have an absolute straight arrow in the highest law enforcement position in this country.

Thank you very much, Mr. President.

Mr. LOTT. Mr. President, I ask unanimous consent that beginning at 9 a.m. on Thursday, the Senate resume the Ashcroft nomination in executive session and the time be allocated in the following fashion: 9 a.m. to 9:15 under the control of the majority party; 9:15 to 9:30 under the control of Senator HARKIN; from 9:30 to 9:45 under the control of Senator JOHNSON; from 9:45 to 10 a.m. under the control of the majority party; from 10 a.m. until 10:15 under the control of Senator SARBANES; from 10:15 to 10:30 under the control of the majority party; from 10:30 to 10:45 under the control of Senator LIEBERMAN; from 10:45 to 11 a.m. under the control of the majority party; from 11 o'clock to 11:10 under the control of Senator EDWARDS; from 11:10 to 11:15 under the control of Senator GRAMM of Texas; from 11:15 to 11:45 a.m. under the control of Senator WELLSTONE; Senator LEAHY or his designee from 11:45 to 12:15; Senator HATCH or his designee in control from 12:15 to 12:45 in the afternoon; and Senator DASCHLE or his designee from 12:45 in the afternoon to 1:15; Senator BOND in control from 1:15 to 1:30; and Senator LOTT in control from 1:30 to 1:45.

I ask unanimous consent that at 1:45 the Senate proceed to a vote on the

confirmation of the nomination of John Ashcroft to be Attorney General of the United States.

Mr. LEAHY. Reserving the right to object, and I will not object, if I could ask the distinguished leader, this locks in the vote at 1:45. Is it his assumption that should everybody have used up their time prior to that, there may be a new request to move the vote time earlier?

Mr. LOTT. I believe this would indicate that the vote will be not later than 1:45. If Senators yield back their time or don't use the entire time, and we could finish at an early hour—11:30 or 12:00—I would be very appreciative of that. I would be willing to yield some of my own time to accomplish that. If we see we are ready to proceed to a vote at noon tomorrow, certainly, I would like to be able to do that.

I thank Senator LEAHY, and especially Senator REID, for working this agreement out, and to all Senators who have been willing to accomplish it so we can complete this debate and get a vote.

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

Mr. LOTT. In light of this agreement, the next vote will occur on the confirmation of our former colleague, Senator John Ashcroft, not later than 1:45 p.m. tomorrow, and earlier if the time has been yielded back and we are ready to proceed to a final vote.

Mr. REID. Will the Senator yield?

Mr. LOTT. I am happy to yield.

Mr. REID. After Senator KENNEDY, I will make a statement, and Senator GRAHAM from Florida will make a statement. I say to all the Senators, either with the majority or the Democratic side, if they feel they still want to talk, they can come and talk tonight.

Mr. LOTT. I believe we have some Senators committed to speak after that, at least two more within the next hour, interspersed with other speakers.

Mr. REID. The point I make, no one should complain they don't have the ability to talk.

Mr. LOTT. It is not that late by Senate time. I believe we have one speaker who will speak at 7:50 or so, and if other Senators who haven't spoken would like to get in the queue, we would like them to do that, or Senators who were thinking they want to wait until tomorrow, I think it would be well received if they could go ahead and speak tonight.

I yield the floor.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. REID. Mr. President, I ask unanimous consent that the order of speakers be reversed and that Senator KENNEDY precede the Senator from Nevada.

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

The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I thank the leaders. I will just take a few moments to respond to some points that were made earlier in the day by my friend and colleague, the Senator from Utah, Mr. HATCH.

Earlier this morning I took the time to review the history of the challenges that were there for St. Louis in terms of desegregation of the schools and the actions that were taken or failed to be taken by the nominee, Mr. Ashcroft. I took a considerable amount of time to review the whole history and review the cases there. I drew the conclusion that there was a gross failure of, I think, judgment in terms of taking the necessary steps to protect the interests of the children. Those cases were later challenged during the course of the afternoon, and I would like to respond very briefly and then to conclude with the remainder of my remarks that I had this morning, which, because others were here on the floor, I did not have the time to do.

My food friend from Utah talked earlier about the St. Louis desegregation case. Unfortunately, he continued the pattern on the other side of expressing outrage about the fact that desegregation can be expensive, without being outraged by the injustice being done to the African American children in St. Louis.

The simple fact is that Senator Ashcroft spent his career as attorney general denying the facts of discrimination and segregation. He continued to deny them at his confirmation hearing, and many of our colleagues are attempting to deny them on the floor of the Senate.

The facts are clear. The state of Missouri was found guilty by the courts of segregating the schools and keeping them segregated all the way through the 1970s. The court's findings in 1980 made very clear that the state was aggressively maintaining segregation. Even black families who had moved out to the suburbs saw their children bused back into the inner-city to black schools. As the court ruled in 1982:

We held . . . that the state had substantially contributed to the segregation of the public schools of the City of St. Louis . . . the state defendants are primary constitutional wrongdoers and, therefore, can be required to take those actions which will further the desegregation of the city schools, even if the actions required will occur outside the boundaries of the city school district.

Yet Senator Ashcroft continued to insist that the state was "found guilty of no wrong."

Some of our colleagues claimed that Senator Ashcroft's position was vindicated by the Supreme Court in *Missouri v. Jenkins*. But the *Jenkins* case was from Kansas City. It had nothing to do with St. Louis.

The Supreme Court rejected every one of Ashcroft's three appeals in the

St. Louis case. He also complained that some of the money went to the suburban schools. It went for the students who transferred to the suburban schools; that is Public School Choice. He said that the test scores went down in St. Louis in the nineties.

What is clear, is that the students who transferred had consistently twice to three times the graduation rate, and in some districts, 90 percent of the graduates went on to college.

Defenders of Senator Ashcroft also claimed that desegregation in Missouri was more expensive than anywhere except California. We all know what made it expensive—the unrelenting 16 year fight against doing anything to fix the problem by Senator Ashcroft when he was Attorney General and Governor of the State.

If Senator Ashcroft was simply protecting the state's treasury he could easily have proposed a cheaper alternative to the court. If he was concerned that the courts was ordering desegregation, he could easily have supported a state law to correct the problem.

In fact, the state is not paying for the plan anymore, and that's because Senator Ashcroft successors, Attorney General Jay Nixon and Governor Mel Carnahan, provided the leadership needed to settle the cases and start improving education for all the children in St. Louis.

Earlier, I spoke at length about Senator Ashcroft's record on civil rights—especially, school desegregation and voting rights—and his record on women's rights and gun control. At this time, I intend to discuss Senator Ashcroft's treatment of judicial and executive branch nominees.

I know others have referenced some of them, but I want to underscore my own reaction and response to the handling of these nominations by Senator Ashcroft.

Senator Ashcroft's handling of judicial and executive branch nominations raises deep concerns. In four of the most divisive nomination battles in the Senate in the six years he served with us, Senator Ashcroft was consistently involved in harsh and vigorous opposition to the confirmation of distinguished and well-qualified African Americans, an Asian American, and a gay American.

When President Clinton nominated Judge Ronnie White of the Missouri Supreme Court to be a federal district court judge, Senator Ashcroft flagrantly distorted the record of the nominee and attacked him in the strongest terms. He accused Judge White of being "an activist with a slant toward criminals." He accused him of being a judge with "a serious bias against a willingness to impose the death penalty." He accused him of seeking "at every turn" to provide opportunities for the guilty to "escape punishment." He accused him of voting "to reverse the death sentence in more cases than any other [Missouri] Supreme Court judge."

When questioned about Judge White's nomination, Senator Ashcroft did not retreat from his characterization of Judge White's record, although a review clearly demonstrates that Senator Ashcroft's charges were baseless. It's clear that Senator Ashcroft distorted the record in order to portray Judge White's confirmation as a referendum on the death penalty.

Senator Ashcroft had decided to use the death penalty as an issue in his campaign for re-election to the Senate, and to make his point, he cruelly distorted the honorable record of a distinguished African American judge and denied him the position he deserved as a federal district court judge. As I said at the hearing, what Senator Ashcroft did to Judge White is the ugliest thing that has happened to a nominee in all my years in the Senate.

Senator Ashcroft was also asked about the nominations of Bill Lann Lee to serve as Assistant Attorney General for Civil Rights, Dr. David Satcher to serve as Surgeon General of the United States, and James Hormel to serve as U.S. Ambassador to Luxembourg.

Senator Ashcroft told the committee that he could not support Mr. Lee because he had "serious concerns about his willingness to enforce the Adarand decision" on affirmative action. In truth, however, Mr. Lee's position on affirmative action was well within the mainstream of the law, and he repeatedly told the committee that he would follow the Supreme Court's ruling in the Adarand case. As Senator LEAHY said during the Ashcroft confirmation hearings,

Mr. Lee testified on a number of occasions—in fact, testified under oath, including, incidentally, directly in answer to your questions, that he would enforce the law as declared in Adarand. And he also said, in direct answer to questions of this committee, he considered the Adarand decision of the Supreme Court as the controlling legal authority of the land, that he would seek to enforce it, he would give it full effect . . .

That wasn't sufficient for Senator Ashcroft and he continued to oppose, and oppose strongly, this extraordinarily well-qualified, committed, and dedicated public servant.

Similarly, Senator Ashcroft said he did not support Dr. Satcher to be Surgeon General because he:

. . . supported a number of activities that I thought were inconsistent with the ethical obligations of a medical doctor and a physician, particularly the surgeon general \* \* \* for example he supported an AIDS study on pregnant women in Africa where some patients were given placebos, even though a treatment existed to limit transmission of AIDS from the mother to the child \* \* \* I, secondly, believed his willingness to send AIDS-infected babies home with their mothers without telling their mothers about the infection of the children was another ethical problem that was very serious.

In fact, at the time of the debate on the Satcher nomination in 1997, approximately 1,000 babies were born with HIV every day. Most of the births were in developing countries, where the U.S.-accepted regimen of AZT treatment is not practical because of safety

and cost concerns. In 1994, the World Health Organization had called a meeting of international experts to review the use of AZT to prevent the spread of HIV in pregnancy. That meeting resulted in the recommendation that studies be conducted in developing countries to test the effectiveness and safety of short-term AZT therapy that could be used in developing countries and that those studies be placebo-controlled to ensure safety in areas with various immune challenges. Approval was obtained by ethics committees in this country and the host countries and by the UNAIDS program.

The studies were supported by many leaders in the medical field, and the facts undermine Senator Ashcroft's criticism of Dr. Satcher.

Senator Ashcroft also mischaracterized Dr. Satcher's role in the survey of HIV child-bearing women. In 1995, seven years after the survey began during the Reagan Administration, Dr. Satcher, as acting CDC director, and Dr. Phil Lee, former Assistant Secretary for Health, halted the HIV survey. They did so because of a combination of better treatment options for children with HIV, the discovery of a therapeutic regimen to reduce mother-to-infant HIV transmission, and a greater ability to monitor HIV trends in women of child-bearing age in other ways.

Dr. Satcher's participation in the survey was justified, and it was not a valid reason for Senator Ashcroft to deny him confirmation as Surgeon General.

It was a gross distortion of his record in this situation. To criticize him for taking actions which were inconsistent with ethical considerations in that case was a complete distortion of the record.

The case of James Hormel is also especially troubling. When Mr. Hormel was nominated by President Clinton to serve as Ambassador to Luxembourg, Senator Ashcroft and Senator HELMS were the only two members of the Foreign Relations Committee to oppose the nomination. Although Senator Ashcroft voted against Mr. Hormel, Senator Ashcroft did not attend the confirmation hearings, did not submit written questions, and refused Mr. Hormel's repeated requests to meet or speak by phone to discuss the nomination.

Generally, as a matter of courtesy, if a nominee asks individual members to meet with them to explain their positions, respond to questions, as long as it have been in the Senate that has been a privilege that has been extended. But not by Mr. Ashcroft to Mr. Hormel, in spite of repeated requests.

In 1998, when asked about his opposition to Mr. Hormel's nomination, Senator Ashcroft stated that homosexuality is a sin and that a person's sexual conduct:

is within what could be considered and what is eligible for consideration.

Senator Ashcroft also publicly stated in 1998 that:

[Mr. Hormel's] conduct and the way in which he would represent the United States is probably not up to the standard that I would expect.

Senator LEAHY asked Senator Ashcroft at the Judiciary Committee hearings whether he opposed Hormel's nomination because of Hormel's sexual orientation. Senator Ashcroft responded "I did not." Instead, Senator Ashcroft claimed that he had "known Mr. Hormel for a long time"—Mr. Hormel had been a dean of students at the University of Chicago law school when Senator Ashcroft was a student there in the 1960s. Senator Ashcroft repeatedly testified that he based his opposition to Mr. Hormel on the "totality of the record."

Mr. Hormel was so troubled by Senator Ashcroft's testimony that he wrote to the committee and said the following:

I want to state unequivocally and for the record that there is no personal or professional relationship between me and Mr. Ashcroft which could possibly support such a statement.

The letter continued:

I have had no contact with him [Ashcroft] of any type since I left my position as Dean of Students . . . nearly thirty-four years ago, in 1967 . . . For Mr. Ashcroft to state that he was able to assess my qualifications . . . based upon his personal long-time relationship with me is misleading, erroneous, and disingenuous . . . I find it personally offensive that Mr. Ashcroft, under oath and in response to your direct questions, would choose to misstate the nature of our relationship, insinuate objective grounds for voting against me, and deny that his personal viewpoint about my sexual orientation played any role in his actions.

We should all be deeply concerned about Senator Ashcroft's willingness to mislead the Judiciary Committee about his reasons for opposing the Hormel nomination. As the St. Louis Post-Dispatch noted on January 22, 2001:

[T]he most disturbing part of Mr. Ashcroft's testimony was the way in which he misstated important parts of his record.

Senator Ashcroft's efforts to derail the nominations of these four distinguished men was grounded in a distortion of the facts. In every case, He twisted events to suit his purposes and held the nominees to a standard by which he could not be confirmed.

Sadly, the facts surrounding these nominations represent the tip of the iceberg. Year after year, Senator Ashcroft worked to prevent the confirmation of talented women and minorities—Marsha Berzon, Richard Paez, Margaret McKeown, and others. In some instances he was successful and—fortunately—in others, he was not. But, what is most disturbing is Senator Ashcroft's unfair treatment of well-qualified men and women, and, what appears to be, a fundamental misunderstanding of the role of a federal jurist or the role of a member of the President's Cabinet.

I want to mention Senator Ashcroft's decades-long opposition to gun control legislation.

Senator Ashcroft is closely tied to the gun lobby and he has often accepted contributions from these organizations and supported their agendas. During the hearing, he told us that keeping guns out of the hands of felons is a "top priority" of his. Yet, in 1998, this did not seem to be a top priority for him. He supported an NRA-sponsored ballot initiative that would have allowed almost anyone to carry concealed guns in Missouri. The proposal was so filled with loopholes that it would have allowed convicted child molesters and stalkers to carry semi-automatic pistols into bars, sports stadiums, casinos and day care centers. The proposal was opposed by numerous law enforcement groups and many in the business community. Proponents of the measure say Senator Ashcroft volunteered his help to support the referendum, even recording a radio and endorsing the proposal. Senator Ashcroft stated in response to written questions that:

Although [he did] not recall the specific details, [his] recollection is that supporters of the referendum approached [him] and asked [him] to record the radio spot.

The fact remains that Senator Ashcroft did support the referendum and did record the radio spot. Few can doubt that as a seasoned politician, Senator Ashcroft made himself fully aware of the contents of the referendum before lending his name to it. And if he did not, there is even greater reason to question his judgment and suitability for such a high and important position in our Federal Government.

Senator Ashcroft championed the NRA's concealed weapon proposition in 1998. But in 1992, while governor of Missouri, he had voiced his concerns about such a measure. As governor, he stated he had "grave concerns" about concealed carry laws. He stated:

Overall, I don't know that I would be one to want to promote a whole lot of people carrying concealed weapons in this society.

He further stated:

Obviously, if it's something to authorize everyone to carry concealed weapons, I'd be concerned about it.

When asked about his change of view in deciding to support the 1998 initiative, Senator Ashcroft said he changed his position because of "Research plus real-world experiences."

However, Senator Ashcroft's research was so flawed that he responded to written questions that "[t]o the extent there were loopholes in Missouri law" that would permit convicted child molesters and stalkers to carry concealed weapons, he was "unaware of those provisions at the time." Later, it was reported that the gun lobby spent \$400,000 in support of Senator Ashcroft's Senate reelection campaign. He became:

the unabashed celebrity spokesman . . . for the National Rifle Association's recent attempts to arm citizens with concealed weapons in Missouri.

That is according to a column by Laura Scott in the Kansas City Star.

The Citizen's Committee for the Right to Keep and Bear Arms gave Senator Ashcroft the "Gun Rights Defender of the Month" Award for leading the opposition to David Satcher's nomination to be Surgeon General. The group objected to Dr. Satcher because he advocated treating gun violence as a public health problem.

Based on his close ties to the gun lobby and his strong support for their agenda, it is difficult to have confidence that Senator Ashcroft will fully and fairly enforce the nation's gun control laws and not seek to weaken them.

Senator Ashcroft has shown time and time again that he supports the gun lobby and opposes needed gun safety measures. Given the important litigation in the Federal courts, it is imperative to have an Attorney General who will strongly enforce current gun control laws such as the Brady law, the assault weapons ban, and other statutes. It is also important to have an Attorney General with a responsible view of proposed legislation when the Department of Justice is asked to comment on it.

In conclusion, the Attorney General of the United States leads the 85,000 men and women who enforce the Nation's laws in every community in the country. The Attorney General is the Nation's chief law enforcement officer and a symbol of the Nation's commitment to justice. Americans from every walk of life deserve to have trust in him to be fair and just in his words and in his actions. He has vast powers to enforce the laws and set priorities for law enforcement in ways that are fair or unfair—just or unjust.

When a President nominates a person to serve in his Cabinet, the presumption is rightly in favor of the nominee. But Senator Ashcroft has a long and detailed record of relentless opposition on fundamental issues of civil rights and other basic rights of vital importance to all the people of America, and the people of this country deserve better than that. Americans are entitled to an Attorney General who will vigorously fight to uphold the law and protect our constitutional rights. Based on a detailed review of his long record in public service, Senator Ashcroft is not that man. I urge the Senate to vote no on this nomination.

Mr. HATCH. Mr. President, my colleague Senator KENNEDY continues to mischaracterize Senator Ashcroft's record with regard to school desegregation. First, let me say that I do not in the least condone segregation in St. Louis or Kansas City or anywhere else. It is a shameful legacy that must be dealt with appropriately.

Second, while the costs of the desegregation program were exorbitant this is not the only criticism to be made of the plans. The primary argument repeatedly made by Senator Ashcroft is that the state was never found liable for an inter-district violation.

Senator KENNEDY refers to an 8th circuit decision that he argues found the

State of Missouri guilty of an inter-district violation. But a circuit court cannot make such a factual finding. Rather this is a finding that must be made by the trial court.

The fact that the State was never found liable for an inter-district violation is shown by the fact that throughout 1981 and 1982 the parties were preparing for a trial on the very question of inter-district liability.

So again, I emphasize that it is true and correct to say that the State was never found liable for an inter-district violation.

Although the State was not found liable for an inter-district violation it was required by the district court to pay for a settlement reached by the suburbs and the City of St. Louis. This order by the district court was likely unconstitutional under the Supreme Court's decision in *Milliken*.

Opposing these court orders for a plan that was constitutionally suspect, expensive, and ineffective, does not make Senator Ashcroft an opponent of desegregation.

Indeed, the plan as implemented has been a dismal failure. Test scores actually declined from 1990 to 1995. Scores on the Stanford Achievement Test went from 36.5 to 31.1 at a time when the national mean was 50. And the graduation rate has remained around a dismal 30 percent.

He has repeatedly stated the opposite position.

To question Senator Ashcroft's integrity over such a complicated and controversial issue is to seriously distort his record and disbelieve his sworn testimony.

Senator Ashcroft acted with great probity as representative for the State of Missouri. He supports integration and deplores racism.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, the Department of Justice is the representative not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest, is that justice shall be done.

That obligation of impartiality, oft repeated by the Supreme Court, courses as the lifeblood through all departments of any fair and representative government. From it springs the confidence in government which is the presupposition central to the Founding Fathers' basic premise; that government derives its proper power only from the consent of the governed.

When George W. Bush campaigned for the presidency, when he took his oath of office, he promised the American people that he would not divide our house against itself. I took him at his word.

When he nominated John Ashcroft as Attorney General I kept an open mind and determined that I would, as I have always tried to do in the past, judge the nominee upon the evidence pre-

sented regarding his fitness for office, and that I would give the chief executive what leeway I could in his choice of people to carry out his plans and policies. That license, however, is not unlimited, for it is also my obligation to pass upon the nominee; to weigh the evidence of his or her past and determine how it will affect our country's future.

I have weighed the facts revealed before the Judiciary Committee to the best of my ability. The evidence has convinced me that Mr. Ashcroft has demonstrated real and substantial biases against women, people of color, gays and lesbians, and anyone else who does not meet his personal definition of what constitutes a true American. Not only has he shown that pervasive bias, he has repeatedly acted upon it as attorney general and Governor of Missouri and as a member of this body.

It is with sadness I stand here tonight to say that the facts have forced me to two conclusions. First, John Ashcroft, while he has many fine qualities, he is not the person to be this country's chief law enforcement officer. Second, while President George W. Bush may wish to be a unifier, he is not willing to put unity above partisan appeal to the most extreme elements in the Republican Party.

To President Bush I say this. Please remember that it was the first Republican President, Abraham Lincoln, who quoted from the Bible these words, "A house divided against itself cannot stand." You, President Bush, campaigned on a platform of unification of this Nation. I will support every effort of yours to do so, but unification does not mean that we abandon our commitment to fairness and impartiality and essential decency in government.

To John Ashcroft, I say that I cannot confirm to an office whose obligation to govern impartially is as compelling as his obligation to govern at all; and whose interest, is that justice shall be done a man who has repeatedly and pervasively demonstrated that he is not impartial, and that he judges individuals not by the content of their souls but rather by the tint of their ideology. I cannot confirm a man who allows his bias against another's most personal lifestyle choices to effect his decision on whether that individual is fit to enter public service. I cannot confirm a man who prevents women from options to which they should be entitled. I cannot confirm as Attorney General anyone who will not confer upon that office the impartiality it demands and, most importantly, deserves.

Mr. President, I cannot for the women of Nevada, for the people of Nevada, vote to confirm John Ashcroft as Attorney General of the United States.

So when my name is called by the clerk of the Senate, I will respond without hesitation "No."

Mr. NELSON of Florida. Mr. President, many of my Democratic colleagues rose today and expressed their

objections to the nomination of former Senator Ashcroft to be Attorney General of the United States. I do not wish to recapitulate their arguments, but I share many of their concerns regarding his nomination. I believe former Senator John Ashcroft has been a dedicated public servant who has acted in what he felt was the public's best interest. But his record has stirred controversy on a wide-range of issues. The position of attorney general is one of great importance to the people of the United States. An Attorney General must unite the citizens. Unfortunately, Senator Ashcroft's record has tended to be divisive rather than unifying.

Most importantly, many Floridians are afraid that Senator Ashcroft will turn back the clock on civil rights after all the progress that has been made over the years. Based on his record and his testimony before the Judiciary Committee, I share their concern.

An Attorney General, of all the Cabinet officers, must be perceived to be the most vigilant enforcer of the law, an attorney who will represent all the people's interest. I am afraid this nomination does not meet that test. Thus, I am voting against confirmation.

Mr. FEINSTEIN. Mr. President, I truly believe that a President is entitled to his, or her, cabinet. I am aware that virtually all of President Clinton's cabinet was approved by voice vote, with one exception, which was a roll call vote, and that nominee was overwhelmingly approved.

However, the background record of this nominee is not mainstream on the key issues. I know he is strong and tough on law and order issues. However, his views on certain issues—civil rights and desegregation, a woman's right to choose and guns—make him an enormously divisive and polarizing figure.

This record can best be characterized as ultra-right wing. That is not where most of the people in this nation are.

Senator Ashcroft's commitment to enforce the law in view of the extremeness of his record, as well as, on occasion, the harshness of his rhetoric, makes it difficult to believe that he can, in fact, fairly and aggressively enforce laws he deeply believes are wrong.

When Senator John Ashcroft opposed Bill Lann Lee's nomination to head the Civil Rights Division at the Department of Justice, he argued that Lee was "an advocate who is willing to pursue an objective and to carry it with the kind of intensity that belongs to advocacy, but not with the kind of balance that belongs to administration . . . his pursuit of specific objectives that are important to him limit his capacity to have the balanced view of making the judgments that will be necessary for the person who runs [the Civil Rights] Division."

If the Senator's own standard is applied to this nomination, he would not be confirmed.

Last week, this committee held four days of hearings into the nomination of Senator Ashcroft. During that time, we witnessed a man who had undergone a major transformation on many key issues of importance to the people of my State and the nation. The question that each Senator must now ask, is whether that transformation is plausible after more than 25 years of advocating the other side.

On a woman's right to choose, for example, the new John Ashcroft would have us believe that he fully accepts *Roe v. Wade* as the law of the land, and he will do nothing to try to overturn it. He would fully fund task forces to protect women as they enter abortion clinics, and stated firmly that "no woman should fear being threatened or coerced in seeking constitutionally protected health services."

Contrast that with the John Ashcroft of the past 25 years, who has long argued that there is no constitutional right to abortion at all, that *Roe v. Wade* was wrongly decided, and in 1998 wrote that "If I had the opportunity to pass but a single law. I would . . . ban every abortion except those medically necessary to save the life of the mother." This John Ashcroft supported a constitutional amendment to ban virtually all abortions, even in the cases of rape and incest—an amendment that would also likely ban some of the most common forms of birth control, including the pill and the IUD.

The John Ashcroft of 25 years once stated, "Battles (for the unborn) are being waged in courtrooms and state legislatures all over the country. We need every arm, every shoulder, and every hand we can find. I urge you to enlist yourself in that fight." The new John Ashcroft claims to have laid down his arms entirely.

On gun control, the new John Ashcroft says he supports background checks at gun shows, says that he voted to deny the right to bear arms to domestic violence offenders, and says he would support re-authorizing the assault weapons ban when it expires in 2004, although he has called it "wrong-headed."

The old John Ashcroft, on the other hand, voted against mandatory background checks at gun shows, trigger locks on guns sold, and a ban on large capacity ammunition magazines. He supported a concealed weapons law that would allow the people of Missouri to carry a concealed firearm into a grocery store, a church, or on school grounds or on a school bus, superceding the Federal Gun Free Schools Act. He was, and still may be, an active member of the National Rifle Association.

On civil rights, the old John Ashcroft strenuously fought a desegregation plan in Missouri. In fact, the judge in the case stated that Attorney General Ashcroft, "as a matter of deliberate policy, decided to defy the authority of this court."

The old John Ashcroft spoke at Bob Jones University, that to this day re-

mains highly questionable for its religious and racial bias; at the hearing he demurred when Senator BIDEN urged him to return the honorary degree and did not rule out returning to the college in the future.

And the old John Ashcroft, in stating his reasons for voting against James Hormel as Ambassador for Luxemburg, stated that Hormel had "actively supported the gay lifestyle," and that a person's sexual conduct is "within what could be considered and what is eligible for consideration" for ambassadorial nominees.

Yet the new John Ashcroft promises never to discriminate against gays or lesbians for employment and said the reason for voting against Ambassador Hormel was because he knew him personally. Mr. Hormel called to tell me that he not only does not know Mr. Ashcroft, but that the Senator had refused to meet with him prior to his confirmation.

For over a quarter-century of public life, John Ashcroft has established a record of right-wing conservatism, and of views far to the right of the average American, and even of many in his own party. Senator Ashcroft has spent a career fighting against a woman's right to choose. He obstructed the nominations of several women and minority candidates to the federal bench.

Senator Ashcroft said just two short years ago that "There are voices in the Republican Party today who preach pragmatism, who champion conciliation, who counsel compromise. I stand here today to reject those deceptions. If ever there was a time to unfurl the banner of unabashed conservatism, it is now."

In 1997, Senator Ashcroft remarked that "People's lives and fortunes [have] been relinquished to renegade judges—a robed, contemptuous intellectual elite." He continued that "Judicial despotism . . . stands like a behemoth over this great land."

In a speech entitled "Courting Disaster: Judicial Despotism in the Age of Russell Clark," Senator Ashcroft reveals deep and antagonistic feelings toward the courts of our country with this sentence: "Can it be said that the 'people govern'? Can it still be said that citizens control that which matters most? Or have people's lives and fortunes been relinquished to renegade judges—a robed contemptuous, intellectual elite that has turned the courts into 'nurseries of vice and the bane of liberty'?"

And in the case of Missouri Supreme Court Justice Ronnie White's nomination to the federal bench, Senator Ashcroft was responsible for a dark day in the Senate. When a home-state Senator objects to a nominee, it is very unlikely that the nomination will go forward. But instead of quietly objecting early on and allowing White to withdraw his nomination with dignity if he so wished, John Ashcroft waited until the nominee reached the floor of the Senate—after waiting for two full

years—to derail the nomination and humiliate the nominee by stating, “We do not need judges with a tremendous bent toward criminal activity.”

Whatever Senator Ashcroft’s problem with Ronnie White, there was no need to destroy White’s reputation on the floor of the Senate, with no warning and no chance for Judge White to either defend himself or withdraw. This one act has become a stumbling block to my support, which I have not been able to get around. It says to me that it was done for political purposes.

Taken as a whole, Senator Ashcroft’s positions and statements, in my view, do not unite, but rather divide. They send strong signals to the dispossessed, the racial minorities of our country, and particularly to all women who have fought long and hard for reproductive freedom that this Attorney General will not be supportive of laws for which they fought, no matter what he has said in the past weeks.

How can our citizens feel that this man will stand up for them when their civil rights are violated? How can the left out, the rape victim who needs an abortion have faith that this man would enforce their rights?

In the end, every Senator must live with his or her own vote, and for this Senator, that vote will be “no.”

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, as a Senator, I do not serve on the Judiciary Committee, but I have watched nearly every hour of their hearing on the confirmation of John Ashcroft to be our next Attorney General of the United States.

I have watched while men and women of good will, while attempting to speak in soft and mellow tones, have been intimidated and bludgeoned by the far left to such a point that we now hear them come to the floor of the Senate and reach to find excuses to vote against a man of good faith and a man of good will.

I am not an attorney, nor have I ever claimed to be, but as a human being who has served in public life for a good number of years and associated with a great many people, I believe I am a reasonable judge of character.

This afternoon, I heard a speech from one of my colleagues about seeing into the heart of John Ashcroft. That particular Senator said that once she had viewed the heart of John Ashcroft, she could not support him.

I suggest to that Senator that I have not seen into the heart of John Ashcroft, but I know it because I have lived near it and around it for the last 6 years. I know of its sincerity and its compassion. I know of its love of people and love of this institution. I know of its great patriotic pride for its country. I know of a heart that has served as a State attorney general, a Governor, a Senator, and who will soon serve as the U.S. Attorney General.

No, I have not seen the heart. I know the heart, and I know it to be a heart

of compassion, but I also know it to be a heart of truth, one who, when he looks into the eyes of his colleagues and says, “I will enforce the laws of this Nation,” he and he alone is telling the truth.

Why could we assume he would tell the truth when others in past years have failed that test? Because he is a moral and ethical Christian.

That is a very valuable and important definition to understand because if you meet that definition, you must enforce the law; it is within your character and your being that you do such. Lawmakers and law enforcers are different types of people, but within the character of the definition I have just given, they are people who, by their very being, must enforce the law. They cannot arbitrarily, they cannot philosophically, nor can they politically, adjust the law as we have seen it for 8 long years be adjusted to meet the politics of the day.

Quite the opposite happens with a man of the character of John Ashcroft; for if he does not like the law, if he does not feel it comports to his belief of what the culture and the character of our country ought to be, does he not enforce it? No. He turns to the law-making body, us, and says: You ought to change the law. It does not fit the character or the essence of the American way of life. But while it is here, I will enforce it as your Attorney General. You see, I must; it is my responsibility. I have taken the oath of office, and in taking that oath, I must uphold the law.

Yes, John Ashcroft is a Christian. He is a man of faith. My wife Suzanne and I know John and Janet Ashcroft well and personally. We have traveled around the country and around the world with them. He is a close, personal friend. In all of those times that we have traveled together, I have never heard him once speak ill of another human being. Not once have I ever heard him impugn the character of another human being.

Oh, John Ashcroft is a passionate man. He believes strongly in certain “isms.” But most importantly, he believes in Jesus Christ. He is a Christian. That is a character valuable to the culture of our country.

What I have seen or what I have felt over the last several weeks is the ultimate test coming down on John Ashcroft. While it has not been spoken, I sincerely believe it has been implied, that if you are a Christian, if you are a person of faith, you cannot serve in public life and in public office in this country because it, in some way, “taints” the way you think, the way you act, the way you respond.

I offer that challenge up to all of my colleagues because if that is what is being implied by the far left today, then shame on them, for it is outside the character of this country and it is outside the Constitution of this country.

Let me read from article VI. The last full paragraph of that article says:

The Senators, and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

That is the Constitution of the United States. That is the hallowed voice of our Founding Fathers. Yet by implication and innuendo, the far left of this country has implied, time and time again over the last several weeks, that a Christian person, a person of faith, cannot be trusted to serve and render the just and appropriate interpretation of the laws of this country. That is not only wrong for our country; that is wrong under our Constitution. That test can never be allowed to be applied, whether on the right or on the left or down the center. It is a test of character that we have prohibited in this country for all time. And because we have prohibited it, our country is a sanctuary for all the world to seek.

Mr. President, I am confident, because I know John Ashcroft—I know his heart, that he is a man of unquestionable character who will do as he has said he will do before the Judiciary Committee of the Senate—that he will enforce the laws of this land, so help him God.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. SESSIONS. Mr. President, I rise in support of the confirmation of John Ashcroft to be Attorney General of the United States.

I spent 15 years of my professional career as a prosecutor, as a U.S. Attorney, in the Department of Justice. It is an institution for which I have the highest respect that I can express. The goal of equal justice under law is one of the highest and most valuable ideals any nation can have. I am convinced that this Nation’s strength is because of our legal system, our pursuit of truth and accuracy and fairness in giving everybody their day in court.

We need to give nominees here their day in court. And if we do, John Ashcroft will be found to be a sterling nominee. The complaints that are made against him collapse in the face of the facts. And I believe that is plain and accurate. I think that is an accurate statement. It disappoints me to hear people persist in pursuing objections and complaints that, if fairly looked at and considered objectively, are not meritorious.

Before I make my general remarks—and I will just respond to a few things that have been said—I would like to

have printed in the RECORD a letter that was published in the Washington Post today. I ask unanimous consent to have that printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Jan. 31, 2001]  
CONFIRM JOHN ASHCROFT

ALAMERICA BANK,

Birmingham, AL, January 31, 2001.

TO MEMBERS OF THE UNITED STATES SENATE: I am an African-American from Birmingham, Alabama. I live in a state known around the world for its long and ugly history of racial segregation and pervasive discrimination.

I am a former National Association for the Advancement of Colored People ("NAACP") and Southern Christian Leadership Conference ("SCLC") trial attorney and a staunch supporter of each organization's mission and goals. After graduating from law school in 1973, I spent the next two decades litigating and winning landmark school desegregation, fair housing and equal employment opportunity cases for the NAACP and SCLC. In 1976, I obtained a full and complete pardon from the State of Alabama for Mr. Clarence Norris, the last known surviving "Scottsboro Boy".

I voted for former President Bill Clinton twice and supported him in his fight against impeachment. I also voted for Al Gore and Joe Lieberman last Fall. I am a political independent who assesses a political candidate or appointee's fitness for office based upon the content of his character—NOT his party affiliation.

I believe it is time for the United States Senate to confirm John Ashcroft as Attorney General. Here is why:

1. As a former Governor and U.S. Senator, John Ashcroft may have played political hardball, but he is not a racist.

When John Ashcroft was first nominated to be Attorney General, I read the newspaper stories about his successful effort to defeat the federal judgeship nomination of Missouri Supreme Court Justice, Ronnie White. I was highly concerned. I watched the Senate Judiciary Committee hearings. There, I saw a different story. I learned that Messrs. White and Ashcroft were skillful and brilliant players at the game of legislative hardball.

Mr. White, while a state legislator, used his powerful committee chairmanship position to engage in political jousting with then Governor Ashcroft. Years later, Mr. Ashcroft continued the jousting by using his influence as a Senator to defeat Mr. White's nomination to become a federal district judge.

The defeat of Justice White was hardball, not racism. Mr. White himself testified that John Ashcroft was not a racist.

2. It is time for America to have an Attorney General who will enforce the law equally and fairly for all Americans.

As Black Americans, we see the problem of crime in America up close and personal. Black Americans are among its greatest victims. For us, it is particularly important that the enforcement of our law be strong, effective and fair.

Mr. Ashcroft has also promised to investigate all alleged voting rights violations, particularly those lodged in Florida in the aftermath of last Fall's election. We expect him to prosecute any criminal violations if federal laws protecting voting rights were broken in Florida.

3. It is time to restore civility and dignity to the Senate confirmation process.

Americans have watched the Senate confirmation process deteriorate over the years since the Robert Bork nomination in 1987.

What used to be a calm exploration of a nominee's qualifications often now becomes a trial by ordeal. Both political parties decry the so-called "politics of personal destruction" and then eagerly employ it. Special interest groups on all sides regard a confirmation battle as a fundraising opportunity and a test of strength, regardless of its impact on the nominee. A vote for John Ashcroft will not, in itself, restore civility to the confirmation process, but it will help.

It is time for all Americans to stop fighting the outcome of last Fall's election and give President Bush a chance to govern. President Bush has selected a diverse and inclusive cabinet. We must give his team an opportunity to lead this nation. If Mr. Ashcroft does not live up to his commitment to enforce our federal laws on an even-handed basis, we can deal with that in the political arena at a later date. Until then, we should respect President Bush's choice for Attorney General.

Sincerely,

DONALD V. WATKINS,  
*Founder and Chairman.*

Mr. SESSIONS. Mr. President, the letter was paid for by Donald V. Watkins of Birmingham, Alabama. He is one of Alabama's most prominent African American leaders, and he is an attorney. I went to law school with Don.

He has been an active Democrat. He says in his letter that he supported the Gore-Lieberman ticket this time. He has been a lawyer for the NAACP and the Southern Christian Leadership Conference, a trial attorney, and "a staunch supporter of each organization's missions and goals."

Don says it is time for us to restore civility and dignity to the Senate confirmation process. In effect, he says that President Bush has been elected. He made some promises. He promised to have a more diverse Cabinet. This civil rights advocate, this skilled lawyer says that he has followed those commitments and that what the African American community should do is to insist that he follows the other commitments he made and judge him on what he does, because he is the President, and we should give him a fair chance to succeed.

He says John Ashcroft should be confirmed. Quoting from the letter:

Americans have watched the Senate confirmation process deteriorate over the years since the Bork nomination in 1987. What used to be a calm exploration of a nominee's qualifications now often becomes a trial by ordeal. A vote for John Ashcroft will not, in itself, restore civility to the confirmation process, but it will help.

Don Watkins says:

It is time for all Americans to stop fighting the outcome of last Fall's election and give President Bush a chance to govern. President Bush has selected a diverse and inclusive cabinet. We must give his team an opportunity to lead this nation. If Mr. Ashcroft does not live up to his commitment to enforce our federal laws on an even-handed basis, we can deal with that in the political arena at a later date. Until then, we should respect President Bush's choice for Attorney General.

I think that says it well. I had no advance notice of this. I had no idea this would appear from this fine and skilled advocate for equal rights in America.

I want to share a few matters that are important to correct. They have been repeated so often; I believe they are so incorrect that they ought to be responded to. First, in this town, people know who are honest and truthful—people who tell the truth, people who are straight shooters—it is pretty well known. And it is known those who cannot be trusted. There are not many you would trust on almost any matter whatsoever. John Ashcroft, though, is that kind of person. You have heard people say that repeatedly today and in days past. They know him. They respect him. He is a man of integrity, a man of religious faith, yes, a leader in his denomination, a man who is broadly respected all over America for the very qualities that are so much in need today.

If anybody reads my mail and listens to the comments I am receiving from people with a longing and a deep concern about their country, that a man of this quality is beaten up and attacked and dismembered, in effect, while at the same time we have the same Members of this body who have been steadfastly and tenaciously defending the kind of spin that has gone on in this town that led to impeachment and other matters, they are having a difficult time comprehending that.

Anyway, we are here. People have had their day. They have been able to appear at the hearing and present their charges. We, as Senators, are supposed to weigh them. It is all right. I believe in free debate. Nobody should be stifled—they ought to have their say. But we are not run here by special interest groups. Handgun Control does not control in this body. We take an oath to obey the law and to do justice here, not to kowtow to every group who builds up a campaign to pressure Members of this body to vote the way they want, threaten them that they won't support them in primary elections in the future, and otherwise make their lives miserable in every way they possibly can to get them to vote a certain way. They have a right to write and threaten and say they are not going to vote for somebody. It is a free country. But we, as Senators, have a right and a duty and a responsibility to do the right thing.

I know there are some conservative groups who tried to pressure Chairman HATCH on some issues. He said: We are willing to listen to you and have your input, but I am a Senator. I happen to chair this committee. As long as I chair the committee, we are going to do this fairly and above board and no interest group is going to have an undue influence in how I do my job.

That is a fact. People know that here. We need to remember that as we go forward with this process.

One of the charges that has been made that is somewhat complicated, but at bottom is very simple, is this charge that John Ashcroft opposed integration. That is a bad thing to say. He came before the committee and

looked us all in the eye and said: I support integration; I do not oppose integration. He said what he opposed was a Federal court plan that was extreme, in my view and in the view of a lot of legal scholars, to create a massive Federal intervention in the educational systems of Kansas City and St. Louis, Missouri. In fact, the Federal court plans ordered an additional \$3 billion in funding to be spent to carry out these plans. A lot of it was for busing; a lot of it was for other activities.

This was a big deal. His predecessor opposed that court activity. His successor opposed it. His second successor opposed it. His second successor as attorney general was Jay Nixon, with whom I served when I was Attorney General of Alabama. Jay Nixon opposed this. He is a Democrat and was supported by two Members of this body in his effort to run for the U.S. Senate while he was resisting this litigation in the State. Why would we want to oppose that?

The wording the complainers have used is that he opposed voluntary court desegregation or voluntary desegregation in Missouri.

Let me tell my colleagues how that happens. I was Attorney General of Alabama. I have been through this. It is a common thing in America, as we try to deal with the vestiges of segregation. Some of it was legal. Some of it has been by just the nature of the residences that segregation occurred, and various efforts have been made to deal with this.

It has been said: How did he oppose voluntary desegregation?

This is what happened. Plaintiffs sued St. Louis and Kansas City. They sued the suburbs, and they got to court and claimed the school system is segregated by design, in effect. They object to it. They want it to end. The school systems resist, and the litigation goes on. And the judge in this case essentially suggested or indicated that he just might render an order that would eliminate all the suburban cities and merge them—at least their school systems—merge them with the St. Louis school system. We would just have one big school system. That is just what he might do, he said.

So threatened with their very educational system at stake, they voluntarily, under those kinds of threats, agreed to a plan to spend a massive amount of money to bus students around in an effort to achieve racial balance, which the judge was pushing to make happen.

They said: By the way, state of Missouri, you pay for it. We run our school system here, the city of St. Louis runs theirs, but we want you to pay the cost of this.

The Attorney General of the State of Missouri was the one person who had a responsibility and a duty, the lawyer for all the people of Missouri, to question whether or not citizens all over the State ought to pay for this kind of massive plan.

He objected to that. He resisted as did two of his successors who resisted it. In fact, one of the most infamous of all court plans was because a Federal judge ordered one of the school districts to raise taxes to pay for his idea of the school.

That is what we are talking about—a consent decree. I have seen them. They will sue the prison system. The prison system will put up a little defense, or the mental health system, or the school system will, and they will go in and say: Judge, I guess you are right. Order the State of Alabama to give more money to run the prison. Order the State of Alabama to give more money to the mental health system because these are the people who would like to have more money because it is their system they are running, and they don't have an objective position. The attorney general is the one who has to represent the entire State and to question what is happening.

Let me tell you why an attorney general has a particular duty to resist. He has a particular duty because this unelected lifetime-appointed Federal judge who is saying he is going to abolish the school district and consolidate them into one, who is taking an action that violates the Constitution of the State of Missouri—violates the statutory laws of the State of Missouri, violates the duly elected school boards and districts, and the school boards' authority given to them by the people of the State of Missouri and people in that district. And he is going to rip all of that apart and impose his will on how education ought to be conducted in the targeted community in that state.

Do you see how important this is for a principal attorney general. He should resist and defend unless it is absolutely clear that there is no other way that a constitutional deprivation can be ended. He should resist the compromise of the Constitution and laws of his State, as did his predecessor and as did his two successors. To say those acts of principal resistance to a Federal evisceration of the local educational scheme demonstrates lack of concern for children or somebody who wants to maintain segregation is just plain wrong. We ought not to twist those kinds of things today into that sort of mentality. I don't like that.

There is one more thing I will mention—the Bill Lann Lee nomination, although I could do this on almost every allegation that is before us.

Bill Lann Lee was opposed not just by John Ashcroft. He failed to come out of the Judiciary Committee on a tie vote, 9-9. I am not aware that John even spoke about it. Perhaps he did, but I do not know what he said. I do remember that I spoke against the Lee nomination. I remember Chairman HATCH of the Judiciary Committee made an eloquent argument against Mr. Lee.

I would like to mention a couple of things about that. Oh, Mr. Lee, is so

terribly pitiful, that he has just been put upon and he has been abused, is what they would say.

But let me tell you. We had a full hearing on the Adarand case. We had a hearing on that. Mrs. Adarand even came. Adarand, for purposes of background, is the case that sets out the law for quotas in America. They said you can't have racial set-asides and quotas. Mr. Lee refused to acknowledge the real meaning of Adarand.

He said he would support Adarand, but when questioned in detail, he defined it in such a way that it was clear that the chief of the Civil Rights Division would not support the principle that Adarand stated. That is why the chairman of the Judiciary Committee opposed it. He made something like a 15-page speech on this floor and delineated in high style and with great legal expertise why this was important and why he reluctantly opposed this nomination. He did not attack—nor did any of one of us at any time attack—the character of Bill Lann Lee. We simply said that we believed he did not understand the meaning of that case and would not follow the law of the United States and, as such, that he should not be confirmed.

That is what happened. To suggest that John Ashcroft went out of his way to block this nominee is just one more statement that is inaccurate and unfair to the good and decent man whom I believe will soon be Attorney General and whom I am confident will be one of the greatest Attorneys General in the history of this nation. People are going to appreciate him. He will restore dignity. He will restore integrity. He will bring personal probity and decency to that office and will, I believe, be greatly respected when he concludes.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. ALLEN. I thank the Chair. I commend the articulate, knowledgeable, and eloquent Senator from Alabama for his remarks on a variety of issues.

Mr. SESSIONS. Mr. President, will the Senator yield?

Mr. ALLEN. I yield.

Mr. SESSIONS. Mr. President, I have received a statement from the editor of the Southern Partisan magazine that has been attacked here to some degree. I have never read the magazine. But it is a refutation of many of the statements made about the magazine. It certainly is proof that the magazine is in a much better light than it has been reported to be here on the floor.

I note that Senator Ashcroft, when he was interviewed by it, simply did a telephone interview with the magazine. There was no evidence he ever read it, or saw it, or knew much about it.

I think it would be healthy for the statement of Chris Sullivan, editor of the Southern Partisan, to be made part of the RECORD in which he flatly denies that he favored, or the magazine favored, segregation or other kinds of racially—discriminatory activities.

I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SOUTHERN PARTISAN,

January 11, 2001.

FROM: Chris Sullivan, Editor

RE: Refutation of false reports now being circulated about Southern Partisan magazine in an effort to damage John Ashcroft

A number of false reports are circulating in the national press, alleging that Southern Partisan is a "racist," "segregationist," "secessionist," or "white-supremacist" magazine. This is part of an orchestrated effort to embarrass Senator John Ashcroft for having once been interviewed by our magazine.

Most of the distortions can be traced to an article by Benjamin Soskis in the New Republic which contained a series of factual errors and distortions extracted from any sense of fair or accurate context, some of which were clearly malicious. People for the American Way subsequently loaded all of those gross distortions onto their web-page. After that, reporters and editorial writers for mainstream outlets covering the presidential primary reported the errors as if they were factual.

For those who may be interested in the facts, I have assembled the following item-by-item refutation of these false reports:

1. Senator JOE BIDEN said on Meet the Press that Southern Partisan is "a white-supremacist magazine, or so I've been told." Others have labeled us "neosegregationist" and "racist."

Those charges are absolutely false. In 20 years of publication, our journal has never advocated segregation, white-supremacy or any form of racism. Indeed one of our central purposes is to defend the South against such stereotypical and reactionary attacks. Our editors and contributors have included highly respected writers, academics and journalists like Russell Kirk, Aleksandr Solzhenitsyn, Murray Rothbard, Walter Williams, Anthony Harrigan, Kenneth Cribb, J.O. Tate, Andrew Lytle, Cleanth Brooks and many others.

2. The allegation that John Ashcroft's interview is somehow disreputable. A simple listing of others who have been interviewed in our "Partisan Conversation" section (which is where Ashcroft appeared) should suffice to rebut this silly charge. Other interviewees include NBC weatherman Willard Scott, former Surgeon General C. Everett Koop, civil rights activist James Meredith, poet laureate James Dickey and political leaders like Senators Trent Lott, Phil Gramm, Jesse Helms and Thad Cochran as well as Ashcroft (a list of other interviewees is attached).

3. The allegation that our magazine "praises" David Duke. Absolutely not true. Twelve years ago, when Duke was running for office in Louisiana, he claimed he had converted to Christianity, renounced his past Klan involvement and campaigned on a mainstream conservative platform. At that time, we published a column defending the people of Louisiana for taking Duke at his word. As it turned out, Mr. Duke was deceiving everyone. In subsequent years he was rejected by he voters of Louisiana, which was a happy ending. (I have attached the full column in question, which is now 12 years old, to show just how the meaning was twisted by the out-of-context quote. Item #1 shows he quote extracted by "researchers" seeking to damage the magazine. Item #2 makes the true meaning clear).

4. The allegation that our magazine defends slavery. Again, that outrageous idea

got started by the New Republic. The quote offered to "prove" we defend slavery was taken from a book review of a scholarly work on slavery called Time on the Cross. (Robert Fogel and Stanley Engerman) One of the findings of that book (based on plantation economic records) was that slave families were not frequently broken up, contrary to what was then a general view. Breaking up slave families was bad for morale and therefore bad for business. In preparing this memo, I consulted Dr. Walter Edgar's recent book on the history of South Carolina, which has been widely praised. Dr. Edgar is not a Republican or a conservative. The 1998 edition of his book has this to say on page 317: "Owners realized that it was to their advantage to encourage stable slave family life . . . Slaves who had families were less likely to run away. . ." Obviously, in no way is such a point intended to justify or defend slavery, which was a terrible national tragedy. The point the reviewer hoped to make was that slavery was bad enough without being exaggerated.

5. The allegation that our magazine engages in ethnic slurs. The quote most often offered to prove this allegation was taken from a column Reid Buckley, William F.'s brother, wrote for us 17 years ago. Here is what the New Republic reported that Mr. Buckley had written:

"In 1987 the magazine offered a vision of South African history straight from the apartheid-era textbooks: 'God led [Afrikansers] into the Transvaal, it was with God that they made their prayerful covenant when they were besieged by bloodthirsty savages on all sides.'"

Here is the actual text from which the quote was dishonestly extracted:

"Then what demon has provoked their hateful policies? Well, not demon, it transpires upon reading a little South African history. God Almighty. In *their* view. [Emphasis in the original] God led them into the Transvaal, it was with God that they made their prayerful covenant when they were besieged by bloodthirsty savages on all side."

It is obvious to even the most casual reader that Mr. Buckley is actually criticizing the "hateful policies" of apartheid, not defending them. The New Republic article extracted a partial quote that completely reversed the author's meaning. We can only assume that the distortion is deliberate. Why else would the New Republic writer have lifted only a portion of the passage?

6. The allegation that our magazine sells hateful t-shirts and bumper strips, including a shirt with Lincoln's image and the legend "sic semper tyrannis" which are the words Booth uttered before he shot Lincoln.

There is a web site called pointsouth.com that apparently sells a variety of Southern novelty items including bumper strips. We have no ties whatsoever with that web site. For a time, pointsouth.com carried a link to our web site. When we discovered that they were selling bumper strips with messages we found to be tasteless, we asked that the link be deleted. It was.

As to the Lincoln "Sic semper tyrannis" t-shirt: that tasteless item has never been advertised or sold on the pages of our magazine. Seven years ago, a part-time staff member of our magazine offered to compile a catalog of Southern items available—from various vendors—such as art prints, books, ties, grits, t-shirts, etc., to raise money to help defray the cost of the magazine. The catalog was compiled and mailed to our readers as a separate brochure, without careful review by our editors. The catalog included a "tree of liberty" t-shirt with the image of an oak tree and a quote from Thomas Jefferson. Apparently the Lincoln image with the sic semper tyrannis logo appeared

on the reverse side of the t-shirt. While the slogan was noted in the fine print, that face escaped our attention. Nevertheless, it was advertised in the catalog one time seven years ago. The catalog was cancelled soon thereafter. Yes, the Lincoln message was in poor taste. It was a mistake. We regret that it was sold through a catalog our name was briefly associated with. But any effort to hold Senator Ashcroft accountable for that is absurd.

7. The allegation that our magazine is anti-Semitic.

Of all the charges made, this is the single most baseless. I do not believe Southern Partisan has ever published a single negative comment about Jews. On the contrary, we have published numerous very favorable articles on Jewish Confederates and Judah P. Benjamin, pointing out that the Confederate government had a Jewish member of its cabinet 50 years before the federal government. The charge of anti-Semitism against the magazine is completely unfounded.

8. The allegation that we are hostile to Martin Luther King Day.

Two decades ago, there was widespread opposition to MLK Day among conservatives all over the country. Around that time (18 years ago in fact) we published a column suggesting that other African-Americans in history might be more worthy of elevation to holiday status. Examples of George Washington Carver, Booker T. Washington and General Chappie James were given. Of course, the debate is long over. MLK Day is now accepted as a part of the nation's life. Nothing negative has been written on our pages about MLK Day for the past 18 years. In fact, South Carolina, the State where we publish, recently converted MLK Day from an optional to a free-standing holiday. The son of the writer who wrote that column 18 years ago is a member of the S.C. State Legislature. He voted for the holiday with his Dad's support.

9. The allegation that we are hostile to Nelson Mandela.

Again, the column cited to support that allegation was written over a decade ago. At the time, the idea that Mandela had engaged in violence before his arrest and refused to renounce violence as a precondition to release from jail was widely reported. The views on Mandela expressed a decade ago were conventional for conservative writers from all regions of the country. In subsequent years, Mandela (who is now a respected elder statesman) has changed his mind about violence in the manner of Sadat and Begin.

10. The allegation that our magazine called Lincoln "a consummate liar \* \* \*".

The quote was taken from a speech given by the late Murray Rothbard, a respected Jewish intellectual. He was president emeritus of the Ludwig von Mises Institute, speaking at a seminar on the cost of war. The introductory phrase left out of Dr. Rothbard's remarks (which completely alters the meaning) was this: "Of course, Abraham Lincoln was a politician which means he was a consummate liar, manipulator \* \* \*" etc. The quote was followed by laughter from those in attendance. In other words, it was a generic insult against politicians intended to be humorous.

The ten slanders listed above are the major ones we have seen in the media for the past six months. There may be others. If so, please let us know so we will have an opportunity to defend ourselves. Our concern is not only with the reputation of our magazine but also with all the people who have written for us or been interviewed by us over the years. They are innocent bystanders in this scorched earth campaign to defeat Sen. Ashcroft. Their reputations are very important to them and to their families.

To our dismay, these slanders have metasized like an aggressive cancer throughout the national news media. In fact, months ago, we sent all of the above corrections to the People for the American Way with a polite request that they correct their web site. They never did. It truly is shocking that there are groups so radically committed to their political agenda that they are willing to destroy reputations falsely in an effort to prevent the appointment to a person they disagree with.

Please feel free to contact me if you have any additional questions (803-254-3660).

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ALLEN. Mr. President, I rise as a new Member of the Senate, having listened to the arguments back and forth for several weeks on the matter of John Ashcroft's nomination as Attorney General of the United States.

As a new Member, some of the arguments made, various votes and so forth are of interest, and there is some hyperbole to it.

But let me tell you that coming out of the real world and going through a campaign and listening to people in Virginia and elsewhere, I think if there is one message that the American people sent to our country's leaders last November, it was this:

The politics of personal destruction in our country must end. Sadly, there are some leaders of organized interest groups who have already turned a deaf ear to that message, even as we in the Senate are working so hard to move America forward in a bi-partisan manner.

Of course, I understand that some of my colleagues may disagree with the philosophy of our new President and his choice for Attorney General. However, when the Chief Executive picks his management team, unless there is an extraordinary reason that would dictate otherwise, this body should not stand in his way or obstruct. Political opportunism is not an appropriate rationale for withholding consent for a nominee.

When I served as Governor of Virginia, I was fortunate to have a capable cabinet who assisted me in managing the day-to-day operation of state government and advancing the agenda I established. While both the House and Senate in Virginia are required to approve of the Governor's selections, they have always, without exception, afforded the Governor the ability to name the qualified individuals he recruits to lead the team. No matter how distasteful the views of the nominee might be to some on the other side of the aisle, except for a very very few legislators, Republicans and Democrats alike have continuously respectfully rallied to put the best interests of Virginia ahead of political chicanery and that has effectively enabled Virginia's Governors to do the job they were elected to do.

The federal government should be no different and John Ashcroft deserves the support of the United States Senate for Attorney General. He has prov-

en himself a caring and capable leader during his many years of public service. Elected by the people of Missouri five times, his is a long record of achievement for all of the people he has represented. It is incumbent on all of us to examine the totality of his record and to not be drawn to a single contorted, concocted blemish on a sterling 30-year record. As we proceed toward a vote on his nomination, we must understand what is in this man's heart, not what is displayed on the television screen in a 15-second distorted charge from heavily funded special interests.

Mr. President, the people of the United States expect principled civil, debate here and in elections. In numerous elections all across the U.S. last year, voters rejected the politics of division. Virginians, like so many other Americans, want our country to heal itself and to move beyond scare tactics and personal destruction.

We, here in the United States Senate, have the unique ability to prove to Americans that this noble goal is achievable. Let's move forward! I respectfully urge my colleagues to join together to rise to a higher plane and vote to confirm the honorable John Ashcroft as Attorney General of the United States.

Mr. THURMOND. Mr. President, I rise today to express my strong support for the nomination of our distinguished former colleague, John Ashcroft, to serve as Attorney General.

The debate we have been engaged in is not about Senator Ashcroft's qualifications because they are not in question. He has a wealth of experience and a record of exemplary public service that spans three decades. Twenty years ago, I recommended him for Attorney General under President Reagan, and I would like to place that letter into the RECORD at the conclusion of my remarks. The intervening time has only made it more clear that he should serve in this position. Before I had the pleasure of working with him in the Senate and on the Judiciary Committee, he served two terms as Missouri's Attorney General and Governor. Senator Ashcroft is one of the most qualified people nominated for this position in all my years of public service.

I recognize that some Senators disagree with some of the positions that he has taken during his almost thirty years in public life. As I said during his confirmation hearing, I hope the question will not be whether we agree with him on every issue. That is a standard he cannot meet for all of us. The President is entitled to some deference from the Senate in selecting those who will carry out the President's agenda.

In the Senate, what we can expect is that the Attorney General will do his job and enforce all the laws, and Senator Ashcroft will. His record of enforcing laws that he did not support while serving as Missouri Attorney General should help prove it.

We should keep in mind that all Attorneys General are called upon to en-

force laws they do not support. The last Attorney General, Janet Reno, opposed the death penalty. I was one of many senators who strongly disagreed with her on this point, but we still supported her quick confirmation.

During the extensive committee hearings recently, Senator Ashcroft did not have much time to talk about issues which will occupy most of his time as Attorney General, such as crime and drugs. In the Senate, he was a leader in fighting crime and helping keep drugs out of the hands of children. He also stood up for victim's rights. It should come as no surprise that the law enforcement community strongly supports him.

Some of the toughest criticism of Senator Ashcroft's record is simply not warranted. For example, it was proper for him to oppose a judge-imposed school desegregation plan in Kansas City called *Missouri v. Jenkins*. In that case, the judge ordered a massive tax increase to pay for his almost unlimited school improvements, which included a 2,000 square-foot planetarium, a 25-acre farm, a model United Nations, an art gallery, movie editing rooms, and swimming pools. The plan was an elaborate social experiment in the name of education, and it utterly failed. Moreover, it established terrible legal precedent regarding the power of federal judges. I have introduced legislation in every Congress since to prohibit judges from being able to impose a tax increase. Elected state officials should represent their constituents and oppose activist federal judges like this, as long as they comply with the court after the case ends, as John Ashcroft did.

On another matter, I believe it is highly unfortunate that some outside special interests have gone beyond specific issues in their attacks and have criticized "Senator Ashcroft's identification with . . . religious, right-wing extremism." This Senate should not tolerate any effort to make a person's religious beliefs an issue in whether they should serve in a high government position. As the Union of Orthodox Jewish Congregations of America wrote to the Senate, "this view has been the subtext for some of the criticism of Mr. Ashcroft. We are confident that you will reject it, as you would any other form of prejudice."

Senator Ashcroft has not only received strong support from well-known Christian organizations, such as the Christian Coalition, he has been endorsed by organizations of various religious faiths, such as the major Orthodox Jewish Organization, Agudath Israel of America. This is a testament to what kind of person John Ashcroft is.

In fact, he should be praised for his deep religious convictions. It helps explain many of his fine traits. He is a man of honesty and integrity, and a person of strong moral character.

I am confident that he will serve with dedication and distinction as the

Nation's top law enforcement officer. America needs a man like Senator Ashcroft to lead the Justice Department. I urge all of my colleagues to look beyond partisan politics and support this exceptional candidate.

I ask unanimous consent that the letter I referenced earlier be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,  
COMMITTEE ON THE JUDICIARY,  
Washington, DC, November 17, 1980.  
MR. EDWIN MEESE III,  
Office of the President-Elect,  
Washington, DC.

DEAR ED: Among the more important appointments that President-Elect Reagan soon will make is that of Attorney General of the United States. In this regard, I want to bring to your attention The Honorable John Ashcroft, presently Attorney General of the State of Missouri.

John Ashcroft was elected the 38th Attorney General of Missouri in 1976. He was just reelected to another term in that office, demonstrating the trust that the people of Missouri have in this very bright, very dedicated young man.

I first met John Ashcroft in 1976. At that time, I was immediately impressed with him. More recently, as I traveled around the country speaking on behalf of Governor Reagan, I had the pleasure of seeing John again. In fact, he introduced me on one such visit to Missouri to attend a Reagan-Bush rally.

I consider John Ashcroft to be one of our more promising young Republican leaders and believe that he represents the kind of young but experienced talent that could be used well in the Reagan Administration in the post of Attorney General.

I am submitting a packet of informational materials on John. I hope that you will review them carefully and that you will conclude, as I have, that John deserves to be at the top of your list of nominees for the post of Attorney General.

If I can provide other, additional materials of assistance to you in this regard, please let me know.

With kindest personal regards and best wishes,

Sincerely,

STROM THURMOND.

Mr. BENNETT. Mr. President, I rise to support Senator John Ashcroft for Attorney General, and will outline some sound business reasons for this position.

Senator Ashcroft has proven himself the friend of American consumers, investors, and businesses, especially in the high technology sector which has driven much of the prosperity of the last long economic expansion.

His potential leadership in the Department of Justice has been hailed as especially good news by high tech businesses and investors, whose retirement and pensions rely on the health of the technology stocks that have recently taken a beating.

Indeed, James Lucier of Prudential Securities recently wrote to investors,

Technology investors got their Christmas present three days early on December 22 when President-elect George W. Bush named . . . John Ashcroft as his choice to serve as Attorney General . . . [W]e find it hard to imagine Bush choosing a potential attorney

general with better qualifications than Ashcroft to restore investor confidence and dispel the more extreme, valuation-depressing fears of political risk at a time when Congress is set to take up a slate of complex issues with ample potential to raise blood pressures among the investor class.—Prudential Securities, "Washington Research, Washington World," January 3, 2001, p. 1.

In other words, according to some analysts, tech-sector investors who have been worried about their wealth or retirement security because of recent tech-stock losses can breathe a little easier if John Ashcroft is confirmed as Attorney General. With so many Americans now relying on those investments, I think they need to understand that the partisan extremists fighting Senator Ashcroft could be putting at risk many Americans' economic and retirement security to satisfy their own political interests.

His general approach of avoiding unnecessary regulation of and litigation against business will help foster a positive economic environment that is so important to all Americans.

Senator Ashcroft has also played a role in helping consumers enjoy the benefits of technology. The same newsletter points out Ashcroft's role as Attorney General in Missouri authoring and filing an amicus brief joined by other state attorneys general supporting Sony Corporation's contention that consumers had the right to "time-shift" television broadcasts by taping on their VCRs in the famous *Betamax* Supreme Court case.

He has worked to support the development of the Internet, to avoid taxes that would slow the growth of e-commerce; he has pushed to allow consumers and Internet users to use strong encryption to protect their privacy online, and to keep American companies at the forefront of encryption and software development.

All in all, Senator Ashcroft's nomination and confirmation should be a boon to our economy, to investors, our businesses, and consumers. I would hope that consumers, investors, and all those who rely on a strong economy will make their support of Senator Ashcroft known to their Senators.

Mr. VOINOVICH. Mr. President, I rise today to lend my voice to those of my colleagues in support of the nomination of Senator John Ashcroft for the position of Attorney General.

I have known John Ashcroft for more than a decade. I first met him when I was mayor of Cleveland and he was Governor of Missouri, but I really got to know him through our service together in the National Governors' Association.

John was the chairman of the National Governors' Association, and I had just joined the organization after being elected governor. My wife, Janet, and I were able to get to know John and his wife Janet on a personal basis.

I could see almost immediately that John was a man who was dedicated to making a difference, and he wanted me to help in setting the NGA's education agenda.

John appointed me to chair the NGA Bipartisan Taskforce on School Readiness. I will always be grateful for that appointment, because I quickly realized that the task force could serve as a forum in which to "air out" new ideas on how best to help our kids learn. From that task force, we were able to develop a Whole School Initiative.

I admired the leadership role John took at NGA, and our work together helped me to get to know John Ashcroft.

Of course, nothing will help you get to know someone better than going fishing with them, and John and I have spent hours together fishing. I have spent enough time with him to get to know what is in his heart, and I can honestly say that he is one of the most honorable men I have ever met. He is, in every sense of the word, a gentleman.

We in the Senate have been given a remarkable obligation by our Founding Fathers to provide the President of the United States our "advice and consent" on certain Presidential nominees for Cabinet offices and other positions of governmental importance.

It is a duty that all of us in this Chamber take seriously.

Historically, members of the United States Senate have given the President—Republican or Democrat—the benefit of the doubt when it comes to the confirmation of a Cabinet official.

On the rare occasion when a nominee fails, it is because the nominee's qualifications are lacking, or because a flaw in his or her character exempts them from successfully carrying out the duties of the office in which they would serve.

However, in the case of President Bush's Attorney General nominee, John Ashcroft, there has been a steady stream of detractors who are trying to cast doubt on the character of John Ashcroft or misconstrue his record of accomplishments. I would like to say that those of us in this body who have worked with John Ashcroft, know the type of man he truly is.

In my personal relationship with John, and in my evaluation of his ability to serve as Attorney General, I have seen only an individual with impeccable qualifications and unquestionable character.

There is no doubt in my mind that John Ashcroft possesses the integrity and the experience necessary to carry out the duties of Attorney General. We all know his biography by now—elected for two terms to serve as the Attorney General for the state of Missouri and elected for two terms to serve as Governor of Missouri, and then elected to serve as United States Senator from Missouri.

It is this record of public service that has made John Ashcroft the most qualified individual ever to be nominated to be Attorney General. Just look at some of our recent Attorneys General—Janet Reno, a prosecutor;

Dick Thornburgh, a governor; Ed Meese, a district attorney.

Of the 67 persons who have served in the office of Attorney General in the history of our nation, only one—John Ashcroft—has served as state attorney general of his state, and U.S. Senator—and only a handful have held two of these three offices.

I might add that in each of the responsible positions he has held, he has served the people of Missouri with distinction.

What is interesting, though, is how the special interest groups have “taken the gloves off” in their opposition to John. They are working overtime to demonize Senator Ashcroft, trying to paint him as unfit to hold public office.

But, we seem to have lost sight of the fact that the citizens of Missouri elected John Ashcroft 5 times to statewide office.

The John Ashcroft that the interest groups are characterizing is not the John Ashcroft we all know, and in my view, he has been the victim of a vicious character assassination, the likes of which I have not seen in years.

This is just wrong.

This visceral opposition is being orchestrated by groups that I have to believe are making tons of money in their fundraising efforts by using John Ashcroft as a lightning rod.

For example, some have raised the accusation that he is a racist because of his opposition to Ronnie White's nomination.

John Ashcroft did speak against Ronnie White in a convincing way. John did have some influence over my decision to vote against Ronnie White, but I had no idea he was an African American. That was never even an issue in our discussions over the nomination of Ronnie White, and I want everyone to understand that.

Anyone who knows my record knows that I do not tolerate racism or insensitivity to others, and I have no patience for individuals who espouse such views.

In fact, in the more than ten years I have known John Ashcroft, I have never heard a word uttered from him that indicated any insensitivity to any minority groups. To the contrary, his accomplishments reflect a real level of support for the African American community.

John Ashcroft signed Missouri's first hate crimes statute into law. He signed into law the bill establishing a Martin Luther King, Jr., holiday in Missouri. He appointed the first African-American woman to the Missouri Court of Appeals.

He led the fight to save Lincoln University, founded by African-American Civil War veterans—something that he and I have in common, given my work to save Central State University, a historically black university in Ohio. John also established an award in the name of renowned scientist, George Washington Carver.

He also has been a leader in the opposition to racial profiling, convening the

only Senate hearing on the subject to date. He voted to confirm 26 of 27 African American judicial appointees nominated by President Clinton that came to the Senate floor.

John Ashcroft has worked with African Americans. He has appointed African Americans when he was Governor. He has worked on issues of importance to African Americans. That's why I cannot understand all this talk that John Ashcroft is somehow a racist.

Does the Senate honestly think that the good people of Missouri would elect a racist? Do we honestly think John Ashcroft could have possibly fooled the people of the “Show-Me State” 5 separate times?

John Ashcroft looks at his fellow human beings as in the image and likeness of God. Yes, he is a Christian, and he believes in the Two Great Commandments—love of God, and love of fellow man—and he follows the Golden Rule, but those traits are not—and should never be—disqualifying traits.

I have no question about what is in this man's heart, and I know that he will be impeccably impartial in carrying out his responsibilities. In fact, John Ashcroft will be scrupulous in carrying out the responsibilities of his office.

Even with John's integrity, character and good sense, probably the loudest complaints about him seem to be from those individuals who believe that John will ignore or even seek to overturn laws he personally does not like. Nothing could be further from the truth.

Throughout his many years of public service, John Ashcroft has been a sworn defender of the laws of the people—all of the people—and his record shows that he has not allowed his personal views to interfere in the pursuit of his duties.

As Missouri Attorney General, John Ashcroft strictly enforced laws that differed from his own views, including such items as: firearms—he determined, under Missouri law, that prosecuting attorneys could not carry concealed weapons; abortion—he determined, under the law, that hospital records on the number of abortions performed must remain confidential, and, he determined, under the law, that a death certificate was not legally required for fetuses under 20 weeks; and church and state—he determined, under Missouri law, that public funds were not available for private and religious schools even though federal grants permitted it, and he determined, under the law, that religious materials could not be distributed in public schools.

I believe we all have faced laws or responsibilities that we must carry out that we may not necessarily agree with. I did so when I was Governor because I took an oath to uphold the law. So did John Ashcroft.

For those who are not inclined to support the nomination of John Ashcroft, I need only refer to his testi-

mony before the Senate Judiciary Committee. Senator Ashcroft gave his assurance—his word—that as Attorney General he will uphold the law, including laws he may personally disagree with.

The fact that he has his faith is one of the reasons why John Ashcroft has upheld the law and why he will uphold the law—because he has character, because he has principles, because he has a foundation, because he has roots and because he has grounding.

I think in our assessment of John, all we need to do is look at our colleague, Senator JOSEPH LIEBERMAN. Part of the reason why Senator LIEBERMAN is where he is in life is due to his profound faith. He abides by his faith and it impacts on decisions he makes in the Senate and in his life.

There are many other members of this chamber who I believe are exactly the same; with their faith at the base of who they are, whether they are Jewish, Protestant, Catholic or whatever their religion.

It is that faith that builds the character and builds the individual. It is what has made John Ashcroft.

And I urge all of my colleagues to read an article written by one of Senator Ashcroft's former staff members, Tevi Troy, for the New Republic online. Mr. Troy, who is an Orthodox Jew, explains how faith has influenced John Ashcroft's deep respect for other religions, and how faith has shaped John Ashcroft to be the man he is today.

In my family—and I would imagine in most families as well—when we're getting to know someone, we subconsciously subject them to what I call the “kitchen test.” Basically, the kitchen test is: is this person someone I would feel comfortable enough to bring to my home, to sit at my dinner table, with my family?

John Ashcroft is someone I would be honored to have in my home, at my dinner table, with my family. He is a good solid man.

Based on his record, John Ashcroft is fit in every way to be the Attorney General. He is a man of integrity, and I am completely confident that not only will he be fair and impartial in the administration of justice, but that he will insist that every employee at the Department of Justice do the same. He sets high standards for people.

John Ashcroft's experience is more than enough to qualify him for the role as the nation's “top cop,” but the added bonus to his achievements is the fact that he is a man of character, and a man who believes that the law is the law, and not something with which to manipulate policy.

Though some of my colleagues may not agree with his personal views, I urge them to look beyond their personal prejudices and look at John's record, his character, his integrity and his experience and give President Bush the man he wants to serve as Attorney General of the United States.

I will vote in favor of the nomination of John Ashcroft to be United States

Attorney General, and I sincerely urge my colleagues to give him their full support as well.

Mr. JEFFORDS. Mr. President, I rise today to discuss my thoughts on the nomination of Senator John Ashcroft to be the United States Attorney General.

One of the first issues I faced as a new Senator in 1989 was the controversial nomination of former Senator John Tower to be Secretary of Defense. As this was the first time I was faced with the Senate's constitutional "advise and consent" role, it was incumbent upon me to learn more about this important role through study and through conversations with my fellow Senators. It was also important to devise a standard to evaluate Presidential nominations so as to treat nominees of both Republican and Democratic Presidents with consistency and fairness.

I came to the conclusion that my general policy should be to support nominations made by a President, provided that the individual is appropriately qualified and capable of performing the duties of the position. A President is entitled to a Cabinet of his or her own choosing unless a nominee is proven unethical or unqualified. I would not oppose a nominee just because I disagree with them on a policy matter.

For judicial branch nominations, however, I apply a different standard. I have made this distinction between executive and judicial nominees throughout my Senate career. For example, during the consideration of Clarence Thomas' nomination to the Supreme Court in 1991, I argued that:

By no means does a president, even one of my own party, have the right to pick virtually anyone he wants who meets minimal qualifications with respect to character, legal ability and judicial temperament. This is not a pass-fail test. In my mind, such a process is entirely proper for appointees to the executive branch of government. The president should be given wide latitude in selecting his Cabinet secretaries and key agency personnel. But under the Constitution, such deference is inappropriate in the confirmation of Supreme Court justices.

I used this policy in evaluating Presidential nominations throughout the Bush Presidency and the subsequent Clinton Presidency, and will continue to use this standard to evaluate the nominations put forth by our current President. In order to determine a nominee's qualifications and capabilities, I review the statements of nominees, follow the hearings conducted on a nominee, and listen to the opinions expressed by my colleagues. I have done all of these in the case of this nomination and I am here today to express my support for the confirmation of John Ashcroft to be the next United States Attorney General.

A review of Senator Ashcroft's record shows that he is qualified to serve in the position of United States Attorney General. He has a long and distinguished tenure in public service, serv-

ing as Missouri's Attorney General, Governor and Senator. During his terms as Governor, John Ashcroft served as Chairman of the Republican Governors' Association and as Chairman of the National Governors' Association. In addition, during his tenure in the Senate he served on the Senate Judiciary Committee and chaired the Senate Judiciary Subcommittee on the Constitution.

Senator Ashcroft is also capable of performing the duties of United States Attorney General as he is a fair and judicious individual. Some have raised questions concerning his ability to enforce laws he has opposed in the past, but during a meeting I had with him he assured me that as Attorney General he would work to uphold the laws of this nation, including those with which he disagrees. I believe that these qualities prove Senator Ashcroft to be capable of performing the duties of Attorney General and will serve him well in this role.

As anyone can tell from our records, Senator Ashcroft and I have very different opinions on many important issues, including abortion, civil and gay rights, and environmental protection. I will continue in my role as a Senator from Vermont to support legislation upholding the *Roe v. Wade* decision legalizing abortion, protecting access to clinics that perform abortion services, combating employment discrimination and hate crimes based on sexual orientation, and protecting our environment. I will also closely follow the decisions Senator Ashcroft makes as Attorney General and speak out when I feel those decisions are wrong. However, while we may have different opinions on many issues, in my mind that alone is not enough to disqualify a nominee.

#### THE LOCKERBIE VERDICT

Mr. MCCAIN. Mr. President, today's unanimous verdict by a Scottish court convicting a Libyan intelligence agent of murder in the 1988 bombing of Pan Am Flight 103 over Lockerbie concludes an exhaustive terrorism trial that clearly exposed Libyan state sponsorship of the mass murder of 270 individuals, including 189 Americans. A second Libyan charged with the same offense was acquitted. Although no verdict can compensate the victims' loved ones for their loss, the life sentence handed down to Libyan intelligence agent Abdel Basset Ali al-Megrahi represents a first step for the families, the prosecution, and the Western nations that supported bringing the Libyans to justice.

Nonetheless, the trial's conclusion must not obscure the task ahead: holding Libya accountable for full compliance with the U.N. Security Council resolutions governing the sanctions regime against that country. These resolutions mandate that, before sanctions can be lifted, Libya must (1) Cease all forms of terrorism; (2) Disclose all in-

formation about the Lockerbie bombing; (3) Accept responsibility for the actions of Libyan officials; (4) Pay appropriate compensation to the victims' families; and (5) Cooperate with the French investigation into the 1989 bombing of UTA Flight 772 over Niger.

Full Libyan compliance with the U.N. resolutions must be the standard for terminating the sanctions, which are believed by many experts to be responsible for the significant decline in Libya's sponsorship of terrorism overseas.

Of perhaps more immediate importance to the United States is the question of the separate U.S. sanctions currently in place against Libya, primarily as a consequence of its sponsorship of state terrorism. True, Libya did hand over the Lockerbie defendants in 1999 and expel the Abu Nidal terrorist organization from its territory in 1998. The Libyan government has also seemingly reduced its contacts with radical Palestinian organizations espousing violence against Israel. In 1999, after the conviction in absentia of six Libyans by a French court for the UTA 772 bombing, Libya compensated the families of the 171 victims. However, it has not turned over the convicted individuals for trial or acknowledged responsibility.

In addition to the issue of terrorism, the United States must consider Libya's covert and sometimes armed intervention in the affairs of other African nations, including Chad, Sudan, and Sierra Leone, as well as Libya's continuing development of weapons of mass destruction. Libya used chemical weapons acquired from Iran against Chad in 1986 and has constructed chemical weapons facilities at Rabta and Tarhunah. According to the Congressional Research Service, Libya tried to buy nuclear weapons or components from China in 1975, India in 1978, Pakistan in 1980, the Soviet Union in 1981, Argentina in 1983, Brazil in 1984, and Belgium in 1985. The United Kingdom accused Libya of smuggling Chinese Scud missiles through Gatwick Airport in 2000. The Pentagon believes China has provided missile technology training to Libyan workers.

While I applaud the Lockerbie verdict, I believe any consequent American policy changes toward Libya must take into account its possession of chemical and potentially nuclear weapons, its compliance with existing U.N. Security Council mandates on the Lockerbie and UTA bombings, and any residual support for state terrorism. If Libya truly wishes to enter the ranks of law-abiding nations, with the economic and diplomatic benefits such status affords, it must satisfy the international community's concerns on these issues.

#### TRIBUTE TO WARREN RUDMAN

Mr. SMITH of New Hampshire. Mr. President, I rise today to honor former United States Senator Warren Rudman