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House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, February 6, 2001, at 2 p.m.

Senate

THURSDAY, FEBRUARY 1, 2001

The Senate met at 9 a.m., in executive session, and was called to order by the Honorable MICHAEL D. CRAPO, a Senator from the State of Idaho.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, this is the day You have made, we will seek to serve You in it; this is Your Chamber, we want to honor You in it; this is Your Senate, we desire to maintain the unity of Your Spirit and the bond of peace through it. Give us an acute sense of the power of the words we speak. Grant the Senators the ability to disagree without being disagreeable, to declare truth without depreciation of each other's character, to state convictions without demeaning disdain, to refrain from egregiousness in an effort to explain, and to judge merits without being judgmental.

Dear Father, this is a crucial day for the Senate. Remind the Senators on both sides of the aisle that what goes around does come around. Bless this Senate. Keep the Senators close to You and to each other so that when the vote this afternoon is over, we will not have lost the respect that galvanizes and the reconciliation that heals. We simply want to live this day knowing You will be the judge of what is said and how it is said. We commit ourselves to civility and care as men and women who are accountable to You. You are our Judge and Redeemer. Amen.

PLEDGE OF ALLEGIANCE

The Honorable MICHAEL D. CRAPO led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, February 1, 2001.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MICHAEL D. CRAPO, a Senator from the State of Idaho, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

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

RESERVATION OF LEADER TIME

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

NOMINATION OF JOHN ASHCROFT TO BE ATTORNEY GENERAL

The ACTING PRESIDENT pro tempore. The Senate will resume consideration of the Ashcroft nomination, which the clerk will report.

The legislative clerk read the nomination of John Ashcroft, of Missouri, to be Attorney General.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 9:15 shall be under the control of the majority party.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Under the previous order, the time until 9:30 shall be under the control of the Senator from Iowa.

Mr. HARKIN. Mr. President, after reviewing his testimony before the Judiciary Committee and studying his long public record, I cannot support the nomination of John Ashcroft to be United States Attorney General.

This is not an easy decision for any of us. We have all served in this body with former Senator Ashcroft. I cannot say that I was a personal friend of his. We never associated socially or anything like that, but I did have dealings with Senator Ashcroft, as we all do around here, on matters of legislative importance.

Quite frankly, in my dealings with him, I always found him to be courteous to me and my staff. I found that we could work together even though we did not have the same views, perhaps, on certain pieces of legislation. I found

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

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that we worked together in the spirit of compromise here on the Senate floor.

When John Ashcroft's name was first announced as the nominee for Attorney General, I, of course, thought to myself, he certainly would not have been my first choice, but then again George Bush was not my first choice for President. But I recognized that Presidents should have fairly large leeway to have the people around them they want.

But, again, we also have an obligation, a constitutional obligation, in the advise and consent clause in the U.S. Constitution to look over those individuals, to give careful scrutiny to those individuals, to make sure that we, as a body collectively—at least by majority vote—are able to believe that nominated officials will have the honesty, the character, and wherewithal to carry out their duties and to serve all of the American people well.

After long and difficult deliberation, I have come to the conclusion that there are significant questions raised on John Ashcroft's fitness to be our Nation's chief law enforcement officer.

First and foremost, I have serious concerns about the misleading statements Mr. Ashcroft made during the confirmation hearings.

As we all know, Senator Ashcroft strongly opposed the nomination of Mr. Jim Hormel as Ambassador to Luxembourg. Jim Hormel, a distinguished lawyer, successful businessman, educator, philanthropist a scion of our famous midwestern families. We all have heard of Hormel Meats. We probably had Hormel bacon in the morning, things such as that. They are a fine family who came from Iowa and Minnesota. Mr. Hormel, of course, has taken up his residency, as of late, in San Francisco, I don't know how many years ago, but some years ago. Prior to that, he had been Dean of Students at the University of Chicago Law School.

I have known Mr. Hormel for many years. I consider him a friend. As I said, not only is he a great lawyer, businessman, educator, and philanthropist, but he is also an outstanding family man.

In 1998, Mr. Ashcroft said he opposed Mr. Hormel's nomination because he had—and I quote John Ashcroft's own words—''actively supported the gay lifestyle.''

Further, Mr. Ashcroft said that a person's sexual conduct—and I quote again Mr. Ashcroft's own words—''is within what could be considered and what is eligible for consideration'' for ambassadorial nominees.

However, in his testimony just 2 weeks ago, Mr. Ashcroft denied his opposition had anything to do with Jim Hormel's sexual orientation. He said he opposed him because, again, he had known Jim Hormel for a long time, going back to the days when Hormel had—and I quote again John Ashcroft—''recruited him'' for law school.

Mr. Ashcroft said he based his opposition to Jim Hormel being Ambassador to Luxembourg on the totality of Hormel's record. I spoke with Ambassador Hormel just last week about this. He said he had never had any contact with Senator Ashcroft, not when he was dean of students at the University of Chicago Law School and not since he was nominated in 1997. He did not recruit Mr. Ashcroft for law school. As dean of students, of course—and there are a lot of students there—Mr. Hormel was honest; he said: I can't remember. Maybe when he was a student, I might have met him. I might have talked to him. I might have said something to a group of students. He may have come into my office for something. But I have no recollection of that.

Furthermore, Mr. Hormel emphatically stated he did not ''recruit'' John Ashcroft for Chicago Law School. When he was nominated in 1997, Mr. Hormel repeatedly tried to meet with John Ashcroft to talk to him. Even if I oppose someone, I at least give them the courtesy to come in and make their case. I have always made that policy, because maybe there is something I haven't heard or something I would look at differently. John Ashcroft would not even meet with Jim Hormel.

Mr. Hormel did get a recess appointment from President Clinton, served well, and was distinguished in his post in Luxembourg. I asked people at the State Department in charge of that area how he performed, and they said extremely well. They said that he had conducted his position in the best interests of the United States and as a distinguished Ambassador. Again, sexual orientation should not have any bearing on a person's fitness for that job or any other job.

John Ashcroft also testified that he has never asked job applicants about their sexual orientation. But in a recent Washington Post article, a health care expert, Paul Offner, who had interviewed for a cabinet post under then Governor Ashcroft, remembers differently. Offner, who is now part of the Georgetown University faculty, recalled that Governor Ashcroft's first question to him was whether or not he had the same sexual preferences as most men. At the time it happened, Offner, also told others about the interview question.

If this is true, this does not seem to be the kind of individual who should serve as Attorney General of the United States of America.

I am also disturbed by how, as an elected official—namely, U.S. Senator—Mr. Ashcroft used unseemly political tactics, including the reckless and unwarranted destruction of a judicial nominee's reputation, a sitting judge's reputation, for his own political benefit. Senator Ashcroft led the campaign to block the Federal judicial nomination of Missouri Supreme Court Justice Ronnie White in order to gain political points in his reelection bid against then-sitting Gov. Mel Carnahan. Ashcroft on this very floor referred to the distinguished and accomplished judge as ''pro-criminal and activist,'' a man with a ''tremendous bent toward criminal activity.''

Mr. Ashcroft stood on this floor—I remember listening to him, and I couldn't believe someone actually said this about a sitting State supreme court justice from his own State—that Judge White had ''a tremendous bent toward criminal activity.''

I don't know Ronnie White. I have met him only once. But after I looked over his record it seemed to me that what Mr. Ashcroft was saying was not only false, it was defamatory. And it is behavior unworthy of a U.S. Attorney General. It is one thing in a political campaign to take on your political opponent and hit him with tough words in tough races, but you can fight back. I have been hit pretty hard in some of my political campaigns. But when the election is over, you get over it because at least you are able to fight back. Here was a Senator using the privileges of the floor of the Senate to personally defame the character of a sitting Supreme Court justice of the State of Missouri when that judge had no ability to fight back.

Finally Mr. White did get his day, sort of, in court before the Judiciary Committee. I commend Senator LEAHY for making sure Ronnie White got his day here to show that he is a distinguished justice, that he has absolutely the opposite of a bent toward criminal activity. He also strongly believes in upholding the law, ensuring that every person, no matter how low that person is, no matter how heinous the crime—that every person has competent representation and a fair trial. Mr. Ashcroft's own words and what he did to Justice White make me wonder if Mr. Ashcroft thinks every person, no matter how low, no matter how heinous the crime, no matter how much you disagree with that person, is entitled to competent representation and a fair trial.

I also have concerns about John Ashcroft's testimony about the desegregation court order in Missouri when he was attorney general and governor. John Ashcroft said that Missouri did nothing wrong. But I think most people would agree that upholding segregation and blatantly defying a federal court order is the very definition of wrong. This was in the 1980s, not the 1950s.

Also while Governor, Mr. Ashcroft appointed the election boards in St. Louis County and in St. Louis city. The county, an affluent area, 84 percent white, votes mainly Republican; the city, less affluent, 47 percent black, votes mainly Democratic. During that period of time, the county hired 1,500 volunteers, such as out of the League of Women Voters, for training, for registration of voters. During that same period of time, the city board trained zero because the city election board, appointed by John Ashcroft, refused to follow the policy on volunteers used by his appointed board in the county and

throughout the state. The State legislature saw this anomaly and passed two bills in 1988 and 1989 to require the city to do the same as the county and the state. Governor Ashcroft vetoed both of those bills.

I am also troubled by parts of John Ashcroft's record which reflects poorly on his commitment to seeking justice for all Americans. Despite his statements to the contrary, I am simply not convinced that John Ashcroft will diligently and thoroughly uphold all of our laws.

I am particularly concerned about John Ashcroft's statements and actions regarding reproductive rights. Throughout his career, he has been a staunch opponent of the right of women to make their own reproductive decisions. He even wrote legislation to criminalize abortion, even in the cases of rape and incest. Yet during his recent testimony, John Ashcroft told committee members he believes that Roe v. Wade is the law of the land—and he would not try to overturn it. He even stated, ''No woman should fear being threatened or coerced in seeking constitutionally protected health services.'' How are America's women supposed to believe John Ashcroft in his recent testimony on a woman's right to choose when he had repeatedly stated during his political career that there is no constitutional right to choose and that Roe v. Wade was wrongly decided? I'm not sure he can.

I am not sure anyone can simply switch off decades of hostility to reproductive rights, intolerance towards homosexuals, and other views, and then fairly and aggressively enforce the laws—he deeply believes are wrong.

As I expect, John Ashcroft will be confirmed despite my vote. I hope they will prove me wrong.

I thank the President.

Mr. LEAHY. Mr. President, I ask unanimous consent that a number of editorials and material regarding the nomination be printed in the RECORD.

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

ASHCROFT IS THE WRONG MAN FOR JUSTICE

John Ashcroft, the man who would be attorney general, is quite a deft backpedaler. Just a few weeks ago, he was a right-wing ideologue dedicated to banning abortion and fighting the civil-rights tide. Now he says he's eager to enforce the laws he hates. So which Ashcroft are we getting—last year's true believer or a Bush-era compromiser?

It's impossible to tell, and maybe it doesn't matter. Whether Ashcroft is an extremist in centrist garb or some sort of changeling, Americans have reason to worry. They needn't fret because of Ashcroft's conservative leanings; anyone President Bush sends to Justice is bound to lean that way. They should worry instead about Ashcroft's integrity. As last week's hearings evinced, he has less of it than his backers like to think.

For starters, there's the small matter of the truth. Ashcroft isn't telling it. His declarations before the Senate contradict his record. Some of his equivocation is penny-ante—such as his claim that he'd never have spoken so fondly of proslavery confederate leaders to Southern Partisan magazine back in 1998 if he'd known the rag favored slaveholding itself.

But other Ashcroft remarks are bold-faced revisionism: His claim that he'd been ''found guilty of no wrong'' and faithfully heeded all court orders in a St. Louis desegregation case is false; the record shows Ashcroft habitually flouted court orders. His insistence that he derailed a federal judgeship for Missouri Supreme Court Justice Ronnie White for principled reasons is belied by the stealth, slurs and distortions Ashcroft used to achieve his end.

An archaeologist could find a small heap of twisted facts in last week's hearings, and with them many hints that Ashcroft isn't the sort of man who ought to be running the Justice Department. But this would be true even if Ashcroft had been forthright about his past.

The central question of integrity involves the way Ashcroft's mind works. What are senators to make of a man who has spent his life expressing extreme convictions—and who now says he won't lift a finger to fulfill them? They can doubt him, which would be natural enough. The confirmation process is generally regarded as a ceremonial gauntlet to be run, not a serious test of honor. Dissembling is almost part of the game, and it's up to the Senate to separate the clever wheat from the lying chaff.

Perhaps Ashcroft falls into the second category. Perhaps what he's saying isn't what he plans to do once he's got the Justice Department under his thumb. The prospect is haunting, and is reason enough to reject Ashcroft's nomination.

But what if Ashcroft is telling the truth—or at least thinks he is? It could very well be, as the man himself said, that Ashcroft really plans to enforce every last law of the land whether he likes it or not. If that's the case, doubts about Ashcroft should double. It's worth wondering about a man who has spent his life vowing to topple the laws he now says he'll enforce. Why should he want to do this? How will he manage it? How can he possibly muster the spirit to do it well?

An attorney general isn't just an attorney. He's also a visionary, a keeper of the flame of American justice. He must believe with all he has not just in the sanctity of ''the law,'' but in the laws themselves. A quibble with a statute here and there isn't enough to disqualify a seeker of the office. But a nominee who has raged all his life against the guiding lights of American law—against the promises of the Constitution itself—is not a fit flame-keeper.

JOHN ASHCROFT SHOULD BE REJECTED AS ATTORNEY GENERAL

It was not in the United States' best interests for George W. Bush, the incoming president who vowed to unite the country after a bruising and narrowly decided election, to nominate for attorney general a man of such extreme beliefs as John Ashcroft of Missouri.

While that bell cannot be unrung, the Senate should not accommodate or be party to so drastic a move away from the political center that the country is so comfortable with now.

In this unique case, senators—among them Washington state's Patty Murray and Maria Cantwell—should forego their customary deference to a president's Cabinet choice and reject Ashcroft.

Not because of his beliefs. Because of his record as a two-term state attorney general, the public office he has held that most closely resembles the one he seeks. As the nation's chief attorney, he would lead the Justice Department, a mammoth government agency that has been described as being at the front line of battles over emotional social issues like civil rights, abortion, crime and the selection of federal judges.

Personally, and as a governor and member of Congress, Ashcroft had every right to vociferously oppose abortion, even in the case of rape and incest; seek to limit government funds for family planning, and work to defeat modest gun control regulations.

In advance of Ashcroft's hearing before the Senate Judiciary Committee, we posed a question to the senators who would be asked to confirm the nomination: Could they be persuaded that Ashcroft would enforce the laws as they are, not as he would like them to be?

It is clear from the resulting testimony and Ashcroft's long public record in Missouri that the answer is likely to be no. As Missouri attorney general, Ashcroft was not regularly even-handed or moderate on at least a couple of thorny social issues that remain front and center in the country's psyche—women's reproductive rights and civil rights.

He attempted on several occasions to severely restrict a woman's legal right to choose an abortion by seeking out cases in which that was not the main issue and forcing them upward through various layers of appeals to the U.S. Supreme Court.

The end goal was to overturn Roe vs. Wade. His official record invites serious questions whether he would (1) do the same on the federal stage and (2) vigorously enforce existing laws restricting violent and obstructive demonstrations at abortion clinics by anti-abortion opponents.

Aside from Ashcroft's major misstatement during the hearing about the culpability of the state in a long-running school desegregation case, the record paints a picture of an attorney general who obstructed the cause of equal education for children of all races.

When a federal judge ordered the state and city of St. Louis to submit plans for voluntary desegregation of the public schools, Ashcroft balked. The court finally threatened to hold the state in contempt if it did not meet the deadline: ''The court can draw only one conclusion—the state has, as a matter of deliberate policy, decided to defy the authority of the court.''

Moreover, Gary Orfield, a Harvard University education professor and leading expert on school desegregation, said Ashcroft was the ''most resistant individual'' he encountered in more than 30 federal court cases on the issue.

The record demonstrates Ashcroft is not a uniter, but a divider—something Bush and the country cannot afford in these early stages of healing.

Within the ranks of the National Association of Attorneys General are 17 people who share Bush's political affiliation, including moderates such as Mike Fisher of Pennsylvania and Carla Stovall of Kansas. We submit either would be a more suitable U.S. attorney general than John Ashcroft.

[From the New York Times, Saturday, Jan. 20, 2001]

AFTER THE BALL IS OVER

(By Frank Rich)

Presidents come and go, but a Washington cliché is forever. Today we'll be lectured repeatedly on the poignancy of a president's exit (not that he's actually going anywhere), the promise of a new president's arrival, and on the glory of our Republic. We'll be reminded that there are no tanks in the streets when America changes leaders—only cheesy floats and aural assault weapons in the guise of high school bands.

All true, and yet at this inaugural more than any other in any American's lifetime

there is a cognitive dissonance between the patriotic sentiment and the reality. More Americans voted for the candidate who lost the election than the one who won. The Washington Post/ABC News poll says that only 41 percent believe the winner ''has a mandate to carry out the agenda'' of his campaign. Even before the Florida fracas, the country's black population rejected the republican candidate (who assiduously tried to attract black voters) by a larger margin than any since Barry Goldwater (who had voted against the Civil Rights Act). And now come calamities ignored in a campaign that dithered about prescription drugs, tax cuts and schools: an energy melt-down in the nation's biggest state, and a possible economic downturn.

George W. Bush seems like an earnest man. When he says he has come to Washington to ''change the tone'' and ''unite, not divide,'' I don't doubt his sincerity. But so far his actions are those of another entitled boomer who is utterly blind to his own faults. He narcissistically believes things to be so (and his intentions pure) because he says they are.

Change the tone? As Clinton-Gore raised $33 million largely from their corporate masters for their first inaugural, so Bush-Cheney have solicited $35 million from, among others, the securities firms that want to get their hands on your privatized Social Security retirement accounts and the pharmaceutical companies that want to protect the prices of prescription drugs. And already foreign money is making its entrance—in the form of a legal but unsavory $100,000 contribution from the deputy prime minister of Lebanon, channeled through his son.

Now comes the news—reported by the columnist Robert Novak—that John Huang, the convicted Clinton-Gore fund-raiser, repeatedly took the Fifth Amendment in November when questioned in court about his alleged fiscal ties to Republicans, including Senator Mitch McConnell, the No. 1 opponent of the John McCain crusade for campaign finance reform that Mr. Bush has yet to credibly embrace. (Mr. McConnell is also the husband of Mr. Bush's latest labor secretary-designate, Elaine Chao.)

Change the tone? Hard as it is to imagine that anyone could choose an attorney general as polarizing as the last, Mr. Bush has outdone himself. With a single cabinet pick he has reproduced the rancor that attended the full Clinton legal troika of Reno, Hubbell & Foster.

There's been much debate about whether John Ashcroft is a racist—a hard case to make against a man whose history of playing the race card to pander to voters is balanced by his record of black judicial appointments. But there has not been nearly enough debate about whether our incipient chief legal officer has lied under oath to the Senate.

Perhaps his seeming fudging and reversals of his previous stands on Roe v. Wade and gun control can be rationalized as clever lawyerese. Perhaps some of his evasions can be dismissed as a politicians' typical little white lies—and I do mean white—such as when he denies he knew that a magazine he favored with an interview, Southern Partisan, espoused the slaveholding views of Southern partisans. But it took a bolder kind of dissembling to contradict his own paper trail in public office. After he swore that the state of Missouri ''had been found guilty of no wrong'' in a landmark St. Louis desegregation case and that ''both as attorney general and as governor'' of the state he had followed ''all'' court orders in the matter, The Washington Post needed only a day to report the truth: A federal district judge in fact ruled that the state was a ''primary constitutional wrongdoer'' in the matter and threatened to hold Mr. Ashcroft in contempt for his ''continual delay and failure to comply'' with court orders.

Mr. Ashcroft may have left even more land mines in his testimony about the businessman, philanthropist and former law school official James Hormel, the Clinton ambassador to Luxembourg whose nomination he had fought. Asked by Patrick Leahy, the Judiciary chairman, if he had opposed Mr. Hormel because Mr. Hormel is gay, Mr. Aschroft answered, ''I did not.'' Then why did he oppose Mr. Hormel? ''Well, frankly, 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,'' Mr. Ashcroft testified, before adding a cryptic answer he would repeat two times as Mr. Leahy pressed him: ''I made a judgment that it would be ill advised to make him ambassador based on the totality of the record.''

The implication of this creepy testimony is that Mr. Ashcroft, having known the 68-year-old Mr. Hormel for decades, had some goods on him. The use of the word ''recruit'' by Mr. Ashcroft also had a loaded connotation in context, since it's common for those on the religious right who argue (as Mr. Ashcroft does) that sexual orientation is a choice to accuse homosexuals of ''recruiting'' the young.

No senator followed up Mr. Ashcroft's testimony about Mr. Hormel, who, unlike another subject of an Ashcroft character assassination, Judge Ronnie White, was not invited to testify at the hearings. I located Mr. Hormel by phone in Washington, where he had traveled for final meetings at the State Department after concluding his service in Luxembourg. He strongly disputed Mr. Ashcroft's version of events.

''I don't recall ever recruiting anybody for the University of Chicago,'' Mr. Hormel said in our conversation Wednesday night. As an assistant dean involved with admissions, he says, he might have met Mr. Ashcroft in passing while touring campuses to give talks to prospective law school applicants, or in later office visits about grades or curriculum. But, Mr. Hormel quickly adds, he doesn't recall ''a single conversation with John Ashcroft.'' Nor has Mr. Hormel seen him in the three decades since; Mr. Ashcroft didn't have the courtesy to respond to repeated requests for a meeting during Mr. Hormel's own confirmation process and didn't bother to attend Mr. Hormel's hearing before opposing him.

''I think he made insinuations which would lead people to have a complete misunderstanding of my very limited relationship with him,'' Mr. Hormel says. ''I fear that there was an inference he created that he knew me and based on that knowledge he came to the conclusion I wasn't fit to become an ambassador. I find that very disturbing. He kept repeating the phrase 'the totality of the record.' I don't know what record he's talking about. I don't know of anything I've ever done that's been called unethical.'' The record that Mr. Ashcroft so casually smeared includes an appointment to the U.N. in 1996 that was confirmed by the Foreign Relations Committee on which Mr. Ashcroft then sat.

Since Mr. Bush could easily have avoided the divisiveness of the Ashcroft choice by picking an equally conservative attorney general with less baggage, some of his opponents will start calling him ''stupid'' again. That seems unfair. Mr. Bush's real problem is arrogance—he thinks *we* are stupid. He thinks that if he vouches incessantly for the ''good heart'' of a John Ashcroft, that settles it. It hasn't. Polls showed an even split on the nomination well before the hearings. He thinks that if he fills the stage with black faces at a white convention and poses incessantly with black schoolkids and talks about being the ''inclusive'' president ''of everybody,'' he'll persuade minority voters he's compassionate. He hasn't.

George W. Bush likes to boast that he doesn't watch TV. He didn't even tune in as the nation's highest court debated his fate, leaving his princely retainers to bring him bulletins. Maybe it's time for him to start listening; he might even learn why so many Americans aren't taking his word for John Ashcroft's ''heart.'' I don't doubt that our new president will give a poetic Inaugural Address today, but if he remains out of touch with the country, he will not be able to govern tomorrow.

[From the Austin American Statesman, Jan. 19, 2001]

ASHCROFT'S PLEDGE TO ENFORCE THE LAW

President-elect George W. Bush missed a chance to select a uniter to heal divisions wrought by the bruising presidential election when he chose John Ashcroft to be his nominee for attorney general.

The Senate Judiciary Committee's hearings this week on Capitol Hill have exposed the grave reservations some senators and witnesses have about Ashcroft's fitness for the role of guardian of our country's laws and all Americans' constitutional rights because of his staunchly conservative record. At the same time, the hearings have galvanized Ashcroft's supporters, who praise him as a man of character, principle and honesty, a lawyer who would bring ample leadership experience to the job.

Early indications are that Ashcroft will win Senate confirmation. He was, after all, a member of the Senate, having lost re-election in November. His colleagues know him well and would need extraordinary evidence to sink his nomination. It is customary for senators to give deference to a president in selecting his team to reflect his views. As any boss would attest, that tradition makes sense in building a loyal team, but so does the Senate's valuable role in providing confirmation.

The Judiciary Committee is carefully probing Ashcroft's record as Missouri's attorney general for two terms, governor for two terms and senator for one. Ironically, the man from the Show Me State is being grilled to tell us how he will perform as U.S. attorney general. While his record is mixed—reflecting troubling stands on desegregation, gun control and abortion rights—his words to the committee offer reassurance that can only be tested with time.

The attorney general serves as the country's chief law enforcement officer, vets federal judge nominees, decides which laws to challenge, enforces civil-rights laws and safeguards liberties, including women's reproductive rights.

In his most important pledge, he told the committee his personal beliefs would not interfere with the job he will be sworn to do.

''I understand that being attorney general means enforcing the laws as they are written, not enforcing my own personal preference,'' he told the senators. ''I pledge to you that strict enforcement of the rule of law will be the cornerstone of justice.''

Ashcroft is a fierce opponent of the U.S. Supreme Court's landmark Roe v. Wade decision legalizing abortion. He supports a constitutional amendment that would prohibit abortions even in cases of rape or incest and would allow them only if the mother's life were in danger. In the hearings, he said he would not seek to challenge Roe v. Wade and viewed the abortion decisions as ''the settled law of the land.'' He emphasized he knows

''the difference between an enactment role and an enforcement role. During my time as a public official, I have followed the law.''

He defended his fight against landmark desegregation cases in St. Louis and Kansas City, saying he had never opposed integration. But The Washington Post reported Thursday that court documents show the state of Missouri was labeled by a federal district judge as a ''primary constitutional wrongdoer'' in perpetuating segregated schools in St. Louis. In 1981, U.S. District Judge William Hungate threatened to hold then-state Attorney General Ashcroft and the state in contempt for ''continual delay and failure to comply'' with orders to file a desegregation plan. Hungate wrote later, ''The state has, as a matter of deliberate policy, decided to defy the authority of this court.''

Ashcroft also had to deflect criticism for blocking Ronnie White, the first black Missouri Supreme Court justice, from becoming a federal judge. In U.S. Senate proceedings in 1999, Ashcroft called White ''pro-criminal,'' although White voted to uphold the death penalty in 41 of 59 cases. ''I deeply resent those baseless accusations,'' White told the Judiciary Committee on Thursday. Ashcroft said White's dissents didn't meet the standards for retrying cases.

Ashcroft's defenders make their best case when they give examples of how the nominee enforced laws to which he was personally opposed. He once argued as attorney general against the dissemination of religious materials on public school grounds, even though he favored the practice. He created the structure for a lottery when it won approval in Missouri, even though he calls gambling a ''cancer.'' In other matters, he balanced eight straight budgets, increased education funding, championed consumer protection and advocated online privacy bills.

If his nomination is affirmed, as it appears it will be, in time Ashcroft will be tested on his words to senators that no part of the Justice Department is more important than the Civil Rights Division and on his pronouncement, ''My primary personal belief is that the law is supreme.'' Americans will be counting on him to show us by his actions that his words weren't convenient window-dressing for a record that reflects effective public service but falls short of inspiring national bipartisanship.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 9:45 a.m. is under the control of the Senator from South Dakota, Mr. JOHNSON.

Mr. JOHNSON. Mr. President, while I have cast votes in favor of all 15 of President Bush's nominees to come thus far before the Senate, I rise today to say, sadly, that I cannot vote in favor of Senator John Ashcroft for the office of Attorney General of the United States.

My position on Cabinet level nominees during both Republican and Democratic Presidencies has remained the same: a presumption in favor of a President's nomination rests with the nominee, and they should be rejected by the Senate only under extraordinary circumstances. Thus far during the 107th Congress, I have voted in favor of: Paul O'Neill for Treasury Secretary; Spencer Abraham for Energy Secretary; Donald Evans for Commerce Secretary; Donald Rumsfeld for Defense Secretary; Ann Veneman for Agriculture Secretary; Roderick Paige for Education Secretary; Colin Powell for Secretary of State; Melquiades Martinez as Housing and Urban Development Secretary; Anthony Principi as Secretary of Veterans Affairs; Mitchell E. Daniels, Jr. to be Director of the Office of Management and Budget; Tommy G. Thompson for Secretary of Health and Human Services; Norman Mineta as Transportation Secretary; Elaine Chao as Secretary of Labor; Gale Norton as Interior Secretary; and Christine Todd Whitman as Environmental Protection Agency Director.

Even though numerous of these people have used positions that are contrary to my own, I have respected the President's nominations, and have cast my votes on all 15 of these instances in favor of the President's nominee.

The U.S. Constitution, however, requires the Senate to consider consent or rejection of Cabinet nominees, and the Senate was not intended by the founders of our Nation to be simply a ''rubber stamp'' for any President. I am particularly troubled by this nomination for Attorney General, knowing that office does not serve as ''the President's personal lawyer''—the President has White House counsel for that purpose—but that the Attorney General serves as the peoples' lawyer; he is an advocate for all Americans in our courts of law.

I have applauded President Bush's expressions of support for bipartisan Government and the kind of political moderation that will bring Americans together rather than tear them apart. In turn, I have helped organize a ''centrist caucus'' of Republicans and Democrats in the Senate, and a ''New Democratic'' organization consisting of moderate Democrats committed to working with moderate Republicans. I believe this is the kind of Government the American people want, and that they are weary of political extremism and harsh ideologies of either the left or right.

I must conclude, based on testimony in Senate hearings, and from a review of Senator Ashcroft's years in elective office, that this man is the wrong man at the wrong time for the high office of Attorney General. If ever there was a nominee who has committed his years of public service to rejecting bipartisanship and moderation, it is Senator Ashcroft. This nominee has stated repeatedly that he will never be a party to moderation, or to conciliation between the parties. He has consistently mocked the very notion of bipartisanship during his years in the Senate. He is famous for his observation when he says that only two things will be found in the middle of the road—dead skunks and moderates, and I will be neither. How now, can Senator Ashcroft gain the confidence of all the American people that he will be their defender and their advocate?

Senator Ashcroft refuses to distance himself from Bob Jones University where he received an honorary degree, despite that institution's harsh criticism of the Pope as ''anti-Christ'' and the Roman Catholic and Mormon religions as ''cults.'' He declines to disavow the Southern Partisan Quarterly Review, a magazine which, incredibly, has defended slavery. He has sponsored as many as seven constitutional amendments to the U.S. Constitution, including one which would outlaw most forms of contraception, and take away a woman's constitutional right to determine for herself whether to have an early abortion, even where rape, incest, or severe physical injury would be involved.

Senator Ashcroft's record indicates that he has not always distinguished between his strident advocacy and his willingness to enforce the law of the land. As the Missouri Attorney General, he did all in his power to undermine a voluntary school desegregation plan in St. Louis, denouncing voluntary desegregation as ''an outrage against human decency.'' The St. Louis Post Dispatch described his campaign as ''exploiting and encouraging the worst racist sentiments that exist in the state.''

Perhaps most of all, I am troubled by Senator Ashcroft's handling of the Judge White nomination. After the Pope, in a visit to St. Louis, had convinced Governor Mel Carnahan, Senator Ashcroft's opponent at the time, to not execute a certain Missouri prisoner, Ashcroft saw an opportunity to vilify Carnahan as ''soft on crime.'' One of his strategies was to depict a distinguished and highly regarded African American judge as ''anti-death penalty'' and use the blocking of his nomination to Federal district court as a high profile means of claiming he would be tougher on crime then Governor Carnahan. This despite the fact that Judge White had been endorsed by Republicans and Democrats as well as the Missouri Bar Association and had upheld death sentences at about the same rate as all other members of the Missouri Supreme Court.

The very conservative columnist Stuart Taylor, wrote that the Judge White incident alone renders Senator Ashcroft to be ''unfit to be Attorney General.'' Taylor stated, ''The reason is that during an important debate on a sensitive manner, then-Senator Ashcroft abused the power of his office by descending to demagoguery, dishonesty and character assassination.'' I do not contend that Mr. Ashcroft is a racist, but I do believe his handling of this matter was characterized by naked political opportunism, dishonesty, and an utter disregard for justice.

I have no illusions about the end result of the vote on the Senate floor; Senator Ashcroft will be confirmed. I have stated my opposition to any filibuster effort on this mater. A filibuster would have resulted in the need for Senator Ashcroft to secure 60 votes rather than 51. While tactically, this might have increased the likelihood of defeating his nomination, it is a process which has never been used on Cabinet confirmations before, although

Senator Ashcroft, himself, has used it against sub-Cabinet appointments and has frequently voted against cabinet nominees. I believe President Bush is entitled to a fair, up-and-down vote on his nominee. Although the confirmation is then, virtually certain, I want to make it clear that I will have nothing to do with supporting this particular one of the 16 Presidential nominations to come before the Senate so far.

Senator Ashcroft, I believe, is the wrong man to help heal America's divisions, the wrong man to lead the U.S. Department of Justice, and the wrong man to serve as the guardian of the constitutional rights of all the diverse people of our nation. I take my oath to the U.S. Constitution seriously, and I also take my South Dakota values of fairness, and integrity very seriously—for that reason I will vote no on this nomination.

The ACTING PRESIDENT pro tempore. The Senator from Vermont.

Mr. LEAHY. Mr. President, I thank my friend from South Dakota. He is one of the most thoughtful Members of this body. I know he has spent a great deal of time researching this. I know on an issue such as this, when it was time to make his decision, there were only two elements that totally influenced him—his conscience and his oath of office. I know my friend from South Dakota upheld them both.

Mr. President, I do not see anybody on the Republican side at the moment. The order gives them control of this debate from 9:45 until 10 o'clock. I ask consent to be able to continue. I know I have 4 minutes remaining, but if need be, I ask unanimous consent to take another 5 minutes with the understanding I will yield that back immediately if a member of the Republican Party shows up to take their time, and I so ask unanimous consent.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, my good friend from Arizona, Senator KYL, had mentioned me by name on several occasions during his remarks. I will take a moment to respond to two of the points of the distinguished Senator from Arizona.

First, he said we somehow put Senator Ashcroft in an impossible catch-22 situation where, if he promises to enforce the law, it is described as a confirmation evolution or a metamorphosis. I think that is a significant oversimplification of what the record shows.

I had the record here yesterday. It is well over 2 feet high in just the questions and answers.

It also oversimplifies what the job of the Attorney General is. It is not simply to enforce the law. Nobody questions the fact that if you have some terrible crime—Oklahoma City, for example—whoever is the Attorney General will enforce the law and bring down the full force of the majesty of the law of this country regarding something that heinous. In airplane hijacking, assassination, any one of these things where the Attorney General gets involved in making decisions of who gets prosecuted, what the penalties are, nobody questions, no matter who is Attorney General, instituting the full force of that law.

However, it is the discretionary areas that are troublesome. Many Members in this body have been prosecutors. We know everybody who is an Attorney General, a district attorney, is faced with a number of issues where you can apply the law at any one area of severity. We all know you can decide the interest of society might be not to apply the law, not to seek an indictment. We also know that any prosecutor has broad discretionary powers in what to investigate and what not to investigate; when to initiate a case, when to withhold a case; when to drop a matter or to settle a case. What do you do, for example, in antitrust? Do you bring the suit? Do you drop the suit? What do you do in seeking a civil rights remedy? Do you look into it or not? What happens if you think there has been voter fraud that may affect your party and not the other party? Do you still look at it as strictly, or not?

The Attorney General is not the President's attorney. In fact, it should be pointed out that the President is allowed to appoint a White House counsel—anybody he wants—and there is no Senate confirmation. The reason for that is very simple: We have all believed whoever is President should have counsel, a lawyer, representing him and his interests in the White House with whom nobody else can interfere. Every President has done that. It makes sense the President will pick them and we can't question them. We can't say, you shouldn't have picked this person; you shouldn't have picked that person. That is the President's own attorney.

The Attorney General is different. The Attorney General is different from anybody else in the Cabinet because the Attorney General is not a political officer and a political arm of the White House. The Attorney General represents all of us, whether rich, poor, black, white, Democrat, Republican, old, young, conservative, liberal, moderate. We are all represented by the Attorney General. That is why the Attorney General is given such enormous discretion—in fact, in many instances well beyond, whether the President likes it or not. The President can always fire the Attorney General, but the Attorney General has that discretionary power.

When Senator Ashcroft says he will exercise that discretion in a manner that respects settled law, a number of areas in which he aggressively and vigorously opposed throughout his career, then it is understandable that many Members may be troubled and skeptical.

My friend from Arizona says many Members have criticized the Republicans for applying too tough a standard to the nomination of Bill Lann Lee to head the Civil Rights Division, yet we seem to be applying the same standard to Senator Ashcroft. When Bill Lann Lee swore under oath and reiterated time and time again that he would enforce the law, we were told by our friends on the Republican side of the Senate, this wasn't good enough, we couldn't accept that—basically using the same words Senator Ashcroft used.

The difference is we were prepared to vote against; they wouldn't allow a vote. If they didn't believe him, they chould have voted against him; if they were for him, they could have voted for him.

It is different here. Here we are debating Senator Ashcroft to be Attorney General. We actually received the nomination in the Senate earlier this week. After the then-President-elect said he was going to nominate him, we moved forward to have a hearing and completed the hearing prior to the President's inauguration. That is a major difference. We are going to vote on him.

Bill Lann Lee—we should point out, if people are going to raise that as a standard—Bill Lann Lee, a fine, dedicated person, who swore to uphold the law, was never even given the courtesy of a vote by the Senate.

Senator Ashcroft can be asked how he interprets the oath of office. It is the same oath of office he will take as U.S. Attorney General. It is the one he took as Missouri's Governor and attorney general. That is why we have raised so many of the points in the hearing. They demonstrate an interpretation of his oath of office in the past, his interpretation of law that he now claims during 2 days of hearings, an entirely different interpretation from what he has shown for 25 years prior to those 2 days of hearings.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Maryland is recognized and has control of the time until 10:15 a.m.

Mr. SARBANES. Mr. President, first I want to say to the former chairman of the Senate Judiciary Committee—for 17 days, from January 3 until January 20—the very able and distinguished Senator from Vermont, I commend him for the hearings he held on the nomination of John Ashcroft to be the Attorney General of the United States. I had the opportunity to watch some of the hearings. I followed them in the press. I think the able Senator from Vermont conducted a very comprehensive, very careful hearing with respect to former

Senator Ashcroft. I think he is much to be commended for doing an outstanding job. He obviously took very seriously the responsibilities of the Senate with respect to its constitutional advise and consent role.

I thought a major effort was obviously made to hear from all sides on this important question. It meant going late into the evening on more than 1 day. But I thought it was a model of how hearings ought to be conducted.

It was not pro forma. It really probed deeply into some very basic and fundamental questions, and I, for one, want to express my very deep appreciation to the Senator from Vermont for the way he planned and conducted those hearings. The Senate is in his debt.

Mr. LEAHY. Mr. President, I appreciate that very much coming from one of the intellectual giants of the Senate, my good friend from Maryland. I appreciate what he said. He and I are two who believe strongly in the Senate's role and to do all we can to carry it out. I appreciate his kind words.

Mr. SARBANES. Mr. President, I rise in opposition to the nomination of John Ashcroft to be the Attorney General of the United States. I do not do this lightly. I recognize, of course, the argument that is made that Presidents ought to be able to have their Cabinet picks. I have generally in the past, although not always, deferred to that concept, although I think it obviously can be overdone, and the Senate needs to be careful not to be taken down the path in which we simply become rubber stamps with respect to nominations for the Cabinet. If that is what the Founding Fathers had intended, presumably they never would have put the advise and consent function in the Senate with respect to nominees to the executive branch of the Government.

Of course, the judiciary is an entirely separate matter since it is an independent branch of the Government, and I think there the standard is much higher and much less acknowledgment or deference should be given to the President's judgment. But I recognize the argument that is made with respect to Cabinet members.

On the other hand, I think it is very important when we consider Cabinet appointments, and particularly an office such as the Attorney General, to be very careful in judging how the very important responsibilities of that office will be carried out.

I thought the Senator from Vermont made a very important contribution to this debate in his statement when he outlined the importance of the position of the Attorney General. I am not sure enough focus has been placed on that dimension.

The Senator pointed out that it is a position of extraordinary importance; that the judgment and priorities of the person who is the Attorney General affect the lives of all Americans; that the Attorney General is the lawyer for all the people and the chief law enforcement officer in the country.

The Attorney General controls a very large budget, over $20 billion. He directs the activities of almost 125,000 attorneys, investigators, Border Patrol agents, deputy marshals, correctional officers, and other employees in over 2,700 Department of Justice facilities throughout this country and in 120 foreign cities. He supervises the selection and actions of the 93 U.S. attorneys and their assistants; the U.S. marshals; supervises the Federal Bureau of Investigation; the Immigration and Naturalization Service; the Drug Enforcement Agency; the Bureau of Prisons; and many other Federal law enforcement components.

Furthermore, the Attorney General evaluates judicial candidates, recommends judicial nominees to the President, advises the executive branch on the constitutionality of bills and laws, determines when the Federal Government will go into court, what statutes to defend in court, what arguments to make to the Supreme Court and other courts.

In other words, as the Senator from Vermont pointed out, the Attorney General exercises a very broad discretion in terms of the judgments he makes and the actions he takes. Therefore, it simply does not dispose of the issue of how someone will perform in the office to assert that he will carry out the laws of the United States.

I would hope so. It is not much of a threshold for a Cabinet nominee to assert that, if confirmed, he will carry out the laws of the United States?

That is the minimum threshold. In the instance of the Attorney General, there is a broad range of activities that are subject to his judgment and discretion, subject to the Attorney General's sense of priorities, and that, of course, is what raises some very difficult questions with respect to this nomination.

Senator Ashcroft has never hidden the fact that he has planted himself at the extreme of the political spectrum. In fact, he has taken pride in that fact and asserted it in the course of his political career. Moderation is not a word which enters into his political thinking. In fact, on more than one occasion, he has belittled moderation, as the Washington Post pointed out in an editorial just a few days ago.

Mr. President, I ask unanimous consent to printed the editorial in the RECORD.

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

[From the Washington Post, Jan. 21, 2001]

WRONG FOR JUSTICE

The Constitution assigns to the Senate the duty to provide a president advice and consent on his nominations. Had George W. Bush sought senators' advice before designating John Ashcroft as his choice for attorney general, the answer, in our view, would have been easy. Former senator Ashcroft is the wrong man for that job. But a president is entitled to wide latitude in picking his advisers, wider than in selecting judges whose tenure will outlast his, and in part for that reason Mr. Ashcroft seems likely to win confirmation. But if Mr. Bush is entitled to the attorney general he wants, he is not entitled to take pride in the pick, and we fear it is one that may not serve him or the country well.

Mr. Ashcroft's views and record put him on the far right edge of Republican politics. It is not just that we disagree with many of his positions, on issues ranging from gun control to campaign finance reform; it is that Mr. Ashcroft seems in a different place from that which Mr. Bush seemed to promise for his administration during his campaign and again yesterday in his inaugural address. The Missouri politician's support for a constitutional amendment banning abortion even in cases of rape is only one example. Last week he indicated in committee testimony that he would have no difficulty living with Mr. Bush's more nuanced views, but if his lifelong crusade against abortion has stemmed from deep conviction—which we have no reason to doubt—it is hard to understand how that could be so easily switched off. The same is true of his intolerance of homosexuality.

More troubling than his views have been Mr. Ashcroft's inflammatory political tactics. On a range of issues—as a governing philosophy, in fact—Mr. Ashcroft has explicitly belittled moderation; he would now assume a job that demands a sense of balance, of respect for opposing views. He helped block, as senator, the confirmation of well-qualified nominees whose views he found noxious; we think in particular of James Hormel, whom Mr. Ashcroft deemed unfit to serve as ambassador to Luxembourg because of his advocacy of gay rights, and Bill Lann Lee, whom Mr. Ashcroft opposed for a Justice Department position on civil rights.

Most troubling of all is the designee's record of insensitivity toward those rights, a record that raises doubts about whether the Justice Department can maintain its role in a Bush administration as a defender of minorities in need of legal help. In 1984, Mr. Ashcroft based his gubernatorial primary campaign on his zealous opposition as attorney general to a voluntary desegregation plan for St. Louis's public schools, boasting on the trail that his tactics had risked a contempt of court citation and using television attack ads to charge that his Republican primary opponent was too soft in opposing desegregation. While considering a run for president in 1999, Mr. Ashcroft granted an interview to Southern Partisan magazine, which glorifies the former Confederacy, and accepted an honorary degree from Bob Jones University in South Carolina, site of a key GOP primary. In testimony last week he claimed ignorance about the magazine's more odious aspects, but in his interview he explicitly endorsed its efforts to burnish the reputations of Confederate leaders. Mr. Ashcroft also declined during his confirmation hearing to repudiate his association with and praise for Bob Jones (''I thank God for this institution''), which maintained a ban on interracial dating at the time of his visit.

Finally, as he prepared for his reelection campaign for the U.S. Senate last year, then-Sen. Ashcroft grossly distorted the record of black Missouri supreme court judge Ronnie White in opposing his appointment to a federal appeals court, as we wrote in this space at the time. On the Senate floor, Mr. Ashcroft portrayed the respected judge as a man with a ''tremendous bent toward criminal activity.'' In one case, Mr. White had favored a new trial for an African American convicted before a judge who had made racially inflammatory statements; Mr. Ashcroft claimed on the Senate floor, falsely, that Judge White's complaint was that the judge in question opposed affirmative action.

Mr. Ashcroft argues that in each of these instances he was stressing legitimate policy positions, such as opposition to busing, support for state's rights and resistance to a soft-on-crime judiciary. But deliberately or not, he was also playing racial politics.

Senators traditionally have voted to confirm nominees whose ideologies they reject, and that is not a tradition to be lightly set aside. We opposed Mr. Ashcroft's own tendency to block nominations on ideological grounds, a standard that seems no more right when turned against him. Moreover, it is troubling to see opponents overreach and demonize the Ashcroft record, as in Sen. Edward Kennedy's distortion that Mr. Ashcroft considers the U.S. government to be a tyranny. By the same token, though, Mr. Ashcroft's defenders are mistaken when they allege that opposition to him is simply a manifestation of religious prejudice or partisan politics.

If Mr. Ashcroft is confirmed, he, and even more the president, will incur a particular obligation to staff the Justice Department with people of demonstrated fairness and integrity and to show that they can administer the law even-handedly. With this appointment, it seems to us, Mr. Bush has taken on a burden he did not need. We hope, for his sake and the country's, that as attorney general Mr. Ashcroft would behave as the measured and reasonable man he portrayed at last week's hearings, and not with the opportunism that has marred his career.

(Mr. ALLEN assumed the Chair.)

Mr. SARBANES. I now quote from that editorial:

More troubling than his views have been Mr. Ashcroft's inflammatory political tactics. On a range of issues—as a governing philosophy, in fact—Mr. Ashcroft has explicitly belittled moderation; he would now assume a job that demands a sense of balance, of respect for opposing views. . . .

Those of us who have interacted with him in the Senate have spoken about the intensity and the zeal of his positions as an advocate, and I recognize that. In fact, he has asserted it as one of his great political strengths and something in which he takes a great deal of pride.

He has taken a number of positions which are well outside the mainstream of thinking—most Americans, I think, are in the middle of the road. Senator Ashcroft has been quoted as saying that there are only two things you find in the middle of the road—a moderate and a dead skunk.

I think one will find most of the American people are in the middle of the road.

There are extreme ideological positions here which of course, raise important questions. In fact, when Senator Ashcroft held up the nomination of Bill Lann Lee to be the head of the Civil Rights Division—a man of extraordinary qualification and dedication, a life story that ought to command the respect and admiration of all Americans—he argued that Lee is ''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.''

That is the mental framework, the perspective that he brought to this very important nomination as the head of the Civil Rights Division in the Department of Justice. I do not intend to simply turn that standard and apply it to him but I do think it is indicative of an attitude and of a mindset that gives me great pause when I come to consider someone who is going to exercise the kind of discretion and broad range of judgments that are placed in the hands of the Attorney General of the United States under the statutes of our country.

Another instance I want to point to which has given me great concern is what John Ashcroft did to Judge Ronnie White. As others have spoken at length on that, I will not go into it in any great detail, But Judge White was ambushed on the floor of the Senate. That, simply put, is what it amounted to. And that ambush was, in effect, staged by John Ashcroft.

Judge White is a man who worked his way up, the classic American opportunity story, to become a judge on the highest court of the State of Missouri, an African American who broke a barrier when he went on that court. He was then nominated to be a Federal district judge. His nomination was brought out of the Judiciary Committee. The arguments used on the floor to ambush him were not raised in the Committee. On the floor the Senate was told that ''he has a tremendous bent toward criminal activity.'' Imagine saying that about a sitting judge of the State's highest court, a statement which upon examination cannot be sustained.

Furthermore, Senator Ashcroft argued about White that, if confirmed ''he will use his lifetime appointment to push law in a pro-criminal direction consistent with his own personal political agenda.''

No wonder that legal columnist Stuart Taylor, wrote in an article that John Ashcroft's treatment of Judge White alone makes him unfit to be Attorney General.

The reason is that during an important debate on a sensitive matter, then-Senator Ashcroft abused the power of his office by descending to demagoguery, dishonesty and character assassination.

The Baltimore Sun, in an editorial of yesterday—I ask unanimous consent that this editorial be printed in the RECORD.

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

[From the Baltimore Sun, Jan. 31, 2001]

ASHCROFT ISN'T RIGHT FOR ATTORNEY GENERAL

Few people had ever heard of racial profiling a few years ago.

But now it's a household phrase, because former Attorney General Janet Reno's lawyers proved many police departments were treating skin color as if it were a highway crime, pulling over minority drivers for one reason—their race.

It was an important reminder that discrimination is still very much alive in America.

During Ms. Reno's tenure, Justice Department lawyers delved into problems in employment, fair housing and lending, education, public accommodations and voting. They investigated Americans With Disability Act violations, enforced federal laws protecting access to abortion clinics.

The point: Ms. Reno didn't merely acknowledge or respect the existence of civil rights and other laws designed to protect Americans. She embraced them and enforced them doggedly, because discrimination still robs entire classes of Americans of their most basic liberties.

That brings us to the troubling nomination of former Missouri Sen. John Ashcroft to head the Justice Department.

His record suggest no such embrace of civil rights laws or the premise of equal protection under law. Many things he has said and done betray a vicious hostility toward them.

He has blasted the judiciary (which he calls the least representative branch of government) for granting ''group rights'' to minorities, without regard to the group discrimination that necessitates those rights.

He has opposed public school desegregation—in one instance to the point of being threatened with judicial contempt—and proposed a constitutional amendment to outlaw abortion in all forms for any reason.

And he has defended or stood mute in the face of other institutions that attack the very premise of equal rights—Bob Jones University, a neo-Confederate magazine called Southern Partisan, even groups with ties to the Ku Klux Klan.

His record has inspired progressive groups around the country to oppose Mr. Ashcroft's nomination. It's also why some Democratic senators are threatening a filibuster to block a confirmation vote.

We share the concerns about Mr. Ashcroft's civil rights record. We worry that his confirmation as attorney general could mean the end of the Justice Department's important efforts to level Americas uneven playing fields.

But that alone would be insufficient for us to call for derailing a Cabinet nominee. Generally, we believe presidents should be given wide latitude in making their appointments.

There is another, a more important reason to oppose Mr. Ashcroft—his character.

When Mr. Ashcroft tanked the federal judicial nomination of Ronnie White, he demonstrated recklessness with truth and integrity that the nation can't countenance in an attorney general.

He lied about Mr. White's stance on death penalty cases, painting him as an anti-death penalty maverick when, in fact, Mr. White had affirmed death sentences 71 percent of the time as a Missouri Supreme Court judge.

And to this date, Mr. Ashcroft has not owned up to what he did. During his own confirmation hearings before the Senate Judiciary Committee, Mr. Ashcroft defended what he did to Mr. White—and denied that it represented a distortion of the truth.

Whatever the reasons for Mr. Ashcroft's actions, they speak to a willingness to pursue his own agenda by any means necessary, without regard to veracity of fairness.

That makes it difficult—or near impossible—to imagine Mr. Ashcroft setting a credible legal agenda from the seat of the nation's highest law enforcement officer.

It also makes it hard to believe any of what Mr. Ashcroft said during his testimony before the Senate Judiciary Committee, when he passionately stated he would abide by and enforce laws that don't necessarily coincide with his personal beliefs.

The Senate Judiciary Committee voted yesterday to confirm Mr. Ashcroft. The full Senate could vote by Thursday.

A ''no'' vote in the full chamber—however unlikely that might be—is the only course that will save the Justice Department from the taint of Mr. Ashcroft's improbity.

Mr. SARBANES. In commenting on John Ashcroft's distortion of Judge White's record, said:

Whatever the reasons for Mr. Ashcroft's actions, they speak to a willingness to pursue his own agenda by any means necessary, without regard to veracity or fairness.

This from an editorial in the Baltimore Sun entitled ''Ashcroft isn't right for attorney general.''

I just want to add one other instance or example of the kind of approach and attitude in John Ashcroft's record that concerns me.

When he was attorney general of the State of Missouri, charged with carrying out the laws, he repeatedly, in school segregation cases, was rebuked and overruled by the courts, both State and Federal courts, on very sensitive and important school segregation cases.

In my view, he has had a consistent record of being at the extreme, of taking positions well outside the mainstream. And we are now faced with the question of whether he should be placed in a position where he will have broad discretion and will be making very sensitive judgments. It is a position that the whole country looks to to sustain its civil rights and its civil liberties.

The Nation needs to have confidence that the person serving as Attorney General will personify fairness and justice to all our people all across our country.

The PRESIDING OFFICER. The time of the Senator from Maryland has expired.

Mr. SARBANES. I ask unanimous consent to speak for another 30 seconds.

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

Mr. SARBANES. The New York Times, in an editorial opposing this nomination, made reference to President Bush's inaugural visions of ''a single nation of justice and opportunity.'' In my view John Ashcroft does not carry out that vision. I oppose his nomination. I ask unanimous consent that this editorial be printed in the RECORD.

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

[From the New York Times, Jan. 23, 2001]

OPPOSING THE ASHCROFT NOMINATION

The days after an inauguration are always marked by a spirit of optimism and well-wishing. But it also has to be a time for marking out fundamental principles that should come into play as the nation seeks the new civic accord that President George W. Bush eloquently endorsed in his inaugural address. It is within this framework that the Senate should consider the nomination of John Ashcroft as attorney general.

For our part, we wish that we could simply acquiesce in a confirmation that seems assured by the expectation that all 50 Republicans and a number of Democrats will vote to approve Mr. Ashcroft. But the matter is more complex than that.

As in our first commentary on Mr. Ashcroft's nomination, we stipulate that we are convinced he is a man of sincere conviction and personal rectitude. But the testimony before the Judiciary Committee established that he is not a nuanced or tolerant thinker about law, about constitutional tradition or about the general direction of an increasingly diverse American society.

Any reasonable reading of the extensive Judiciary Committee testimony shows that Mr. Ashcroft's zeal has overruled prudence in cases that bear directly on issues relevant to the Department of Justice. For example, the desegregation of public schools, often under voluntary agreements supervised by federal courts, has bipartisan roots reaching back to the Eisenhower presidency. But as Missouri attorney general, Mr. Ashcroft opposed a court-approved voluntary desegregation plan for St. Louis and failed to come up with an alternative that would have ameliorated the segregated conditions.

Mr. Ashcroft's tactics in blocking Judge Ronnie White's elevation from the Missouri Supreme Court in the federal bench raise problems of another sort. Judge White had a strong record of supporting capital punishment and often voted with Mr. Ashcroft's appointees on the Missouri Supreme Court. But on the floor of the Senate, Mr. Ashcroft advanced the fabricated charge that Judge White was ''pro-criminal'' and had ''a tremendous bent toward criminal activity.''

Before the Judiciary Committee, Mr. Ashcroft persisted in this demagogic attack, insisting that he was merely exercising his prerogative as a senator to reach an independent judgment. He was equally unpersuasive in explaining his plainly homophobic opposition to the confirmation of James Hormel as ambassador to Luxembourg. Mr. Hormel is a man of sterling legal and diplomatic credentials. Yet Mr. Ashcroft declared that he opposed Mr. Hormel based on the ''totality'' of his record.

As President Bush likes to say, we cannot read what is in another's heart. But neither can any civic-minded participant in this process fail to consider Mr. Ashcroft's history of opposition and code-worded condemnation of those whose color, sexual preference, religious views and attitude toward abortion differ from his own.

On the issue of abortion, Mr. Ashcroft swore that his 30-year history of legislative and constitutional attacks on abortion rights would not lead him to oppose the ''settled law'' supporting those rights. Of equal importance, he testified under oath that he would not use his powers as attorney general to invite a Supreme Court reversal of Roe v. Wade, the ruling that guarantees reproductive freedom of choice for American women.

We welcome those statements as a solemn pledge to the American people on a pivotal issue of civil liberties and constitutional law. But that reassurance does not lift from this page or the Senate the obligation to look at the entire mosaic pieced together by the Judiciary Committee. In the Senate, Mr. Ashcroft's legislative record shows a public official with a history of insensitivity to minority concerns and a radical propensity for offering constitutional amendments that would bring that document into alignment with his religious views. He even favored an amendment to make it easier to revise the Constitution.

We urge a unified Democratic vote in the Senate against confirmation. If 40 or more Democrats cast a vote of principle against Mr. Ashcroft's record, he and Mr. Bush will be on notice that sensitivity to and regard for the beliefs and rights of all Americans have to be governing realities at the Department of Justice.

We do not argue that Mr. Ashcroft is a bad man. We do assert that his record makes him a regrettable appointee for a new president who speaks with conviction about creating an atmosphere of reassurance for all members of the American family. Given this newspaper's long history of defending civil liberties, reproductive freedom, gay rights and racial justice, we cannot endorse Mr. Ashcroft as an appropriate candidate to lead a department charged with providing justice for all Americans. But recognizing that his confirmation is probable, we can hope that Mr. Ashcroft's performance as attorney general will be based on the president's inaugural vision of ''a single nation of justice and opportunity'' rather than on the general philosophy of Mr. Ashcroft's public career to date.

Mr. SARBANES. I thank the Chair.

The PRESIDING OFFICER. I thank the Senator from Maryland.

Under the previous order, the time until 10:30 shall be under the control of the majority party.

The Chair recognizes the assistant majority leader, the Senator from Oklahoma, Mr. NICKLES.

Mr. NICKLES. Mr. President, thank you very much.

Mr. President, I rise in total and complete support of John Ashcroft to be the next Attorney General of the United States. I do that with great pleasure, and with pride, because I know him. And I am not amused when I hear people talking about John Ashcroft in a way that is not the John Ashcroft I know.

I know John Ashcroft. I have served with John Ashcroft. I have spent hours and hours and hours with John Ashcroft on a multitude of issues. I have absolute, total, and complete confidence that he is going to be one outstanding Attorney General of the United States.

He is as qualified as anybody that has ever been an Attorney General. If you look at his qualifications, he was attorney general for the State of Missouri for 8 years. He was named head of the National Association of Attorneys General which means the other attorneys general all across the country elected him to be their leader.

I have heard some of my colleagues say he is extreme. That is not the type of person a bipartisan group of Attorneys General would pick. He would not have been picked as the head of the National Association of Attorneys General.

He served for 8 years as Governor of the State of Missouri. He was elected head of the National Governors' Association. Again, that is not an extremist. That is not somebody outside the mainstream. He was elected by his peers, by the bipartisan group of Governors, to be head of the National Governors' Association.

He then was elected to the Senate which is how I really got to know him. Of course, I had known him by reputation as being an outstanding attorney general and outstanding Governor.

He was an outstanding Senator. He served 6 years in this institution. I served with him in countless meetings, and I could not have come away knowing a person of greater intellect and integrity—a person of conviction, a person who can get things done, a person who is willing to listen to all people on all sides, a person who is fair. Again, I have come to the conclusion that he will be an outstanding Attorney General.

I am bothered by the opposition. I wonder where it comes from because maybe they are talking about a different person.

On the issue of fairness, I have heard people say that we have done a good job since we have confirmed all of President Bush's nominees except one, and it has only taken a couple weeks.

I go back 8 years ago, after President Clinton was elected, when every one of President Clinton's nominees were confirmed by voice vote, unanimously, by January 21, except for one, and that was for Attorney General. And that delay was not because Republicans were fighting the Attorney General nomination. It was because President Clinton ended up sending three names to the Senate because he had some problems with the first two before he submitted his final nominee. The delay was not because of Senate opposition. It was because he had some problems with the first couple of nominees he submitted.

When we eventually got to Janet Reno, after he submitted her to the Senate, she was confirmed in very short order without all this rancor, without all this partisan nonsense. She was confirmed 98–0. She was every bit as liberal as John Ashcroft is conservative—every bit.

In addition, Ms. Reno said she was going to uphold the law. I have heard the intensity of this debate since John Ashcroft is pro-life. Will he enforce the law and access to abortion clinics? John Ashcroft said he would. He took an oath. He said: I will uphold the law of the land.

In comparison, it is interesting to note that the Beck decision is the law of the land.

Attorney General Reno and the Clinton Administration did not enforce that decision. Also, the law of the land on campaign finance says it is unlawful to solicit or receive funds on Federal property. She did not enforce that statute in spite of the fact that her own people in the Justice Department said: You need to appoint a special counsel. She did not do it. Although it was the law of the land, she did not enforce it. Some of us are troubled by that. Maybe I wish I had my vote back.

If people want to vote against John Ashcroft, they can vote against him, but to make these character assassinations is totally unfair. It certainly is not what happened 8 years ago.

Let me touch on a couple other things. I have heard he should not be confirmed because he was opposed to Judge White. Well, I voted against Judge White, and I would vote against him again. Why? I have been in the Senate for 20 years almost as long as Senator LEAHY, the ranking minority member on the committee. I don't remember a single time a national law enforcement group or association contacting Senators to say please vote no on a Federal judge.

I remember getting a letter from the National Sheriffs' Association saying: Vote no on Judge White. I said: Why? Well, there was a case where three deputy sheriffs were murdered and a sheriff's wife was murdered and the defendant confessed. That case is the reason they wrote the letter. Of seven Missouri Supreme Court judges, Judge White was the sole dissenter who said: Let's review this case. There may be extenuating circumstances and the defendant deserves another trial.

The sheriffs didn't feel that way. The prosecutors didn't feel that way. Other prosecutors, the sheriffs, and the chiefs of police in Missouri, said: Don't confirm Judge White. I can't remember, again, another nomination where you had the chiefs of police all across the State who know the particular judge say: Don't confirm him. That was something I needed to know.

I am also troubled when some people say: You didn't confirm Judge White because of his race. Most of us didn't know what race he was. We knew law enforcement was against him, and we voted no. I make no apologies for that vote.

To imply that someone is a racist because they oppose a nominee is wrong. Most of us opposed Judge White because he was opposed by law enforcement groups.

I heard somebody say: John Ashcroft, back when he was Governor, opposed a court decision on desegregation. Then we find out that Senator Danforth, who is probably as respected a moderate as anybody, also opposed that decision, and Congressman GEPHARDT opposed that decision. At that time, I think Mel Carnahan, who was also an elected official in the State of Missouri, opposed that decision. Yet some people are trying to make that a reason to oppose John Ashcroft.

John Ashcroft has had about three decades of public life. His record has been scrutinized to the nth degree. People are almost making up things to try to oppose his nomination. I think it is unwarranted. It is unfounded. A lot of it is below the belt and is beneath the dignity of the Senate. People have a right to oppose a nomination. If they want to oppose somebody, they can vote no, but they should not mischaracterize his record. I think what has happened repeatedly is beneath the dignity of the Senate, below the civility of the Senate.

I urge people to be cautious when they make personal attacks against other individuals, and especially against a former colleague. Again, many of us in this body have had the privilege to know John Ashcroft. We know him. We know him well. I know him well. I am very proud to cast my vote today in support of John Ashcroft to be the next Attorney General. I look forward to him being the next Attorney General. I am confident he will represent this country extremely well in that capacity.

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. 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 that some additional op-ed pieces, columns, and others be printed in the RECORD regarding this nomination.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Jan. 19, 2001]

ASHCROFT THE ACTIVIST

(By William Raspberry)

Opponents of John Ashcroft's nomination to become attorney general have been turning over every rock in sight, hoping to find some outrageous statement, some political skeleton, some evidence that he is unfit to be the nation's chief law enforcement officer.

His supporters have been doing their best to prove that the nominee is technically qualified for the job and is, moreover, a decent man who would enforce the law fairly.

The whole thing seems to be missing the point. I have never doubted Ashcroft's decency, never questioned his legal abilities, never worried that, in a particular case, he would be unfair.

But the attorney general is not just the nation's chief cop. He is also the chief influencer of our law-enforcement policy.

It is from that office that decisions are made on which laws to enforce, and how vigorously; what discretion ought to be exercised, and in which direction; how law-enforcement resources should be deployed, and with what emphases. Bland reassurances that Ashcroft would ''enforce the law fairly'' aren't much help.

To take a simple example, what does it mean to enforce America's drug laws ''fairly''? Does it mean locking up anybody caught with illegal drugs, as the law permits? Does it mean focusing resources on major traffickers, as the law also permits? Does it mean shifting resources from enforcement to treatment—or the other way around? Does it mean confiscating more and more assets of people found in violation of the drug laws? The law allows all these things—allows as well the disparate sentencing for powdered and ''crack'' cocaine and the well-documented racial disparity that results from it.

To promise to enforce the law without talking about which policies would be emphasized or changed is to say nothing at all. Absent a president with strong feelings on the matter, law-enforcement policy is largely left to attorneys general to decide. Some have gone against discrimination, some against organized crime, some against monopolies and trusts. Some have followed public sentiment, and some have gone their own

way. Most of the time, it hasn't mattered much. So why do so many non-conservatives believe it will matter so much this time?

The answer is in Ashcroft's record of advocacy. He has fought with extraordinary vigor for positions that are well outside the American mainstream—on gun control, on abortion, on juvenile justice, on the death penalty. I don't mean to deny that his position on all these issues might be shared by a significant minority. I say only that his views are unusually conservative. He is, I think it fair to say, an ideologue. And when you take someone who has been advocating views that are well away from the political center and put him in charge of law-enforcement policy, it's not enough to say he'll ''enforce the law.''

Ashcroft signaled his own understanding of this point when he was asked whether he would try to undermine the 1973 Roe v. Wade decision on abortion. He said that for the solicitor general (who ranks under the attorney general) to petition the Supreme Court to have another look at Roe would undermine the Justice Department's standing before the court.

He was, as I read his response, saying he could make the attempt, though it might be impolitic to do so at this time.

Is it unfair to oppose Ashcroft, an experienced lawyer, out of fear that his personal and religious views would influence his role as attorney general?

As Sen. Patrick Leahy (D-Vt.) reminded us the other day, it is a question Ashcroft himself has answered. When Bill Lann Lee was named by President Clinton to head the Justice Department's civil rights division, Ashcroft fought to deny him the job.

He had no doubt concerning the nominee's professional ability, Ashcroft said at the time, but Lee's beliefs (on affirmative action) ''limit his capacity to have the balanced view of making judgments that will be necessary for the person who runs the division.''

Why can't the same assessment apply to the person who will run the whole department?

[From the Washington Post, Jan. 18, 2001]

CIVIL RIGHTS 'R US

(By Mary McGrory)

Obviously, it's a case of mistaken identity. That man sitting before the Senate Judiciary Committee is no kooky right-winger. He's not anti-black, anti-Catholic, or antisemitic, as holding an honorary degree from Bob Jones University might suggest. He is against abortion, he admits it, but he'll observe Roe v. Wade. He's a man of law.

Segregation? He's against it. Never mind that he fought integration when he was attorney general and governor of Missouri. He's a little sentimental about the Confederacy, yes, but if he had been alive at the time of the Civil War, he would have fought for the Union. Don't call him a partisan Republican, please. When he's looking for the name of an illustrious predecessor at Justice, Robert Kennedy leaps into his mind. Harry Truman leads his list of prominent Missourians.

This is an erstwhile club member who thanks senators for mean questions and humbly praises their candor when they blast his record.

Sen. Arlen Specter (R–Pa.) noted his sense of humor and pointed out how handy it would be when the witness was discussing ''the death penalty and other weighty matters'' at the Justice Department.

The makeover of John Ashcroft, a cranky extremist, for his confirmation hearings is a masterpiece. His handlers have created a genial healer; his haberdashery is impeccable and so are his manners. Five young men with black suits and stern expressions sit a row behind him and hand over notes when things get dicey.

This graduate of Yale and Harvard Law is pretty sophisticated about most things, but not about hot potatoes like Bob Jones U. and Southern Partisan magazine, a publication to which he confided his misty-eyed appreciation for the Confederacy, and one that has a profitable sideline in T-shirts celebrating the assassination of Lincoln. Wouldn't you know Lincoln is Ashcroft's favorite political figure? He was shocked, shocked to learn about Southern Partisan's excesses.

Ashcroft the nominee was engulfed in loving friends, colleagues and family with a heavy sprinkling of blacks and women who were so conspicuous in the protest groups outside. This John Ashcroft wouldn't dream of turning down a president's choice for the Cabinet just because there were differences of opinion. He's tolerant almost to a fault, and his opening statement could have been the bid of an aspirant to the chairmanship of the ACLU, not top gun for George W. Bush's legal team.

Opening day theatrics went like clockwork. Sen. Jean Carnahan (D–Mo.), the widow of Ashcroft's opponent, Gov. Mel Carnahan, brought her poignant dignity to a cameo appearance as a presenter of the nominee. Her words were notably chilly. She urged her colleagues to be fair, but it made a nice picture.

Committee Republicans came through with econiums to the nominee's character and integrity. Sen. Charles Grassley (R–Iowa) fervently praised Ashcroft as someone ''who always does right by the family farmer.'' Even Ashcroft's 2-year-old red-headed grandson, Jimmy, performed perfectly. He came onto the scene wailing, but his grandfather cheerfully introduced him and he fell miraculously quiet.

On Day Two, a little celebrity caucus was brought on just before the lunch break. Sen. Susan Collins (R–Maine) gushed about Ashcroft. So did former senator John Danforth (R–Mo.), the patron of Clarence Thomas, Bush I's land mine Supreme Court appointment. Like father, like son: Thomas was supposed to flatten all objections because he is black; for Bush II, Ashcroft's club membership is expected to stifle resistance.

There were moments of discord and disbelief, but these were treated like caterer's mistakes at a splashy wedding. Sen. Edward M. Kennedy (D–Mass.) challenged Ashcroft's record on school desegregation and voter registration. In Missouri, Ashcroft had resisted a voluntary desegregation plan and vetoed a registration expansion scheme. To answer Kennedy, Ashcroft read his veto messages.

If the hearings resume next week, Ashcroft can expect a kinder, gentler hand on the gavel in the person of Sen. Orrin Hatch (R–Utah). Sen. Pat Leahy, Democrat of Vermont, was temporary chairman but turns into a pumpkin when W. takes the oath.

There's only one thing wrong with the Ashcroft picture, the figure of Judge Ronnie White, the Missouri Supreme Court judge who was deprived of a seat on the federal bench by the persecution of Ashcroft, who got every Republican in the Senate to vote against his nomination. Ashcroft found White insufficiently enthusiastic about the death penalty.

By all accounts, Ronnie White is a distinguished member of the State Supreme Court. Ashcroft misrepresented his record. Ronnie White is black. Ashcroft, his allies insist, is no racist. Did he slander Ronnie White for crass politics—an effort to make the death sentence an issue in his campaign against Carnahan? The paragon in the witness chair would not do anything like that. Malice is a singularly unattractive trait in an attorney general.

[From the Washington Post, Jan. 18, 2001]

THE ASHCROFT DOUBLE STANDARD

(By Richard Cohen)

A review of the record, a reading of the relevant transcripts and some telephone interviews with people in the know lead me to conclude that if John Ashcroft were a Democrat, he would oppose his own nomination as attorney general. For once, he would be right.

The Ashcroft of the Senate Judiciary Committee hearings is a package of hypocrisy. His message is that his ideology, hard right and intolerant, ought to be beside the point. What is supposed to matter is his determination to uphold the law, even the laws he believes are in contradiction to what God himself intends. This is what Sen. Patrick Leahy (D-Vt.) calls the ''Ashcroft standard.'' It is utter nonsense.

Take, for instance, the way Ashcroft handled the nomination of James C. Hormel as ambassador to Luxembourg. Hormel was a man of some accomplishment as, in fact, Ashcroft had firsthand reason to know. Back in 1964, Hormel was a dean at the University of Chicago Law School when Ashcroft was a student there. Nonetheless, Hormel was gay and not particularly shy about it, either. For that reason—and that reason only—Ashcroft opposed the nomination.

This episode tells you quite a bit about Ashcroft. By any measure, Hormel was certainly qualified to be ambassador to this dot of a European country. As mentioned, he had been the dean of a prestigious law school, had become a well-known San Francisco civic leader and philanthropist and had been endorsed by, among others, the Episcopal bishop of California, the Right Rev. William Swing, and the former everything (secretary of state, etc.), George Shultz.

Ashcroft was unmoved. Along with Trent Lott, he considered homosexuality a sin and, as with racists, polygamists, misogynists and you-name-its, he could cite this or that passage of the Bible to support his intolerance. Whatever the reason, he would not even meet with Hormel. He would not take his phone calls.

Ashcroft explained his vote against Hormel in committee as one based on the fear that Hormel was ''promoting a lifestyle'' and what, when you come to think of it, this might mean to embattled Luxembourg. And then he said this: ''People who are nominated to represent this country have to be evaluated for whether they represent the country well and fairly.''

There you have it: The Perry Mason Moment in which Ashcroft blurts out the reason he is not suited to be attorney general. His qualifications, as with Hormel's, are beside the point. It's what he advocates that matters—whether, as he would put it, he represents the country well and fairly.

It's Ashcroft's extreme views on abortion—not late-term or mid-term, but what you might call pre-term. (He would ban so-called morning-after pills.) It's his approach to gun control, his reactionary approach to civil rights legislation, his opposition to life-saving needle exchange programs or his insistence that drug treatment programs are a sheer waste of money since junkies can—to quote an old Nat King Cole tune—simply ''Straighten Up and Fly Right.'' Only experience teaches otherwise.

It might be one thing if George W. Bush had won a mandate for such policies. But he did not even win the popular vote. In no way did the country register its support or even tacit approval of the ''soft bigotry'' that

Ashcroft represents. It does not matter that he says he will administer laws he doesn't particularly like; it matters only that he is unsuited by rhetoric, ideology and political conduct to lead our criminal justice system.

If confirmed, Ashcroft would be instrumental in picking the next generation of federal judges. Bush has already declared himself a committed delegator who will CEO the federal government from the Oval Office. (He has a Harvard MBA, don't forget.) If that's the case—and a man who was among the last to know his vice presidential nominee had suffered a heart attack clearly delegates to a fare-thee-well—then the job of picking federal judges will be left to Ashcroft. The federal bench is going to look like the faculty lounge at Bob Jones University.

John Ashcroft must be laughing to himself. He knows that if the shoe were on the other foot, he would never confirm an attorney general who had views so antiethical to his own. Maybe he'd find something in the Bible or, as he did with the judicial nomination of Ronnie White, distort the record, but he would be true to his beliefs. His opponents should be true to theirs.

[From the Chicago Tribune, Jan. 16, 2001]

THE CONFEDERACY'S FAVORITE CABINET NOMINEE

(By Derrick Z. Jackson)

If the Senate Judiciary Committee straightens its backbone rather than slap the back of attorney general nominee John Ashcroft, we may get to see why his hallucinations about Bull Run will make him a bull in the china closet of civil rights.

Any serious line of questioning should start like this:

Sen. Ashcroft, you praised Southern Partisan magazine for ''defending'' 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.''

Let's explore what you meant by that.

Senator, why are you, in the year 2001, praising Davis, the president of the Confederacy, who personally italicized the portions of the Constitution that preserved slavery? Why do you laud a man who said white superiority over African-Americans was ''stamped from the beginning, marked in decree and prophecy''?

Why do you love a man whose vice president, Alexander Stephens, said the ''cornerstone'' of the Confederacy ''rests upon the great truth that the Negro is not equal to the white man; that slavery, subordination, to the superior race, is his natural and moral condition''?

Why do you complain about Davis being maligned by historians when Davis tried to rewrite history? He said on the floor of the U.S. Senate in 1860 that ''Negroes formed but a small part of people of the southern states.''

For the record, in 1860 black people were 55 percent of the population in Davis' home state of Mississippi, 58 percent of South Carolina, and between a third to a half of the people of most of the rest of the slave states.

Now, Senator, I am reading this sentence again, where you say we've all got to stand up or else we'll be taught that Davis, Lee, and Jackson were subscribing their ''sacred fortunes'' to some ''perverted'' agenda. That sounds a lot like what Davis said in his first Confederate inaugural address when he said the North ''would pervert that most sacred of all trusts.''

Senator, since we know that that sacred trust was slavery, what is it that you are trying to say? Does that mean you will not investigate charges of black voter fraud in Florida?

Senator, let's move on to Lee. You say today's history books ''make no mention of Lee's military genius!'' Why is that so important to you when the same Lee called Mexicans ''idle worthless and vicious''? Why do you praise a man who said as he exterminated Indians: ''The whole race is extremely uninteresting . . . they are not worth it.'' Where can we find Lee's genius in saying that killing Indians was ''the only corrective they understand and the only way in which they can be taught to keep within their own limits''?

Why is Lee so good when he justified the ripping of black people out of Africa to enslave them by saying, ''The blacks are immeasurably better off here than in Africa, morally, socially, and physically. The painful discipline they are undergoing is necessary for their instruction as a race''?

Why does Lee need to be revered when his troops, like other Confederate divisions, hated free black people so much that they sometimes massacred defeated black Union soldiers even though they had thrown down their arms in surrender?

Senator, may I read you a passage from the new book, ''The Making of Robert E. Lee,'' by Michael Fellman? A Confederate major wrote in 1864 after one battle, ''such slaughter I have not witnessed upon any battlefield anywhere.

''Their men were principally Negroes and we shot them down until we got near enough and then run them through with the bayonet . . . We was not very particular whether we captured or killed them, the only thing we did not like to be pestered burying the heathens.''

Senator, why do you praise Lee when, after the Civil War, he actively resisted Reconstruction? Lee said white people are ''inflexibly opposed to any system of laws that would place the political power of the country in the hands of the Negro race.'' He said black people lacked the ''intelligence . . . necessary to make them safe repositories of political power.''

Senator, thank you, but in light of your reverence for such men, we'll be asking President-elect George W. Bush to appoint a less antebellum attorney general. As you leave, stop by the front desk. The clerk will arrange for you to participate in a Civil War re-enactment in the slave state of your choice. Please send us a photo of your experience. We would love to see who you dressed up as. We're betting against Frederick Douglass.

Mr. LEAHY. Mr. President, I don't want to leave the impression in this Chamber that there is some kind of unanimity of law enforcement in opposition to Judge Ronnie White. In fact, a very substantial number in law enforcement in Missouri wrote to us, wrote to the Members of the Senate, and said they strongly supported Judge Ronnie White. One of the leading law enforcement organizations wrote to us and said they were distressed that he was not confirmed on the basis that somehow he might be pro-criminal.

The record showed that he voted with appointees by then-Governor Ashcroft something like 95 or 96 percent of the time in death penalty cases.

Mr. NICKLES. Will the Senator yield?

Mr. LEAHY. Of course.

Mr. NICKLES. Just for a point of clarification, is the Senator referring to the Fraternal Order of Police sending a letter in support of Judge White?

Mr. LEAHY. Yes.

Mr. NICKLES. Wasn't that letter sent after Judge White was defeated?

Mr. LEAHY. Indeed, it was.

Mr. President, I ask unanimous consent to print additional editorials and material regarding the nomination in the RECORD.

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

[From Newsday]

ASHCROFT'S RIGHTS DO NOT INCLUDE BEING AG

(By Clarence Page)

Now that George W. Bush has nominated Sen. John Ashcroft (R–Mo.) to be attorney general, it would not be inappropriate for Ashcroft's fellow senators to treat him as fairly as he treated Judge Ronnie White.

In other words, will they tar him as an extremist? Will they roast him, not for his personal qualifications, which is what confirmation hearings are supposed to be about, but for his personal beliefs? Will they paint him as an extremist and distort his record without giving him an opportunity to respond? That was how Ashcroft handled President Bill Clinton's nomination of Judge Ronnie White to the federal bench in 1999. Civil rights groups are particularly angry that Ashcroft led the successful party-line fight to defeat White.

Ashcroft painted White's opinions as ''the most anti-death-penalty judge on the Missouri Supreme Court'' and said that his record was ''outside the court's mainstream.'' Actually, whether you agree with him or not, White can hardly be called ''pro-criminal'' or ''outside the mainstream.'' Court records show that White voted to uphold death sentences in 41 out of 59 capital cases that came before him on the state supreme court. In most of the other cases, he voted with the majority of his fellow justices, including those appointed by Ashcroft when he was Missouri governor.

In fact, three Ashcroft appointees voted to reverse the death penalty a greater number of times than White did.

On the Senate floor, Ashcroft singled out two of the only three death-penalty cases in which White was the sole dissenter. In one of them, White questioned whether the defendant's right to effective counsel had been violated. Whether you agree or not, you don't have to be ''pro-criminal'' to value the rights of the accused, especially in a death-penalty case. In the other, White questioned whether the lower court judge, Earl L. Blackwell of Jefferson County was biased and should have recused himself in a trial that began the morning after Blackwell issued a controversial campaign statement.

Blackwell, explaining in a press release why he had switched to the Republican Party, said, ''The truth is that I switched to the Republican Party, said, ''The truth is that I have noticed in recent years that the Democrat Party places far too much emphasis on representing minorities such as homosexuals, people who don't want to work and people with a skin that's any color but white.'' Again, the judge has the right to express his views, but you don't have to be an extremist to understand why White, the first African American to sit on the Missouri Supreme Court, might question that judge's even-handedness.

When Sen. Orrin Hatch (R-Utah) asked White if he opposed the death penalty, White said, ''Absolutely not.'' But White did not get a chance to rebut Ashcroft's charges because Ashcroft did not raise them until

months after White's confirmation hearings. This tactic was characterized as ''delay and ambush'' by Elliot Mincberg, vice president and legal director of People for the American Way, one of several liberal groups that oppose Ashcroft's confirmation.

To charge that Ashcroft is a bigot, as some have done, misses the point. He has a right to express strong views without being called names. He has a right to oppose affirmative action and gay rights, as he has done in the past with other nominations. He has a right to favor a ''right to life'' until someone has been sentenced to death.

But he does not have a right to be attorney general. Therefore, it is not surprising that the four pillars of the liberal establishment—civil rights, abortion rights, organized labor and environmental protection—have begun to rally their opposition to his confirmation.

Why, they ask, should this country have an attorney general who opposes sensitive laws that he is supposed to enforce? Ashcroft will have a chance to answer that question in his confirmation hearings. The Senate will let him offer his side of the story. That's more than Ashcroft gave Ronnie White.

[From the DesMoines Register, Jan. 5, 2001]

UNEASY WITH ASHCROFT

Will he enforce the laws even-handedly—even those he disagrees with?

The record of Senator John Ashcroft inspires no confidence that he'll enforce the laws of the land impartially as attorney general of the United States.

The Missourian, who lost his re-election bid to the Senate this fall, vigorously opposes abortion rights under virtually all circumstances. So would he fully enforce federal laws safeguarding abortion clinics from violence and harassment? Will he actively protect the legal right of women to choose even though he personally thinks women should not have that right?

Ashcroft is President-elect George W. Bush's nominee to be the next attorney general. As head of the Justice Department, he would be in charge of overseeing the FBI, enforcing antitrust laws, litigating on the government's behalf and enforcing the civil rights of citizens, among other things.

How interested in assuring civil rights is Ashcroft? He's been criticized for his opposition to the elevation of Missouri Supreme Court Judge Ronnie White, an African-American, to the federal bench. Ashcroft called White ''pro-criminal,'' even though White had voted to uphold the death penalty in 41 of 59 cases—said to be about the same share as that of the judges whom Ashcroft appointed when he was governor. Consider that along with Ashcroft's failed fight to keep David Satcher, a respected black physician, from becoming surgeon general because Satcher is against a ban on late-term abortions. And in 1999, Ashcroft accepted an honorary degree from Bob Jones University in South Carolina, which at that time prohibited interracial dating.

Bush Cabinet selections such as moderate African-American Colin Powell for secretary of state don't soften the hard-line insensitivity Ashcroft presents. He is not a leader who brings people together.

Those who share Ashcroft's religious conservatism are no doubt heartened by the expectation that their points of view will be well represented. But all Americans should at least be comfortable that the next attorney general will be fair-minded and even-handed as the nation's chief law-enforcement officer.

Before confirming him, the Senate should expect a pledge from Ashcroft that he will enforce the laws of the land as they exist, not as he would like them to be.

The Missourian vigorously opposes abortion rights under virtually all circumstances. So would he fully enforce laws safeguarding clinics?

[From the New York Times, Jan. 4, 2001]

FAIRNESS FOR WHOM?

(By Bob Herbert)

We keep hearing that George W. Bush's choice for attorney general, John Ashcroft, is a man of honor, a stalwart when it comes to matters of principle and integrity. Former Senate colleagues are frequently quoted as saying that while they disagree with his ultra-conservative political views, they consider him to be a trustworthy, fair-minded individual.

Spare me. The allegedly upright Mr. Ashcroft revealed himself as a shameless and deliberately destructive liar in 1999 when, as the junior senator from Missouri, he launched a malacious attack against a genuinely honorable man, Ronnie White, who had been nominated by the president to a federal district court seat.

Justice White was a distinguished jurist and the first black member of the Missouri Supreme Court. Mr. Ashcroft, a right-wing zealot with a fondness for the old Confederacy, could not abide his elevation to the federal bench. But there were no legitimate reasons to oppose Justice White's confirmation by the Senate. So Mr. Ashcroft reached into the gutter and scooped up a few handfuls of calumny to throw at the nominee.

He declared that Justice White was soft on crime. Worse, he was ''pro-criminal.'' The judge's record, according to Mr. Ashcroft, showed ''a tremendous bent toward criminal activity.'' As for the death penalty, that all-important criminal justice barometer—well, in Mr. Ashcroft's view, the nominee was beyond the pale. He said that Ronnie White was the most anti-death-penalty judge on the State Supreme Court.

Listen closely: None of this was true. But by the time Mr. Ashcroft finished painting his false portrait of Justice White, his republican colleagues had fallen into line and were distributing a memo that described the nominee as ''notorious among law enforcement officers in his home state of Missouri for his decisions favoring murderers, rapists, drug dealers and other heinous criminals.''

This was a sick episode. Justice White was no friend of criminals. And a look at the record would have shown that even when it came to the death penalty he voted to uphold capital sentences in 70 percent of the cases that came before him. There were times when he voted (mostly with the majority) to reverse capital sentences because of procedural errors. But as my colleague Anthony Lewis pointed out last week, judges appointed by Mr. Ashcroft when he was governor of Missouri voted as often as Justice White—in some cases, more often—to reverse capital sentences.

But the damage was done. Mr. Ashcroft's unscrupulous, mean-spirited attack succeeded in derailing the nomination of a fine judge. The confirmation of Justice White was defeated by Republicans in a party-line vote. The Alliance for Justice, which monitors judicial selections, noted that it was the first time in almost half a century that the full Senate had voted down a district court nominee.

The Times, in an editorial, said the Republicans had reached ''a new low'' in the judicial confirmation process. The headline on the editorial was ''A Sad Judicial Mugging.''

So much for the fair-minded Mr. Ashcroft.

A Republican senator, who asked not to be identified, told me this week that he could not justify Mr. Ashcroft's treatment of Ronnie White, but that it would be wrong to suggest that the attack on his nomination was racially motivated.

That may or may not be so. It would be easier to believe if Mr. Ashcroft did not have such a dismal record on matters related to race. As Missouri's attorney general he was opposed to even a *voluntary* plan to desegregate schools in metropolitan St. Louis. Just last year he accepted an honorary degree from Bob Jones University, school that is notorious for its racial and religious intolerance. And a couple of years ago, Mr. Ashcroft gave a friendly interview to Southern Partisan magazine, praising it for helping to ''set the record straight'' about issues related to the Civil War.

Southern Partisan just happens to be a rabid neo-Confederate publication that ritually denounces Abraham Lincoln, Martin Luther King Jr. and other champions of freedom and tolerance in America.

This is the man George W. Bush has carefully chosen to be the highest law enforcement officer in the nation. That silence that you hear is the sound of black Americans not celebrating.

[From Time Magazine, Jan. 2, 2001]

THE WRONG CHOICE FOR JUSTICE

(By Jack E. White)

What was president-elect George W. Bush thinking when he selected John Ashcroft as his nominee for Attorney General? That since he was designating three superbly qualified African Americans for high-level positions—Secretary of State Colin Powell, National Security Adviser Condoleezza Rice and Secretary of Education Rod Paige—blacks would somehow overlook Ashcroft's horrendous record on race? Or that it was compassionately conservative for Bush to hire a man who had just lost re-election as Missouri's junior U.S. Senator to a dead man? (Governor Mel Carnahan, who died in a plane crash during the campaign, won the seat, and his widow is serving in his place.) It certainly couldn't have been that appointing Ashcroft would enhance Bush's image as a uniter, not a divider. Ashcroft's positions on civil rights issues are about as sensitive as a hammer blow to the head.

It's puzzling, because the nomination of an extremist like Ashcroft is so needlessly out of synch with the rest of Bush's utterly respectable Cabinet choices. He could have satisfied the right by selecting Oklahoma Governor Frank Keating, who is as tough on crime as Ashcroft, yet far less controversial. But as we are about to find out, Ashcroft won't be confirmed without a fight. The angriest coalition of liberal, civil rights and feminist organizations Washington has seen since the 1987 battle over Supreme Court nominee Robert Bork is lining up to oppose him. The opposition's leaders concede that as a former member of the club, Ashcroft would normally sail through the Senate. But since Ashcroft has been on the wrong side of every social issue from affirmative action to hate-crimes legislation and women's rights, there may be a chance to peel off enough moderate Republicans to make him the first Cabinet appointee to be bounced since 1989, when John Tower lost his chance to be Secretary of Defense for President Bush the Elder.

Pushing Ashcroft through will cost the younger Bush considerable political capital, and might be only the start of his headaches. As a leading G.O.P. strategist puts it, ''The risk will be that about every six months, [Ashcroft] will do something that he thinks is clever or politically interesting, and they will open their papers at the White House and say, ''What the hell is he doing?'' Certainly there is plenty in Ashcroft's record to unsettle fair-minded conservatives—and to

raise questions about the sincerity of Bush's attempts to reach out to blacks. As the St. Louis Post-Dispatch noted in an editorial in December, Ashcroft ''has built a career out of opposing school desegregation in St. Louis and opposing African Americans for public office.''

When he served as Missouri's attorney general in the 1980s, Ashcroft persuaded the Reagan Administration to oppose school-desegregation plans in St. Louis, then used the issue to win the governorship in 1984. Since his election to the Senate in 1994. Ashcroft has consistently appealed to the right wing of his party, even when his approach risked appearing racist. He fought unsuccessfully against the confirmation of David Satcher, a distinguished black physician, as surgeon general, because Satcher proposes a ban on late-term abortions. In 1998 Ashcroft told the neo-segregationist magazine Southern Partisan that Confederate war heroes were ''patriots.'' In 1999 he accepted an honorary degree from South Carolina's Bob Jones University, which hadn't yet dropped its ridiculous ban on interracial dating.

Most disturbing of all, as Ashcroft was gearing up a short-lived campaign for the White House last year, he verbally attacked Missouri Supreme Court Justice Ronnie White, an African American whom Bill Clinton has appointed to the federal bench, for supposedly being ''pro-criminal'' and soft on capital punishment. The charge was outright slander. White had voted to uphold the death sentence in 41 of the 59 cases that came before him, roughly the same proportion as Ashcroft's court appointees when he was Governor. No wonder Gordon Baum, leader of white supremacist Council of Conservative Citizens, in 1999 included Ashcroft along with Pat Buchanan in the circle of politicians he'd like to see in the White House.

Does Baum know something Bush doesn't? Can Ashcroft be trusted to oversee the investigation of alleged voting-rights abuses in Florida, which many blacks believe disenfranchised them and delivered the presidency unfairly to Bush? This is one nomination that, pardon the pun, should be consigned to the Ashcroft of history.

Mr. LEAHY. The point is, the Fraternal Order of Police were dismayed that he was defeated on the basis that he might be anti-law enforcement. They pointed out that he was pro-law enforcement. The concern has been expressed and was expressed at the hearing for Judge White, concern that prompted an apology from some Republicans who had voted against Judge White, regarding the way he was basically ambushed—that is the expression that has been used—on the Senate floor. We have never had a case where a judicial nomination has been voted out of the Judiciary Committee, brought to the Senate floor, and then defeated—in this case, on a party-line vote.

What happened and what has created a great deal of concern is that here is a person who came from very humble beginnings, worked his way through law school, was considered a highly respected member of the bar in Missouri, became a justice of the Supreme Court of Missouri, and then, sort of at the pinnacle of his legal career, was nominated to be a Federal district judge. He went through the hearings in the Judiciary Committee, was voted out by the Judiciary Committee by a lopsided margin. It comes to the floor and then, in a party-line vote, is defeated.

As my friend from Oklahoma mentioned, the Missouri State Lodge of the Fraternal Order of Police indicated that on behalf of 4,500 law enforcement officers they viewed Justice White's record as a jurist as one whose record on the death penalty was far more supportive of the rights of victims than of the rights of criminals. The president of the Missouri police chiefs association described Justice White as an upright, fine individual. They had a hard time seeing that he was against law enforcement and never thought of him as pro-criminal.

One can debate a judge's position. Basically, as I said, he voted on death penalty cases 95 percent of the time with justices appointed by then-Governor Ashcroft. What bothered me and bothered a lot of Senators—and bothered Republican Senators who publicly then apologized to Judge White—was the fact that he was basically ambushed on the Senate floor.

There was testimony before our Judiciary Committee that it was not his vote on one particular case but, rather, the fact that he was made a political pawn in a Senate race. That is wrong.

We should keep the judiciary out of politics. He was dragged in and his reputation was unnecessarily besmirched. His career was damaged. All he had worked for all of his life was for naught, and it was done for political purposes.

That is what most people objected to. That was certainly what the letters indicated that I have received—including concern expressed by people who told me, first and foremost, they voted for then-Governor Bush to become President Bush but felt that this was wrong.

Mr. NICKLES. Mr. President, just to give a little different flavor, I don't like the word ''ambush'' applied to Judge White.

To clarify again a couple of things that happened, the reason why this Senator voted against him—and I would guess the reason why the majority of Republicans voted against him—was because we received a letter from the National Sheriffs' Association that said: Vote against Judge White. They had good reasons expressed in that letter. In this principal case that we are talking about, three deputy sheriffs were murdered, and the wife of a sheriff was murdered, and Judge White was the sole judge saying: Let's retry it; let's have a new hearing. The Missouri law enforcement community was very opposed to that.

In addition to that, several Chiefs of Police contacted us and suggested we vote no, and to review this dissent. We also heard from prosecutors about this case and other cases who said vote no on Judge White.

The Missouri Fraternal Order of Police sent us a letter in support of Judge White, but they sent that letter after the vote.

Why did we have the vote at that time? Our colleagues on the Democrat side were clamoring for a vote. Why did people vote for Judge White in committee and then vote against him on the floor? The letters of law enforcement did not come up until after he was approved by the Judiciary Committee. I will grant my colleague from Vermont that later there were other letters from law enforcement.

The letter from the National Sheriffs' Association was not before the Judiciary Committee. I wish they would have written it before the Judiciary Committee had voted, but they did it afterwards when it was the pending nomination before the floor of the Senate.

One other clarification I wish to repeat is that I am just very troubled by the allegation that he was opposed because of his race because most people did not know what his race was. I sat through a meeting where these letters by law enforcement were discussed, and Judge White's race was never mentioned. I know that to be the case. I sat in that meeting. That wasn't an issue. It didn't come up.

What came up was law enforcement opposition and at that time the only law enforcement letters we saw were in opposition. If we had the letter from the FOP saying confirm him, maybe that would have made a difference, and probably would have. Maybe if the sheriffs' organizations would have gotten their letter out before the Judiciary Committee vote, it might have made a big difference in the Judiciary Committee. Timing is important. But it is important to remember that the reason why we had the vote on the floor at that time, I believe, was because our colleagues on the Democrat side were clamoring for a vote.

I don't like the word ''ambush.'' Maybe that vote should have been delayed so we could have had a little more discussion of why these law enforcement groups were against him. Maybe some might have been for him given more time to enter into that debate. But that didn't happen, and I wasn't involved in scheduling the vote.

But my point is I didn't feel as though he was ambushed. I do say what was unique was that during my 20 years in the Congress, this is the only time I can remember national law enforcement agencies coming up and saying vote against this person, which is what they did in contacting Members of the Senate. I think that is the reason Judge White went down.

Be that as it may, there are lots of other issues dealing with John Ashcroft.

Again, I think John Ashcroft is one outstanding individual who is more than qualified to be Attorney General of the United States. And I am absolutely confident that when he is confirmed, we will look back and say he is an outstanding Attorney General for the United States of America.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, just so the RECORD is straight on law enforcement officers, it is interesting that there was no contact of anybody on this side. Senator Ashcroft said the reason he stopped Judge White was because of that urging of law enforcement groups. But then subsequently, press reports and then the reports by the law enforcement officials themselves and Senator Ashcroft's own testimony at his hearing contradicted that; that he had instigated and orchestrated the groups' opposition to Ronnie White. I am not suggesting Ronnie White was defeated because he was an African American, but it would be hard for anybody not to know he was insofar as that was mentioned at great length in the debate the day before and the debate just before the vote by those who were on the floor debating it.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the time until 10:45 a.m. shall be under the control of the Senator from Connecticut, Mr. LIEBERMAN. He is so recognized.

Mr. LIEBERMAN. I thank the Chair.

Mr. President, I have known John Ashcroft for almost 40 years, as a college classmate, a fellow State attorney general and a colleague in the Senate. Throughout that time, our views on important issues very often have diverged, but I have never had reason to doubt his sincerity or his integrity. It strikes me in this regard that the often-noted and sometimes derided notion that Senators judge their colleagues more leniently than outsiders misses an important point. It is not that we reflexively defer to our former colleagues. It is instead that we as human beings find it tremendously difficult to pass judgment on those we have worked with and know well. And it is because I have known Senator Ashcroft for so long that I find the conclusion I have reached—which is to oppose his nomination—so awkward and uncomfortable. But that is where my review of the record regarding this nomination and my understanding of the Senate's responsibility under the advice and consent clause lead me.

Throughout my tenure in the Senate, I have voted on hundreds of Presidential nominees. In each case, I have adhered to a broadly deferential standard of review. As I explained in my first speech on the Senate floor—in which I offered my reasons for opposing the nomination of John Tower to serve as Defense Secretary—the history of the debates at the Constitution Convention make clear that the President is entitled to the benefit of the doubt in his appointments. The question, I concluded, I should ask myself in considering nominees is not whether I would have chosen the nominee, but rather whether the President's choice is acceptable for the job in question.

That does not mean that the Senate should serve merely as a rubber stamp. Were that the case, the Framers would have given the Senate no role in the appointments process. Instead, the Senate's constitutional advice and consent mandate obliges it to serve as a check on the President's appointment power. As I put it in my statement on Senator Tower's nomination, I believe this requires Senators to consider several things: First, the knowledge, experience, and qualifications of the nominee for the position; second, the nominee's judgment, as evidenced by his conduct and decisions, as well as his personal behavior; and third, the nominee's ethics, including current or prior conflicts of interest. In unusual circumstances, Senators can also consider fundamental and potentially irreconcilable policy differences between the nominee and the mission of the agency he or she is to serve.

On a few occasions during my 12 years in the Senate, I have determined that the views of certain nominees—on both ends of the political spectrum—fell sufficiently outside the mainstream to compel me to oppose their nominations. In each case, I had serious doubts about whether they could credibly carry out the duties of the office to which they were nominated. In 1993, for example, I voted against President Clinton's nominee to head the National Endowment for the Humanities because I believed that his active support of so-called college speech codes cast doubt on his ability to administer the NEH appropriately. That same year, I expressed opposition to another of President Clinton's nominees—his choice to head the Justice Department's Civil Rights Division—because I feared that her writings and speeches demonstrated an ideological vision of what the voting rights laws should be that was so far from what they had been that I was reluctant to put her in charge of enforcing those laws, regardless of whether or not she had pledged to abide by the law as it existed.

In 1999, just last year, I concluded that a nominee to the Federal Election Commission held views on the nation's campaign finance laws that were so inconsistent with the FEC's mission that I could not in good conscience vote to place him in a position of authority over that agency. And just this week I reached a similar conclusion with respect to President Bush's nominee to lead the Interior Department.

In short, although I believe that the Constitution casts the Senate's advice role as a limited one and counsels Senators to be cautious in withholding their consent, I nevertheless have opposed nominees where their policy positions, statements, or actions made me question whether they would be able to administer the agency they had been nominated to head in a credible and adequate manner. Regretfully, I conclude that such a determination is again warranted on this critically important nomination—because of the record of the nominee and because of the position for which he has been nominated.

The Justice Department occupies a unique role in the structure of the Federal Government. As its mission statement declares, the Justice Department exists ''to ensure fair and impartial administration of justice for all Americans.'' No other agency every day and every hour makes decisions about how and on whom to bring to bear the force of the criminal and civil law, making countless decisions not only on whom to prosecute or sue, but also on how harsh a sentence to seek and even on who—in the name of the people of the United States—should face death as punishment for their actions. No other agency has such broad and sweeping authority to take away our citizens' life, liberty or property—an authority we as Americans accept because no other agency has more consistently sought to exemplify the rule of law and the abiding American aspiration of equal justice for all. No other official of the United States government bears as great a responsibility as does the Attorney General for protecting and enforcing the rights of the vulnerable and disenfranchised in our society. If we are to sustain popular trust in the law, which is so important for ''domestic tranquility,'' it is absolutely critical that the Department which is charged with enforcing the law not only be administered according to law, but also that the great majority of Americans have confidence in the fairness and integrity of its leadership.

Unfortunately, Senator Ashcroft's past statements and actions have given understandable suspicions to many citizens—particularly some of those whose rights are most at risk—that he will not lead the Department in a manner that will protect them. Others have detailed his record so extensively that I need not do so again. Suffice it to say that on issues ranging from civil rights to privacy rights, Senator Ashcroft has repeatedly taken positions considerably outside of the mainstream of American thinking.

When given the opportunity to consider laws as Missouri's Governor and enforce them as Missouri's attorney general, he took actions that today raise serious questions among many in this country about his commitment to equal justice and opportunity. In speeches and articles, he has spoken and written words that have particularly led many in the African-American community to question his sensitivity to their rights and concerns. And, when acting on nominees in the Senate—including Judge Ronnie White and Ambassador James Hormel—he has made statements that have raised sincere questions in the minds of many about whether he will make fair and appropriate decisions regarding groups of Americans that have frequently been victimized by discrimination.

The cumulative weight of these words and deeds leaves me with sufficient doubt about Senator Ashcroft's ability to appropriately carry out—and be perceived as appropriately carrying

out—the manifold duties of Attorney General, so that I have decided not to support his nomination.

Before yielding the floor, I would like to comment on one more issue that has come up during the consideration of this particular nomination: Senator Ashcroft's religious beliefs and his public profession of his faith. During the time since the President nominated Senator Ashcroft, many have argued—too often privately—that Senator Ashcroft's deeply held beliefs and his religious practices somehow cast suspicion on his ability to serve as Attorney General. I emphatically reject—and am confident my colleagues will reject—any suggestion that Senator Ashcroft's religious beliefs bear in any manner at all on the consideration of his nomination.

All across this nation, tens of millions of Americans of a multitude of faiths daily and weekly make professions of faith privately and publically that elevate, order and give purpose to their lives. To suggest that all of us who believe with a steadfast faith in a Supreme Being as the Universe's ultimate Sovereign have an obligation to mute one of our faith's central elements if we wish to serve in government is not to advance the separation of church and state, but instead to erect a barrier to public service by Americans of faith which is totally unacceptable. To consider the private religious practices of a nominee or a candidate for public office which are different from most—whether Pentecostal Christian, Orthodox Jewish, Shia Muslim, or any other faith—as a limitation on that person's capacity to hold that office is profoundly unfair. It is wrong.

Nowhere in the first amendment or anywhere else in the Constitution or in the jurisprudence surrounding them is there any suggestion that of all the values systems that those in public life are permitted to draw upon to inform their views and their actions, religion stands alone as being off limits. Let us remember that the Constitution and the Bill of Rights were drafted by people of faith whose belief in the Creator was the direct source of the rights with which they endowed us and which we enjoy to this day. To suggest that one may justify his or her views on abortion, environmental protection, or any other issue with reference to a system of secular values, but not by drawing upon a tradition of religious beliefs, seems to me to be at odds not only with the freedom of religion and expression enshrined in the first amendment, but also with the daily experience of the vast majority of our fellow citizens. The first amendment tells us that we may not impose our religion on others. It most decidedly does not say that we may not ourselves use our religion to inform our public and private statements and positions.

It is Senator Ashcroft's record, not his religion, that we should judge. I admire Senator Ashcroft for his private and public adherence to his faith, but for the reasons stated above, based on his record, I will vote against his confirmation.

Mr. LEAHY. I ask unanimous consent that I be able to continue for 1 minute.

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

Mr. LEAHY. Mr. President, while the distinguished Senator from Connecticut is on the floor, I appreciate the last part of his remarks. I will speak more about it later today.

I am concerned that there has somehow been this strawman put up as though there is a religious test. As I and others stated at the beginning of these hearings and as I stated on the floor, one of the things I admire most about Senator Ashcroft is his commitment to his family, his commitment to his religion. As practically everybody has pointed out, whether we are for or against him as Attorney General, these are two things we have admired the most: his commitment to his family and his commitment to his religion. There should be no doubt about that in the public's mind.

The PRESIDING OFFICER. The Chair recognizes that under the previous order the time until 11 a.m. shall be under the control of the majority party. We have gone over by 10 minutes, so the Senator is recognized for 10 minutes. If the Senator's remarks are 15 minutes in length, he can ask unanimous consent for that time.

The Senator from Alabama is recognized.

Mr. SHELBY. Mr. President, thank you for your courtesy.

Over the past 8 years, I believe our Justice Department has floundered dangerously, challenging our most basic understanding of the rule of law and starkly reminding us in America of the awesome power of the Federal Government and the dangers that the exercise of that power can present to a free society such as ours. I believe public confidence in our system of justice has been seriously damaged in the past 8 years and that our country has suffered as a consequence.

I believe it is time to restore the public trust, and I do not believe there is a better qualified or more honorable man to do that job than Senator John Ashcroft, our former colleague. Indeed, he is one of the most, if not the most, experienced nominees for Attorney General we have ever had in our history. He is one of the best educated, most experienced nominees for Attorney General I have seen in my 23 years in Washington.

What is most outstanding about Senator Ashcroft is not his resume, although we could go on and on and on about that. It is not his strong record of leadership as the attorney general of his State of Missouri and his leadership as the Governor of the State of Missouri. No, it is not his impressive legislative accomplishments in the Senate.

I submit what is most outstanding about John Ashcroft is his character. It is the strength of that character that makes him so well suited to be Attorney General of the United States. His principles and his integrity underscore the kind of leadership the Justice Department so desperately needs and the American people so rightly deserve in an Attorney General.

John Ashcroft's conscience and his conviction ensure rather than question his commitment to enforce the laws of our land fairly and impartially. I do not believe even for a moment that Senator Ashcroft's most fierce opponents truly believe he will not endeavor to enforce our laws faithfully. While his conservatism threatens them, their real fear, I believe, is that he will enforce the law without prejudice, that he will be uniform in his application. This is because their greatest ideal, I believe, is to use the Justice Department as a tool to advance the political and social agenda of America by selectively enforcing laws with which they agree and ignoring those with which they disagree.

John Ashcroft, I submit to you, is not going to do that. As a man who respects the rule of law and the importance of the public trust in our justice system, I have no doubt that he will enforce the laws of the land rather than creatively interpret them, twist or contort them to match his personal beliefs.

I am pleased to support the nomination of John Ashcroft to be the Attorney General of the United States. I sincerely believe he will honor the office of Attorney General and he will restore integrity to the Justice Department. I look forward to his confirmation later today by the Senate and his future service to the United States of America.

The PRESIDING OFFICER. The Senator from Alaska, Mr. MURKOWSKI.

Mr. MURKOWSKI. Mr. President, I trust the debate is moving along toward a successful vote here in the not too distant future.

I rise today to emphatically support the nomination of John Ashcroft to become the next Attorney General of the United States. He has served our Nation with distinction and with honor. I do not take lightly my senatorial duties to review the qualifications of any nominee for this office. The Attorney General is the Nation's highest law enforcement officer, and without the strong and faithful execution of the laws we pass, representative democracy shall fail. Our laws become mere words. It is with this understanding, and a high personal regard for the office, that I support John Ashcroft's nomination.

It has become clear to me and others, after following the unusually personal debate on this nomination, that no one can question John's qualifications to perform the duties of this job. In fact, I believe one would be hard-pressed to find a more qualified, experienced nominee. John has served with distinction, as has been noted and stated, as attorney general, as Governor, and as

U.S. Senator in this body. Not once during his long and successful tenure as a public servant has he ever failed to uphold an oath of office.

Think about that. We have had some experience in debating the merits of the oath of office and just what it means. I think to all of us it is a very sacred oath, a very meaningful oath, and one that should be reflected on. John has never failed to uphold his oath of office in any capacity. I know John Ashcroft does not plan on starting now.

Unfortunately, this nomination process has done a grave disservice to a very decent and honorable man. We as legislators often disagree on policy. I am sure I have disagreed with John on some issues. But our actions as legislators are guided by our own personal convictions. We must vote our conscience and represent the people who graced us with their votes.

But we are not here to elect a legislator. Rather, we deal with the office of the Attorney General of the United States. This is not John Ashcroft the Senator but, rather, John Ashcroft the Attorney General. Like all of us who have served in different roles throughout our lives, I know John fully understands his position in government.

John will faithfully enforce our Nation's laws without a hint of personal bias or a hidden agenda. He will uphold the rule of law for all Americans, enforcing laws as they are enacted by the Congress. At the end of the day and at the end of this debate, my vote will be cast in favor of this nomination for one simple reason: John Ashcroft is a man of his word. I have yet to hear anyone demonstrate in this debate that he is not.

John has clearly stated numerous times that he will not allow his personal beliefs to interfere with his ability to enforce the law. I believe him. Throughout his long and successful career, he has never, never given anyone a reason to doubt his word. I thank John for his willingness to further serve our Nation and his willingness to withstand the numerous unjustified personal attacks that have been made on him. My thanks will be expressed in my vote in favor of the nomination. I encourage my fellow Senators to do the same.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the time until 11:10 a.m. shall be under the control of the Senator from North Carolina, Mr. EDWARDS. The Senator from North Carolina is recognized.

Mr. EDWARDS. I thank the Chair.

Mr. President, the Nation is emerging from an extraordinarily close election that has left much of the country feeling divided. It is a time when all of us have an enormous responsibility to unite our country. In order to unite this country, we have to turn to leaders who inspire confidence and bring us together. In my judgment, with the nomination of Senator Ashcroft, President Bush has fallen short of that goal.

Why has he fallen short? Because in a time when our country desperately needs a unifier, the President has nominated a man to be the chief law enforcement officer of the country—the people's lawyer, the lawyer for all the people—who has a long record of divisive and inflammatory rhetoric which results in him being viewed as a polarizing figure.

There are some folks who argue that his positions are just the result of very deeply held beliefs. Some people believe his positions are extreme. In the end, the one thing that is certain is that he is, in the view of many Americans, a polarizing and divisive figure.

Senator Ashcroft opposed the nomination of Ronnie White, a very well-respected African American justice on the Missouri Supreme Court, for what at least appeared to be simply political reasons. In opposing the nomination of Justice White, Senator Ashcroft used words and language that not only were inflammatory but showed a fundamental disrespect for a man who had lifted himself out of poverty, worked his entire life to become a justice on the Missouri Supreme Court, and committed his professional life to the fair administration of justice.

It is not unfair for some Americans to question whether Senator Ashcroft can adequately represent their public interests given his history.

Some argue that Senator Ashcroft, in fact, has given his word that he will follow the law and enforce the law. The problem is that the realities of the Justice Department are that there are daily choices the Attorney General will be required to make. He will be required to decide which laws will be vigorously enforced and which laws will be defended from attack.

Senator Ashcroft has spoken very eloquently about the reasons he pursued certain cases while he was attorney general of Missouri and why he challenged certain laws and legislation. Whether you agree or disagree with what Senator Ashcroft did as attorney general of Missouri, you can count on the fact that those same situations can and will arise, in fact, during the term of the next Attorney General of the United States.

The Attorney General will be required to make daily decisions, discretionary decisions, that are critical to the lives of very many Americans. Again, it is not unfair for some Americans to question whether Senator Ashcroft, even keeping his word, which he has given us, will make decisions that will adequately represent and protect them given his prior statements and actions. The question is whether he will, in fact, be all the people's lawyer, as he has a responsibility to be.

The post of the Attorney General is very different from other Cabinet posts. The Attorney General advises the President about the constitutionality of the legislation he is being asked to sign. He makes recommendations to the President about judicial nominations. As I already discussed and as others have discussed, Senator Ashcroft's history does not support the notion that he will recommend candidates for nomination to the Federal bench solely on the basis of their qualifications and abilities to serve.

It is critical to note that the Attorney General is not the President's lawyer, he is the people's lawyer. He represents our Nation before the U.S. Supreme Court. Senator Ashcroft once called a U.S. Supreme Court decision ''illegitimate.'' Again, such statements show a fundamental disrespect for the rule of law which we believe is so critical in this country. When our U.S. Supreme Court speaks, whether we agree or disagree with them, they are the final word and they are the law of the land.

It is very important to recognize also that the vast majority of the decisions that will be made by our Attorney General over the next four years will be difficult judgments made behind closed doors and under the national radar screen, outside the television cameras. When so many Americans believe that when the doors are closed and the lights and the cameras are off, Senator Ashcroft will not protect their interests, our responsibility is to do what is best for the country. The people have to believe that the Attorney General is the people's lawyer and that he will serve all Americans.

Some of Senator Ashcroft's supporters suggest that the opposition to him is about his religion and about his faith. I want to make clear that I think strong faith is an enormous asset in any public servant. In fact, personal touchstones of faith and morality are critical to providing leadership and governance in this country.

I served with Senator Ashcroft in the Senate. I know him, and I absolutely believe his strong faith is deep and sincere. I applaud and, in many ways, share the strength of his religious conviction and his religious faith. It is certainly not because of his faith that I reach the decision I do today. In fact, it is in spite of it.

In conclusion, at a time when our Nation desperately needs unifying leaders, Senator Ashcroft is the wrong man for the wrong job at the wrong time. So it is with deep regret that I will not be able to support the nomination of Senator Ashcroft.

I yield back the remainder of my time.

(Disturbance in the galleries.)

The PRESIDING OFFICER (Mr. ALLARD). There will be order in the galleries.

The Chair recognizes the Senator from Texas, Mr. GRAMM.

Mr. GRAMM. Mr. President, I have to say that as I listen to this organized campaign against John Ashcroft, I sometimes wonder if there is not an effort to make the love of traditional values a hate crime in America.

Fifty years ago, a person who set out to engage in public service might unfairly be criticized for not being a

member of a church or not professing religion, but who would have thought 50 years later that a man would be mocked for holding a deeply held faith? Who would have thought 50 years later that calling on the Almighty to help you fulfill trusts that were given to you by your State and your Nation would be held up to ridicule?

The plain truth is, we may have ''In God We Trust'' on our coins, but we do not have it in our heart.

As I have looked at this caricature that has been created, that his opponents claim is John Ashcroft, this is not the man I know. This is not the man with whom I have worked for 6 years. This is not the man whose son attended college with my son. This is not the man who, in public or private in 6 years, I never heard say a mean word against anyone. This is not the man who, remarkably, in my opinion, can express himself without ever using profanity.

I hear him criticized for opposing judges with no good reason, and yet in the case of Judge White he was opposed by 77 sheriffs in the State. He was opposed by both Senators, and he was opposed and rejected by the Senate on an up-or-down vote.

In short, when I look at all of these criticisms, and when I weigh them against the bottom line facts, there is no basis for them at all.

I thank JON KYL and I thank JEFF SESSIONS for the excellent job they have done in putting out the facts.

A person who fits the ugly caricature that has been presented here in the Senate and around the country could not be the John Ashcroft I know.

A person who fit that ugly caricature could not have been elected Attorney General twice in the State of Missouri. A person fitting that caricature would not have been chosen by his fellow attorneys general to be the president of the National Association of Attorneys General. A person who fit the ugly caricature presented here could not have been elected Governor of Missouri twice, and would not and could not have been chosen by his 49 fellow Governors to head the National Governors' Association.

I know George Bush. I have a pretty good idea what is in his mind and in his heart. And a person who met this ugly caricature that we hear could not and would not have been nominated by George Bush. The plain truth is that John Ashcroft is probably the most qualified person ever to be appointed Attorney General.

I want to conclude with this thought. I am beginning to wonder if this was all an effort to smear and defeat John Ashcroft or whether this was an effort to cow John Ashcroft; whether this is an effort by those who lost the election, who hold views that are alien to the views of most Americans, to try, through smearing John Ashcroft, to cow him in office, and in the process prevent him from carrying out George Bush's agenda. I want to say I vote for John Ashcroft with the happy knowledge that that effort will fail.

I yield the floor.

The PRESIDING OFFICER. The Senator's time does not expire until 11:15. Does he wish to yield that time?

Mr. GRAMM. I yield that time to my dear colleague.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, I rise today in support of John Ashcroft. It will not take me long to make my point.

Although I represent the State of Montana, I was raised in the State of Missouri on a small farm, and I understand some of the mindset that is in that State. My mother and father both were active in the Democratic Party. Mom was in the State Democratic Committee in that State and was county chairman. She often wondered what happened to me, but I tried to explain to her about it one time: When you see the outside world, maybe your philosophy changes just a little bit.

I have heard nothing but those who would have reservations about John Ashcroft enforcing the law. It would seem to me, after two terms as attorney general in the State of Missouri, two terms as Governor, and 6 years in the U.S. Senate, it would surface somewhere that he would not.

I thank Senator KYL and Senator SESSIONS for the research they have done. I have talked to some of the law enforcement people in Missouri and have done some research in my own home State of Montana. What I have found is that we couldn't have chosen a better man to represent this country in the halls of the Attorney General. I shall support him—and support him wholeheartedly—because we have a man of substance and of fiber.

I thank my good friend from Texas for yielding some of his time. I also thank my good friend, Senator WELLSTONE from Minnesota, for yielding some of his time he has reserved and allowing me to go at this time.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the time until 11:45 shall be under the control of the Senator from Minnesota, Mr. WELLSTONE.

The Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, I have voted for any number of the President's nominees to serve in our Cabinet, even though I am 100-percent sure I am going to be in disagreement with them on some of the really major public policy questions that face our country.

It is very rare that a Cabinet nominee is defeated by the Senate. It does not happen very often. There is a presumption that the President should be allowed to choose his or her people to serve in the Cabinet. In addition, I do know Senator Ashcroft. I respect his religious convictions. I have had personal interaction with him, which I have enjoyed. And if he is confirmed, I will wish him the very best because he will be Attorney General for our country.

But there is also a set of other questions that are important to me as a Senator from Minnesota. To be the Attorney General, and to head the Justice Department, is to be the lawyer for all the people in the country.

I had a great man who worked for me here who passed away from cancer this last year, Mike Epstein. When I first met Mike, he said to me: I have been in Washington for 30 years, but I still believe in changing the world. I hope we can work together.

He came to the Justice Department and worked with Bobby Kennedy, dealing with enforcement of the Civil Rights Act; the Justice Department, dealing with enforcement of the Voting Rights Act.

Colleagues, in Minnesota, when we were celebrating the life of Dr. Martin Luther King, Jr., I was speaking at a gathering. I didn't expect the reaction. I remember a book Dr. King wrote called ''Where Do We Go From Here: Chaos or Community?'' I had this cadence where I said: We have a long ways to go. And in the cadence, I said: We have a long ways to go when people of color are pulled along the side of the road on their way to vote because they are people of color.

I could not believe the reaction of the African American community, the Latino community, the Southeast Asian community, and the Native American community. They know that what happened in Florida was wrong. Something went wrong there. And they are very mindful of voting rights, the hate crimes legislation, the Violence Against Women Act, the Church Arson Act.

The Attorney General is the person who advises the President on judicial appointments, whether it be to a Federal district court, the court of appeals, or the U.S. Supreme Court. I do not honestly believe John Ashcroft is the right person to be Attorney General for our country.

Some of my colleagues on the other side of the aisle—I just heard this as I came in, getting ready to speak—have labeled disagreement with this choice and questions that have been raised—I am going to raise civil rights questions; this is my background; this is my life—as a personal attack on John Ashcroft. I don't see it that way.

In fact, I said to John on the telephone: I never will savage you. I don't believe in it. I hate it. Some of my colleagues have spoken on the floor with a considerable amount of eloquence about that.

But my baptism to politics was the civil rights movement. I learned from men and women of color—many of them young, and many of them old, and hardly any of them famous, though they should be famous—about the importance of civil rights and human rights. This is the framework I bring to the Senate. This is why I am going to vote no.

I don't agree with some of the positions Senator Ashcroft took as a Senator, but that is not the basis of my vote.

Some of his views on abortion, to make abortion a crime even in the case of rape and incest, are extreme and harsh. I once said in a TV debate that John Ashcroft gives me cognitive dissonance because I like him as a person and I don't understand how a person whom I like can hold, sometimes, such harsh views. I don't agree with his position on abortion. I don't agree with some of his other positions.

It is not his voting record. Without trying to be self-righteous on the floor of the Senate or melodramatic, I have spent hardly any time with groups or organizations except at the beginning when people came by and I said: Please give me everything to read and let me think this through myself.

I am troubled by the statements made by John Ashcroft and his role in blatantly distorting the record of Judge White. I am going to say ''blatantly distorting the record'' because I think that is what happened. The evidence is compelling. We heard from Judge White about that as well. To call him a pro-criminal judge on the basis of the decisions he had rendered—I don't want to say it was ''extraordinary''—crossed a line. I have a right as a Senator to say, if John Ashcroft, as Attorney General, with the key position he would be playing in terms of judges and the Federal judiciary, is going to use the same standard and the same methodology he used to oppose Justice White, then a lot of justices, a lot of men and women who could serve our country in the Federal judiciary, will never make it. That is one of the reasons I oppose this nomination.

The question was put to John Ashcroft in the committee about his opposition to Jim Hormel: Did he oppose Jim Hormel because he was gay? Senator Ashcroft stated that ''the totality of circumstances suggested that Mr. Hormel would not make a good ambassador.'' What made up that totality? Senator Ashcroft didn't attend Mr. Hormel's hearings. He refused to meet with Mr. Hormel. He never returned any of Mr. Hormel's calls. And in the hearing, John Ashcroft suggested or stated that Mr. Hormel ''recruited him'' to the University of Chicago School of Law. But Mr. Hormel says: I don't ever recall recruiting anybody for the University of Chicago. And he can't remember a single conversation with John Ashcroft over the past 30-some years.

John Ashcroft also told us, in the battle over the nomination, that Mr. Hormel, by simply being an openly gay man who is also a civic leader, has ''been a leader in promoting a lifestyle, and the kind of leadership he has exhibited there is likely to be offensive to individuals in the setting in which he is assigned,'' suggesting that Luxembourg, as a Catholic nation, would find it difficult to receive him.

The evidence is that Luxembourg openly embraced him. He was a great Ambassador. It is also a questionable assumption, because it is a Catholic country, that Catholics would not embrace a person, would not judge a person by the content of his character.

I want to be clear that as a Senator, as I think about who should head the Justice Department and who should be the Attorney General and I think about my own life, when I was teaching, I used to insist that students answer the following question: Why do you think about politics the way you think about politics? Then I never graded their answer. I just wanted them to think about what really shaped their viewpoint. I have been thinking a lot about that in relation to this debate. There are sets of facts and different versions of truth and all the rest.

What shapes my viewpoint? I am a product of the civil rights movement. I am not a hero like JOHN LEWIS, but I helped. Men and women in the civil rights movement were my teachers. This is a civil rights vote. This is a human rights vote.

I know that John and his supporters will say: Judge us by what is in our heart. For people across the country, people of color, people who have a different sexual orientation, they judge you by your actions. They judge you by what you have said. And I believe the Justice Department has to be all about justice. I don't think John Ashcroft is the right person to head this Justice Department.

It is not any one thing. I will be honest. I will admit a bias. I don't have a great feeling for Bob Jones University. As long as we are talking about race, they banned dating between students of different races and continue to have a policy that states that gay alumni—yes, former students—should be arrested for trespassing when they step foot on the grounds of their alma mater. I don't have a good feeling for this school. I am speaking within the civil rights and human rights framework. I don't know why John Ashcroft accepted an honorary degree. I don't know why you would want to honor such a school. I don't know why you wouldn't want to renounce all of those policies.

It is just one piece of evidence, and I know John has made it clear that he disagrees with some of what the school is about.

I don't understand the interview with Southern Partisan magazine. I find it to be bizarre. This is a magazine which goes out of its way not to promote racial reconciliation or healing but just the opposite. I don't understand John Ashcroft's animus toward Ron White or toward Jim Hormel. If it wasn't that, then it probably was some form of political opportunism. I certainly don't understand the association with Southern Partisan magazine and not even being willing to renounce this magazine or acknowledge his error in doing the interview at the recent hearings.

I don't know why he refused to sign the pledge that his office would not discriminate in its employment practices based on sexual orientation. It is his first amendment right. The point is, we are talking about somebody to head up the Justice Department.

I consider this to be a civil rights vote and a human rights vote. That is why I am voting no. Despite what John Ashcroft said during the hearings about his limited role in the State of Missouri on any number of legal cases dealing with civil rights and human rights, I will discuss his role in opposing what was a voluntary desegregation order. I will highlight the testimony of one who knows John Ashcroft's record in this area best, Bill Taylor. I will highlight Bill Taylor's testimony because I consider him to be a giant. I am proud to say he is one of my teachers. He is a real hero. He is one of those who joined Thurgood Marshall's team in the years just after the Brown decision to work for full implementation of Brown v. Board of Education.

Over two decades, he served as the lead counsel for a class of parents and students in the St. Louis case. During the most active part of that time, John Ashcroft was attorney general and Governor of Missouri. Listen to the words of Bill Taylor in his testimony before the Judiciary Committee:

> I have thought seriously since this nomination about whether Mr. Ashcroft's conduct in the St. Louis case was simply that of a lawyer vigorously defending the interests of the State or whether some of his actions went over the line of strong advocacy and reflect on his qualifications to serve as Attorney General of the United States. My conclusion is that the latter is the case. I believe that in his tenure as Attorney General, Mr. Ashcroft used the court system to delay and obstruct the development and implementation of a desegregation settlement that was agreed to by all major parties except the State.
>
> In so doing, he sought to prevent measures that were a major step toward racial reconciliation in an area where there has been much conflict, and to thwart a remedy that ultimately proved to be a very important vehicle for educational progress. John Ashcroft massively resisted this desegregation effort.

I think the most troubling aspect of the Missouri school desegregation issue, to me, is that John Ashcroft consistently used his fervent opposition to the Federal judge's desegregation order as a political issue in the campaign.

I want to be real clear about it because I am not going to get into any pitched, acrimonious battle with anyone here on the floor of the Senate. But the fact that I talk about his resistance to this voluntary desegregation case is that I am so troubled by the ways in which he went after Justice White; the fact that I talk about Bob Jones University and Southern Partisan magazine is not because I am interested in any personal attack. I already said I don't understand how it is that a person I like so much personally can hold such harsh views. But he is the lawyer for all the people of the

United States of America if he is Attorney General. He will head up the Justice Department. This is the Voting Rights Act. This is the Civil Rights Act. This is the Violence Against Women Act. This is all about whether or not you can have a man or a woman—in this particular case a man—who will head the Justice Department and will lead our country down the path of racial reconciliation.

We have a huge divide in the United State of America on the central question of race. We have a question before us as to whether or not we have a man who can lead the Justice Department for justice for all people and who will be a leader when it comes to basic human rights questions. He is not the right choice.

I thank the Judiciary Committee, Democrats and Republicans alike, for the way in which they conducted the hearings.

I say to John Ashcroft, whom I am sure is viewing this debate and listening to all of us, that if confirmed, again, I wish him the very best. He will be the Attorney General for all of us in our country. But I also would like to say, to me, this is, in my 10½ years in the Senate, as close as I can remember coming to a basic civil rights vote, a basic human rights vote, and I cannot support John Ashcroft to be Attorney General and to head the Justice Department; not on the basis of everything I believe in about civil rights and human rights; not on the basis of the younger years of my life; not on the basis of being a United States Senator from the State of Minnesota who had Senator Hubert Humphrey, who gave one of the greatest civil rights speeches ever at the 1948 Democratic Party Convention.

I am in a State which is a civil rights State. I am from a State which is a human rights State which passed an ordnance that said there shall be no discrimination against people, not only by race but sexual orientation, for housing, employment—across the board. Therefore, I vote the tradition of my State; I vote my own life's work ''no'' to this nomination.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent that Senator LEAHY's 15 minutes be given to Senator KENNEDY, the Senator from Massachusetts; 7½ minutes to the Senator from Indiana, Mr. BAYH; and 7½ minutes to the Senator from New York, Mr. SCHUMER; and that Senator DASCHLE's time from 12:45 until 1:15 be given to Senator LEAHY.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. REID. Mr. President, I ask that the following editorials and materials regarding the nomination of John Ashcroft be printed in the RECORD.

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

[From the Courier-Journal, Dec. 28, 2000]

THE JOKER IN THE DECK

We know that George W. Bush would have to appease the Republican Party's ultra-right-wing.

By nominating John Ashcroft for attorney general, Bush has delivered, big-time. The booby prize goes to the civil rights and human rights communities.

Though Ashcroft's a Missouri Republican—he was attorney general, governor and most recently U.S. Senator—he's a good ol' boy in the old South tradition.

''With the possible exception of Sen. Jesse Helms, I do not believe anyone in the United States Senate has a more abysmal record on civil rights and civil liberties'' said Ralph Neas, president of People for the American Way.

Why, Ashcroft was given an honorary degree by the notorious Bob Jones University, the South Carolina school that until recently banned interracial dating.

Meanwhile, graycoats still fighting the Civil War (see Tony Horowitz's book, Confederates in the Attic) must have been glad to read the interview in which Ashcroft delivered a strong defense of Southern ''patriots'' like Robert E. Lee, Jefferson Davis and Stonewall Jackson.

Does he defend slavery, too?

It's scary that this sort of rhetoric fell so recently from the lips of one who, as attorney general, will oversee the FBI, the Immigration and Naturalization Services, the Drug Enforcement Administration and federal prisons, prosecutors and marshals. The attorney general is often instrumental in the selection of federal judges as well.

Wade Henderson, director of the Leadership Conference on Civil Rights, likened Ashcroft's nomination as ''political three card monte.''

That's a card game often played by hustlers who scoop up the dollars of suckers convinced that they can pick the right card from among three that the cardsharks shuffle around.

In other words, while many were starting to warm up to Bush with his nominations of retired Gen. Colin Powell and Condoleezza Rice as secretary of State and national security advisor, respectively, the real joker in the deck is Ashcroft.

''The issue is not whether a senator will vote against Ashcroft's nomination,'' Henderson said. ''The question is whether the Judiciary Committee will conduct a full and fair confirmation hearing that will allow Ashcroft's complete record and philosophy to be presented to the American people.''

There already are clues as to what Ashcroft's tenure at the Justice Department could mean.

For example, he opposed President Clinton's nomination of Bill Lann Lee to head the Justice Department's civil rights division. He opposed, unsuccessfully, David Satcher's appointment as Surgeon General.

In fact, Ashcroft opposed several of President Clinton's black nominees, especially for the federal bench. He spent two years killing Ronnie White's reputation and elevation to federal judge.

Ashcroft claimed that White, the first black on Missouri's Supreme Court, was more committed to criminals than to victims. In fact, in more than 40 of 58 death penalty cases, White upheld the sentence, and when he didn't he often was joined by judges Ashcroft appointed when he was governor.

We also know that Ashcroft is committed to the death penalty, and is aggressively opposed to the right of choice in women's decisions about pregnancy.

Kate Michelman, of the National Abortion and Reproductive Rights Action League, notes that Ashcroft voted 42 times in the Senate to restrict abortion, and he co-sponsored a bill to outlaw abortion, even in cases of rape and incest.

Ashcroft often received 100 percent ratings from the American Conservative Union, and zero, or near zero, ratings from civil rights and environmental groups. ''Bush is playing a very sophisticated game of politics and manipulation,'' said Henderson, who noted that, in the federal hierarchy, the attorney general is the crown jewel of the social justice movement.

By nominating Ashcroft, Henderson said, the President-elect is showing contempt, ''not unlike the contempt his father showed in an equally important position, the U.S. Supreme Court.'' Under the guise of bringing the best and the brightest, he named Clarence Thomas.

''It's a cruel mockery that speaks volumes about that administration's character and integrity,'' Henderson said.

With Ashcroft's history, unless there's an epiphany, I wonder whether he will be able to transcend his own beliefs to enforce the laws of the land—whether he likes them or not.

With Ashcroft, George W. Bush confirms many African Americans' worst fears. Moreover, Bush must be listening to those who say he mustn't betray an important GOP base in the name of bipartisanship.

Just forget about healing wounds; act like you've got a mandate, Dubya.

For this liberal, the best thing about John Ashcroft's nomination is its potential to bring even more blacks and minorities to the polls in 2002.

[From the St. Louis Post-Dispatcher, Dec. 24, 2000]

MR. ASHCROFT AND EQUALITY

There is a case to be made that the Senate should confirm John Ashcroft as attorney general. He has a distinguished record of honest and effective public service. He is a smart lawyer who was a strong state attorney general. And the Senate should give some deference to a new president's Cabinet choices.

In addition, Mr. Ashcroft has the institutional tradition of senatorial courtesy on his side. He served in the club and fellow senators will be reluctant to treat him badly.

Nevertheless, the Senate should set aside its sensibilities and scrutinize Mr. Ashcroft's record as it relates to the job of attorney general. In particular, it should investigate Mr. Ashcroft's opposition to civil rights, women's rights, abortion rights and to judicial nominees with whom he disagrees.

The Ashcroft choice is at odds with President-elect George W. Bush's image as a uniter. When Mr. Ashcroft was running for president in 1998, he said: ''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.'' So much for compassionate conservatism and bipartisanship.

It would be an exaggeration to say Mr. Ashcroft is a racist. It would be an exaggeration to say Mr. Ashcroft is a racist. He recalls that his father, a noted evangelist, urged him as a boy to read Richard Wright's account of the trials of a black youth in ''Black Boy.'' Africans, whom his father had met on church travels, stayed at the family home in segregated Springfield, Mo.

But Mr. Ashcroft has built a career out of opposing school desegregation in St. Louis and opposing African-Americans for public office. As attorney general in the 1980s he lobbied White House counselor Edwin Meese III to help persuade the Reagan Justice Department to switch sides and oppose a broad

school desegregation plan in St. Louis. He eventually succeeded.

In the early stages of negotiating the voluntary city-county school desegregation plan in St. Louis, Mr. Ashcroft's office had actually taken a positive role. But Mr. Ashcroft ended up opposing the plan because the state had to pay for it and because he considered it an example of judicial excess. He told the U.S. Supreme Court that he had ''little doubt'' that ''a minority'' would be treated better in court than the state.

Mr. Ashcroft's really inexcusable act was riding his opposition to the St. Louis desegregation plan into the governor's mansion. His so-called ''McFlip'' TV ad, accusing Gene McNary of flip-flopping on desegregation, is credited with helping win a tough GOP primary in 1984.

Mr. Ashcroft's U.S. Senate record deepens the concern about his attitude toward African-Americans. He tried unsuccessfully to block the appointment of Surgeon General Dr. David Satcher. He scuttled the judicial nomination of Ronnie White of St. Louis. He wrote, in a South Carolina magazine, that, ''traditionalists must do more'' to defend Confederate leaders ''or else we'll be taught that these people were giving their lives, subscribing their sacred fortunes and their honor to some perverted agenda.'' And he accepted an honorary degree from Bob Jones University in 1999. (It's a wonder that Mr. Bush would want to remind anyone of his own disastrous trip there.)

Mr. Ashcroft's successful campaign against Mr. White is especially troubling. He opposed Mr. White for having voted as a Missouri Supreme Court judge to overturn death sentences. Mr. Ashcroft neglected to mention that some of his own appointees had voted to overturn as many capital sentences. Retired Missouri Supreme Court Judge Charles Blackmar, a Republican appointee, criticized Mr. Ashcroft at the time, saying: ''The senator seems to take the attitude that any deviation is suspect, liberal, activist and I call this tampering with the judiciary because of the effect it might have in other states . . . where judges, who might hope to be federal judges, feel a pressure to conform and to vote to sustain the death penalty.''

Mr. Bush said Friday that he was not worried about the White case because of Mr. Ashcroft's record of appointing African-Americans to the bench. In truth, Mr. Ashcroft had an abysmal record and never appointed a black Supreme Court judge.

Mr. Ashcroft favors the most extreme form of a constitutional amendment to ban all abortions. As state attorney general he filed an unsuccessful antitrust suit against the National Organization of Women because of its economic boycott against states that opposed the Equal Rights Amendment. More recently, he has opposed a strong federal hate crimes law and a bill to bar job discrimination against gays.

All of which raises the question: Is John Ashcroft the person who should be in charge of the nation's civil rights enforcement? Is John Ashcroft the person to protect women who are harassed on their way into abortion clinics? Is John Ashcroft the right person to screen federal judges? In short, is John Ashcroft's commitment to equal justice deep enough to qualify him to be the nation's chief legal officer?

[From the New York Times, Dec. 23, 2000]

MR. BUSH'S RIGHTWARD LURCH

The right-wingers who were beginning to feel like wallflowers at George W. Bush's cabinet dance can stop complaining. Mr. Bush, who made his earlier selections from his party's ideological center, threw a big bouquet to the ultraconservatives yesterday when he chose John Ashcroft, the recently deposed Republican senator from Missouri, for the post of attorney general. The nomination later in the day of Christie Whitman, the moderate Republican governor of New Jersey, to run the Environmental Protection Agency tilted the overall composition of Mr. Bush's early choices back toward the center. But that could not mute the widespread dismay over Mr. Bush's troubling choice of Mr. Ashcroft.

Mr. Bush is clearly hoping that Mr. Ashcroft's old colleagues will extend him the usual senatorial courtesies and confirm him with little dissent. But Mr. Ashcroft's hard-line ideology and extreme views and actions on issues like abortion and civil rights require a searching examination at his confirmation hearing. He should not be given an automatic pass. The Senate is duty-bound to determine whether he will be able to surmount his cramped social agenda to act as the guardian of the nation's constitutional values.

The attorney general has great discretion in deciding how much energy to devote to protecting civil rights, broadening civil liberties, keeping society free of crime, enforcing the antitrust laws and making sure that the president and his cabinet members are held to the same high standards—an area in which the job's present occupant, Janet Reno, has been deficient. More than any other cabinet officer, the attorney general sets the moral tone of an administration.

The position should clearly be filled with someone with a reputation for balance, fairness and independence. Mr. Ashcroft is by all accounts honest and hard-working. Yet he is also, judging by the public record, a man of cramped vision, unyielding attitudes and limited tolerance for those who disagree with him. His actions on racial matters alone are enough to give one pause. As Missouri's attorney general, he opposed even a voluntary school desegregation plan in metropolitan St. Louis. He also conducted a mean-spirited and dishonest campaign against Ronnie White, Missouri's first black State Supreme Court justice, when Justice White was nominated for a federal judgeship. Mr. Ashcroft claimed, erroneously, that Justice White was soft on the death penalty. As an added insult, Mr. Ashcroft also accepted an honorary degree last year from Bob Jones University, a bastion of the Christian right with a history of racial discrimination.

Mr. Ashcroft has been one of the Senate's most adamant opponents of a woman's right to choose an abortion. During his political career in Missouri, he sought to criminalize abortion, and he has consistently supported an extreme constitutional amendment that would ban abortion even in the case of rape or incest. Mr. Ashcroft has a poor record on church-state issues and on gay rights, and a dismal record on the environment. There is thus reason to wonder how vigorously he will help Mrs. Whitman enforce environmental laws.

With Mrs. Whitman, Mr. Bush has offered a far more appealing nominee for high office. His pledge to elevate the E.P.A. post to cabinet level is also commendable. The E.P.A. is no less important than the Interior Department in providing responsible stewardship of the nation's natural resources.

On the plus side, Mrs. Whitman seems genuine in caring about the environment, and as a Northeasterner, she is intimately familiar with the problems of polluted air and water. She joined with Gov. George Pataki of New York in lawsuits aimed at curbing the pollution that drifts eastward from Midwestern power plants, and she has worked to protect the New Jersey coastline by investing in sewage treatment and storm drainage projects. Although land conservation is mainly Interior's responsibility, Mrs. Whitman demonstrated a real appreciation for the importance of saving natural resources for future generations when she sponsored a $1 billion open space program, the largest in New Jersey's history.

On the minus side, she slashed the budget for environmental law enforcement and stopped levying meaningful fines against big polluters. That pro-business mind-set will be disastrous if continued in her new job, as will her oft-repeated but naïve faith in ''voluntary'' compliance with environmental laws. As Mrs. Whitman will discover, there will be times when negotiating skills simply don't suffice. She must be willing to enforce the law in the face of relentless pressure, not only from the big interest groups but from her superiors in the White House.

[From the Washington Post, Dec. 23, 2000]

BUILDING A CABINET

President-elect Bush has been assembling a team that for the most part is impressive in stature as well as diversity of race, gender and background. His designation of New Jersey Gov. Christine Todd Whitman to head the Environmental Protection Agency fits that pattern. She has a mixed record on the environment, but on the whole she has pushed to protect open space and to marry economic growth to environmental responsibility. Unfortunately, Gov. Bush also took a step yesterday that was inconsistent with this otherwise constructive performance. John Ashcroft, recently defeated as Missouri senator, has a history out of sync with the Bush rhetoric of inclusiveness. For the crucial post of attorney general, Mr. Bush should have reached higher.

Gov. Whitman, in seven years as New Jersey chief executive, won passage of a $1 billion initiative that aims, over the next decade, to save a million acres of open space from development. Clean-air advocates give her credit for backing tough federal air pollution standards and for efforts to reduce greenhouse gas emissions in New Jersey. Her administration has strongly supported the new heavy truck and diesel fuel pollution standards the Clinton administration issued this week. She has fought ocean dumping and cleaned up beaches, and she is currently heading a Pew Foundation-funded commission to assess what national steps are needed to protect oceans and marine life.

Gov. Whitman's efforts to make New Jersey more business-friendly, particularly in the early days of her administration, earned her sharp criticism from local environmental groups. She was condemned for cutting the staff and budget of the state's environmental agency in her first term and for reducing the reporting requirements on toxic chemical emissions. It will be important for her to make clear in confirmation hearings how she intends to pursue EPA's enforcement mission, but she brings stature and experience to the job. The new administration's posture on the environment will become clearer after Gov. Bush selects his interior and energy chiefs and fills critical sub-Cabinet positions. But Gov. Whitman's appointment, and Gov. Bush's decision to keep the EPA chief in the Cabinet, are positive first steps.

Not so the Ashcroft pick. Mr. Ashcroft handled with class and sensitivity his defeat last month by a dead man, the late Gov. Mel Carnahan. But his Senate tenure was marked by hard-right stances on abortion rights, civil liberties and other issues. He fought confirmation of many of President Clinton's judicial nominations, including well-qualified moderates. In the case of Ronnie White, an African American justice of the Missouri Supreme Court whom Mr. Clinton nominated to a District Court vacancy in Mr. Ashcroft's

state. Mr. Ashcroft rallied the Senate's Republican caucus to defeat the nomination in a manner tinged with racial politics and unfair to the nominee. Gov. Bush campaigned as a conservative, and he should be expected to appoint conservatives to his Cabinet, as he has with impressive choices for the State Department, the Treasury Department and other posts. But the Senate confirmation process should examine whether Mr. Ashcroft's particular brand of conservatism is best suited to the attorney general's post.

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

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

The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, just six weeks ago, President Bush nominated Senator John Ashcroft to serve as Attorney General of the United States. Since then, the nomination has been a source of intense controversy in the Senate and across the nation.

At the center of the debate is one basic question—will Senator Ashcroft enforce the law fairly and vigorously. Today, I will cast my vote against Senator Ashcroft, because I believe that he cannot do so.

My belief is based on Senator Ashcroft's quarter century track record as a relentless opponent of civil rights—as an architect of a continuing legal strategy to dismantle Roe v. Wade—as an outspoken advocate of extreme Second Amendment rights—and as a harsh and unfair opponent of the nominations of well-qualified men and women to important positions in our government.

On the issue of segregation in the schools of St. Louis, Senator Ashcroft testified before the Judiciary Committee that the State of Missouri had done nothing wrong and had not been found guilty of any wrongdoing.

But that's not true. On numerous occasions, the courts specifically found that the State was responsible for the segregation.

Senator Ashcroft testified that he complied with all court orders in the desegregation case.

But that's not true. In fact, the court ruled that he had a deliberate policy of defying the court's authority.

Senator Ashcroft testified that he never opposed integration.

But that's not true. In fact, he referred to the St. Louis voluntary desegregation plan as ''an outrage against human decency.'' And he fanned the flames of racial division by campaigning against the desegregation plan in his race for Governor in 1984.

On the issue of voter registration, Senator Ashcroft's record as Governor is equally troubling.

In heavily white St. Louis County, he endorsed a policy of training volunteers to register voters.

But in St. Louis City, which has the State's largest African American population, he and his appointed election board refused to allow volunteers to be trained to register voters.

In fact, he even went so far as Governor to veto 2 bills to use volunteer registrars in the City.

As a result there were 1,500 volunteers involved in voter registration in St. Louis County and zero in St. Louis City.

After Governor Ashcroft vetoed the two voter registration bills, the voter registration rate in St. Louis dropped by almost 20 percent.

With this record, how can anyone believe that Senator Ashcroft will be a champion of voting rights for all Americans, particularly African Americans?

Senator Ashcroft testified that Roe v. Wade is the settled law of the land, and that he would not try to overturn it.

But his record of three decades of non-stop attacks on a woman's right to choose tell a different story.

As Attorney General of Missouri, he defended a state rule that prevented poor women from obtaining abortions that were medically necessary to protect their health. He even tried to prevent Missouri nurses from providing basic family planning services.

As Governor of Missouri, he continued his intense assault on a woman's right to choose. He made clear that his mission was to have the Supreme Court overturn Roe v. Wade.

He boasted about Missouri's record of having more anti-choice cases in the Supreme Court than any state in the Nation.

He even proposed legislation to prohibit many common forms of contraception.

As a Senator, he has strongly supported a Constitutional Amendment to ban abortions—even in cases of rape or incest.

The power of the Attorney General is vast. The person who holds that position must have a genuine commitment to enforce the law fairly for all citizens.

But Senator Ashcroft has a deeply disturbing record on issue after issue of enormous importance to millions of Americans.

Throughout his long career, he has been a relentless opponent of many fundamental rights. He's wrong on civil rights—wrong on a woman's right to choose—wrong on needed steps to keep guns out of the hands of criminals and children. He's wrong on many other fundamental issues, and he's the wrong choice to be Attorney General of the United States. It is wrong to send him to be the Attorney General of the United States. I intend to vote no.

I withhold the remainder of my time and 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. SCHUMER. 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. SCHUMER. Mr. President, I spoke at length yesterday about the deep sense of pain and sadness and fear engendered by this nomination. It has not been an easy few weeks for those who have been involved. Whatever the result today, scars remain. There are some scars, of course, on Senator Ashcroft, but he is a strong and God-fearing man and I know he will recover from those and I hope and pray that he does.

There are scars on the Senate in terms of our bipartisanship and ability to work together. Again, I think the desire for bipartisanship is strong in this body, and I don't think those scars will be permanent. There are some scars from the initial days of the Presidency of George Bush, who had campaigned for inclusiveness, bringing people together. This nomination clearly did not do that, whatever else it has done.

Again, most of the other President's nominees, this nomination notwithstanding, have been bipartisan nominees, and hopefully while this is clearly a setback in bringing people together in that bipartisanship, it is not going to be a problem.

I have made my views known on the floor and in committee as to why John Ashcroft does not deserve to be our Attorney General, despite his career in public service, despite his deep faith, and despite the fact that he is seen as an honorable man by most in this body.

But I hope one thing. Out of the scar tissue and the divisiveness and the argument we have had, I hope something good comes about, and that is this: I hope the President has seen the sadness and the pain and the fear engendered by this nomination. I hope when he nominates people to the U.S. Supreme Court we will not have a repeat of what has happened today. I hope he nominates somebody of intelligence and judicious temperament and devotion to fairness. But I hope he nominates somebody who unites the American people, who brings us together, who is not identified with one extreme faction—either on the far right or the far left.

I do not expect George Bush to nominate a liberal to the Supreme Court, but I hope and pray this nomination has taught us that rather than a nomination of somebody on the extreme, when it deals with the judicial issues, the legal issues that affect us, it is much better off for either a Democrat or Republican President to nominate a moderate—a thoughtful jurist but a moderate.

I think what has happened with the Ashcroft nomination in terms of divisiveness would look small compared to the divisiveness that would occur if someone of Senator Ashcroft's beliefs were nominated to the U.S. Supreme Court.

At the end of the day we will all vote what we think is best. We will each

vote our conscience. But I think every one of us can take a lesson from what has happened here in the last few weeks. That lesson is a simple one. When it comes to enforcing the law, as the Attorney General does, when it comes to sitting on the highest court of this land, moderation is, indeed, a virtue.

I hope and pray all of us, including our President, will take from this battle the view that his nominations for the Supreme Court will better serve the Nation if they come from the middle, from the broad moderate section of our political spectrum.

Mr. President, I will vote against Senator Ashcroft. I do that with the conviction that it is the right thing to do in terms of my beliefs, in terms of what is good for the people of New York, in terms of what is good for the people of America. I hope we will not have to go through a similar battle when Supreme Court nominees come before us.

Mr. President, I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I thank the senior Senator from New York for his words. Could the Chair please advise the Senator from Vermont what is the parliamentary situation?

The PRESIDING OFFICER. The time that was allocated to the Senator from Vermont was reallocated, by unanimous consent, to Senators KENNEDY, BAYH, and SCHUMER.

Mr. LEAHY. I thank the Chair. My understanding is the distinguished Senator from Indiana, Mr. BAYH, will be here presently. To use his time, I will continue under the time reserved to this side. I would like to commend a number of Senators for their contributions to this matter during the day and a half we have been debating it.

I believe Senator KENNEDY—we just heard him—made extraordinarily persuasive, fact-based presentations on some troubling aspects of the nominee's background. I hope all Senators listened to the remarks of Senator MIKULSKI, who spoke to the heart of the question and put to rest the false charge the Democrats are applying a narrow ideological litmus test. I appreciate the eloquent words of her colleague from Maryland, Senator SARBANES, this morning. In the fashion to which we have become accustomed from Senator SARBANES, he discussed the history of the nomination, including the hearing. I continue to marvel at the expertise of the senior Senator from Illinois, Mr. DURBIN, for his comprehensive remarks distilled so wisely and lucidly from the hearing record. Senator DURBIN spent an extraordinary amount of time on this during the hearings. I think the whole Senate benefitted from the knowledge he gained from those hearings. Senator LEVIN presented his characteristically thoughtful remarks and careful reasoning. I thank him for that.

As I said, we heard just now from the senior Senator from New York, Mr. SCHUMER. Not only did he speak so well on the floor, but all the Senate was helped by his thorough work during the hearings and with the kind of committee service that distinguished him on the Judiciary Committee both here and in the kind of service he had in the other body before.

We heard the fine remarks of my friend from New Mexico, Senator BINGAMAN; the forthrightness of Senator CARPER; the plain-spoken eloquence of Senator STABENOW; the statesmanship of Senator KERRY.

I think of the words of the distinguished senior Senator from Florida, Mr. GRAHAM, who brought to the Senate the important circumstances of his State and his concerns—unique among all of us here.

Of course, my friend, the assistant Democratic leader, Senator REID of Nevada, has given the kind of help he always does in debates. It is something the public does not see, but he is the glue that holds everything together. Then, added to that was his own strong statement on the floor.

I think of Senator BYRD, almost my seatmate in the Senate, with whom I served for over a quarter of a century and thank him for sharing his views.

I thank my Republican colleagues for their views, those Senators who supported this nomination, as Senator BYRD did.

I think about what Senator HARKIN said when he spoke again eloquently today, and Senator LIEBERMAN, who spoke not only about his relationship with Senator Ashcroft but of his own concerns about the issues of morality and of one's upbringing, and Senator EDWARDS, a person who went from the courtroom to the Senate, and represents the best of both places.

I also commend Senator HATCH, of course, for his management of the debate.

I yield to the senior Senator from New York.

Mr. SCHUMER. Mr. President, I thank our leader on this issue on this side of the aisle, the senior Senator from Vermont, for the fine, outstanding job of leadership and fairness that he has shown throughout these hearings. Every witness who was called on got to testify. We had plenty of time to question. All the questions were brought out in a fair and strong way, but not in any kind of mean-spirited way. When things began to drift a little bit out of hand, the Senator would wield his big gavel that he had at the beginning of the hearing and his own personal gavel that he wielded throughout. He did a wonderful job. And of course his speeches on the floor and in committee have been among the most thoughtful, erudite, and well researched of all of them. I think I speak for all of us on the Judiciary Committee and in the Senate as a whole: We really thank the senior Senator for the great job he has done during these trying weeks.

I yield to the senior Senator from Vermont.

Mr. LEAHY. I thank the Senator from New York. I have often said how much I enjoyed being on the Senate Judiciary Committee. One of the reasons is that the Senator from New York serves there.

It is a committee where we often have spirited debates. We usually debate the most interesting issues before the Senate, but I rely more and more on the Senator from New York to boil down the essence of the arguments and to lead that debate.

I am sorry the Senator from Utah is not on the floor at the moment, but the Senator from Utah, Mr. HATCH, and I worked very hard to put together a hearing where both sides could be heard. I believe we did that. In fact, unlike the usual practice here, both sides had the same number of witnesses. If I recall, in this case, the minority side, the Republican side, actually had one more witness. But we tried to make sure that anybody who could add anything to the debate and should be heard was heard.

Even during the hearings, we actually had people who were added at the last minute at the request of Senator HATCH. He showed unfailing courtesy throughout all that, and I thank him for that.

I see the Senator from Indiana in the Chamber. I ask unanimous consent that the following editorials and materials with regard to the Ashcroft nomination be printed in the Record:

A column by Steve Neal from the Chicago Sun-Times of January 31, 2001;

An editorial from the Christian Science Monitor of today, February 1, 2001;

An editorial from the Rutland Daily Herald of January 24, 2001;

A column by Stuart Taylor from National Journal of January 13, 2001;

A column by Stuart Taylor from National Journal of October 10, 1999; and

An op-ed by Benjamin Wittes from Washington Post of October 13, 1999.

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

[From The Christian Science Monitor, Feb. 1, 2001]

ASHCROFT'S TOUGH TASKS

President Bush asked the Senate to look into the hearts of each of his cabinet nominees. Through careful, albeit contentious, hearings for his nominee for attorney general, John Ashcroft, the Senate tried to do just that.

In those hearings, Americans got a first, strong taste of the rancor that can occur when the Senate, and the country, is split right down the middle on social issues. The controversy over Mr. Ashcroft's nomination broke along clearly partisan lines.

Ashcroft may now be confirmed by the Senate, but the Democrats have fired a warning shot over the Bush ship of state. Their message: Expect more battles over conservative legal appointments—to the Supreme Court or elsewhere.

Ashcroft's deeply conservative views on abortion, civil rights, and guns were subjected to extraordinarily close scrutiny by

Democrats and liberal groups. Still, his critics were left unsatisfied.

Sen. Patrick Leahy of Vermont, the Judiciary Committee's ranking Democrat, summarized much of the concern over Mr. Ashcroft's candor when he spoke on the Senate floor this week: ''Most of us in this body have known the old John Ashcroft. During the hearings, we met a new John Ashcroft. Were the demurrals of his testimony real, or were they delicate bubbles that could burst and evaporate a year or a month or a day from now under the reassertion of his long-held beliefs?''

The core issue is whether, as attorney general, Ashcroft will put his own ideology above the law.

Supporters, such as Sen. Chuck Grassley (R) of Iowa, say Ashcroft has demonstrated the integrity to maintain his ''by-the-book approach to governing'' as he goes about cleaning up a Justice Department he and others feel has lacked integrity.

The new attorney general's adherence to that standard will be closely watched. As he promised the committee, he'll have to ''vigorously'' uphold the laws of the land whether he personally agrees with them or not—including the Supreme Court's decision legalizing abortion, Roe v. Wade, which Ashcroft acknowledged as ''settled law.''

Testimony regarding Ashcroft's opposition to the appointment of a black Missouri judge to the federal bench was particularly disturbing. The judge, Ronnie White, said then-Senator Ashcroft distorted his record, calling him ''pro-criminal,'' based on his interpretation of a few of Judge White's written decisions.

Even if Ashcroft's motives at the time were political, not racial, the episode leaves doubts about his judgment among African-Americans and others.

Ashcroft will have to work especially hard to surmount both his critics and some elements of his own record, and to prove to the country that he will be, as Senator Leahy said, an attorney general ''for all the people.''

[From the Chicago Sun-Times, Jan. 31, 2001]

SOME MORE EQUAL THAN OTHERS

(By Steve Neal)

The attorney general is supposed to represent all of us.

That's what is so troubling about John Ashcroft's nomination to be the chief law enforcement officer of this country.

Some of our more distinguished attorneys general served in Republican administrations. Edward Levi restored integrity in the Justice Department after Watergate. Elliot Richardson showed great principle in resigning when Richard M. Nixon ordered him to fire the special prosecutor investigating Nixon's role in the scandal that brought down his presidency. Herbert Brownell drafted the first civil rights law since Reconstruction and recommended the use of federal troops when the governor of Arkansas sought to block integration of Central High School in Little Rock.

Each of these three men was committed to equal justice under the law. Ashcroft doesn't meet that standard. Though he is a person of ability and intelligence, his public record is one of unfairness, intolerance and exclusion.

His role in sinking the nomination of Missouri Supreme Court Justice Ronnie White for the federal bench was disgraceful. Ashcroft twisted and distorted White's judicial record. The Judiciary Committee, which had a GOP majority at the time of White's nomination, recommended his confirmation. Then Ashcroft waged a mean-spirited crusade that destroyed White's chances. He was dishonest in labeling White's judicial philosophy as ''pro-criminal'' and claiming that he had ''a tremendous bent toward criminal activity.'' There is no evidence that Ashcroft went after the African-American judge because of his race. It is more likely that he attacked White as part of his re-election strategy.

Ashcroft's record on civil rights, though, is alarming. As governor and attorney general of Missouri, he bitterly opposed court-ordered school desegregation in Kansas City and St. Louis. More than two decades after the Brown vs. Board of Education ruling made equal access to public education the law, Ashcroft still was making the argument that it was better to have segregated schools. As a candidate for statewide office, he fanned racial tensions with his shrill attacks on school integration. He didn't seem to care that African-American youngsters were being denied an equal education.

As governor of Missouri, he vetoed legislation that would have boosted voter registration in minority communities. He claimed that the proposed law would have led to voter fraud. If he is confirmed as the next attorney general, he would have responsibility for enforcing the Voting Rights Act.

During his Senate testimony, Ashcroft said that he would not attempt to undermine Roe vs. Wade, the Supreme Court decision that upheld a woman's legal right to have an abortion. But he has spent his entire public career trying to outlaw abortions or make them impossible to obtain. He is opposed to abortion even in cases of rape or incest.

''Both now and in my first term as [Missouri] attorney general,'' he told the U.S. Senate Judiciary Committee in 1981, ''I have devoted considerable time and significant resources to defending the right of the state to limit the dangerous impacts of Roe vs. Wade, a case in which a handful of men on the Supreme Court arbitrarily amended the Constitution and overturned the laws of the states related to abortions.'' Ashcroft has previously referred to the Roe decision as ''error-ridden.'' Most Americans disagree with that viewpoint.

In his written response to the Judiciary committee, he vowed not to re-fight these battles because the issue had been settled ''through the passage of time and reaffirmation by the Supreme Court.'' But he never has stopped trying to reverse this landmark decision.

Ashcroft was misguided in his assault on the nomination of the openly gay James C. Hormel to be ambassador to Luxembourg. ''Based on the totality of Mr. Hormel's record of public positions and advocacy, I did not believe he would effectively represent the United States in Luxembourg, the most Roman Catholic country in all of Europe,'' he said in 1998.

Based on the totality of Mr. Ashcroft's record, he is less than committed to equal protection under the law. This cold-hearted man is unfit to be the people's lawyer.

[From the Rutland Daily Herald, Jan. 24, 2001]

NO TO ASHCROFT

Democrats should not be shy about voting against John Ashcroft when his nomination for attorney general comes before the Senate Judiciary Committee and to the Senate floor.

If they are afraid of being tarred as partisan extremists for opposing Ashcroft's nomination, they ought to recognize that Bush's decision to appoint Ashcroft was in itself an unapologetic partisan action.

The Senate almost never rejects a president's cabinet nominee, and the vote count suggests it will not reject Ashcroft. It would be an extraordinary turn of events if it did.

That's because Senate Republicans are lined up unanimously on the side of their party and their president. That includes Sen. James Jeffords, who is a member of a vocal quartet with Ashcroft and who plans to endorse his appointment.

This is not one of those moments when the Senate's moderate Republicans are inclined to stray from the party line. On other issues—campaign finance, tax cuts, missile defense—the Republican leadership will not be able to rely so surely on unanimity within the party.

Ashcroft's nomination has also won the support of a few Democrats, which assures him of victory in the Senate. But for most Democrats, a no vote on the Ashcroft nomination sends an important signal: that bipartisan progress is not achieved by pushing the most extreme brand of Republican ideology.

Under questioning by the Senate Judiciary Committee, Ashcroft felt compelled to repudiate an ideology opposed to civil and women's rights. One wonders why Bush appointed him if it meant he would have to shed the views that have shaped his career. The likely reason is that Bush wanted to appease the religious right.

Everyone was quick to praise Ashcroft's integrity and to deny that he was a racist. But what kind of integrity is involved in the attempt to smear another person's reputation, as he did with Ronnie White, a judge who had been appointed to the federal bench?

In many areas, Democrats are likely to cooperate with Republicans for the sake of bipartisan achievement. It appears that Sens. Joseph Lieberman and Edward Kennedy are willing to work with Bush to put together an education package. And Bush appears willing to court Democratic support by gearing his education package toward low-income students.

In the same vein, Republicans such as Jeffords should be willing to break the party line for the sake of campaign finance reform, health care, and other initiatives that the Republican leadership has long opposed.

The Senate Judiciary Committee was able to win concessions from Ashcroft on civil rights and women's rights, but his work as attorney general will involve far more than the high-profile issues on which the interest groups always focus.

He will help shape anti-trust policy and the government's position on the Microsoft case. He will help shape policy on juvenile justice, which has been slipping back toward the dark ages, and on sentencing policy, which has become dangerously rigid because of mandatory sentences. He will apportion resources within the Department of Justice, deciding how much emphasis to put on civil rights enforcement.

In electing a Republican, Vermonters might have expected that Jeffords would maintain party loyalty in instances such as the Ashcroft nomination. Jeffords will have many other opportunities to show his independence, and Vermonters will be watching.

In electing a Democrat, Vermonters expect Leahy to uphold civil and women's rights. In voting no on Ashcroft, he will be affirming that even with a Republican president, these values should not be allowed to erode.

[From the National Journal, Jan. 13, 2001]

A CHARACTER ASSASSIN SHOULD NOT BE ATTORNEY GENERAL

(By Stuart Taylor Jr.)

Former Sen. John Ashcroft, R-Mo., is an able and accomplished man who won the respect of many Senate colleagues in both parties. But he is unfit to be Attorney General. The reason is that during an important debate on a sensitive matter, then-Sen. Ashcroft abused the power of his office by descending to demagoguery, dishonesty, and character assassination.

The debate was over President Clinton's nomination of Missouri Supreme Court Judge Ronnie White to become a federal district judge. Although too liberal to be picked by a Republican President, White had shown himself to be an honest, skilled, and sometimes eloquent jurist, well within the moderate mainstream. But Ashcroft, leaning hard on Republican Senators who would otherwise have voted to confirm, engineered a 54–45 party-line vote on Oct. 5, 1999, to reject White's nomination. Worse, Ashcroft claimed on the Senate floor that Judge White had ''a serious bias against . . . the death penalty''; that he was ''pro-criminal and activist, [and would] push law in a pro-criminal direction''; and that he had ''a tremendous bent toward criminal activity.'' The first statement was a wild exaggeration. The second was a demagogic distortion. The third was a malicious smear.

Ashcroft is not the man to head the Justice Department. The job is vested with such vast authority over the lives of people great and small, and such symbolic importance, that the minimum qualifications should include honesty, fair-mindedness, and judicious self-restraint in the exercise of power. Every new President is entitled to Senate deference in choosing his Cabinet, even when the nominee's policy views draw bitter liberal or conservative opposition. (Linda Chavez might have become a distinguished Labor Secretary but for her sad mistake of failing to tell Bush vetters up front what they needed to know about her illegal-immigrant issue.) But no President is entitled to put a character assassin in charge of law enforcement.

All this would be true even if Judge White were white, if Ashcroft had not expressed such fondness for the Confederacy, if race were not an issue, and if Ashcroft were in tune with the Bush pledge to be a uniter, not a divider. But White is black. The racial context makes Ashcroft's orchestration of a floor vote against a judicial nominee, the first since 1987 (when Robert H. Bork's Supreme Court nomination went down), all the more deplorable. And Ashcroft's confrontational advocacy of absolutist views makes him a divider, not a uniter.

This is not to endorse the unfounded and tiresomely irresponsible suggestions by some liberal critics that Ashcroft's attacks on Judge White were motivated by racial bias or hostility to antidiscrimination laws. Nor is it to join the claque who would fight any conservative nominee for Justice as racially insensitive and divisive. But it does appear that Ashcroft was deliberately engaging in inflammatory racial politics—in part to boost his own 2000 re-election prospects by hanging the ''pro-criminal'' label both on Judge White and on then-Gov. Mel Carnahan, who had appointed White and was gunning for Ashcroft's Senate seat. Ashcroft must have known that accusing a black judge (falsely) of being ''pro-criminal'' and of ''a tremendous bent toward criminal activity'' would stir the worst instincts of those voters who stereotype criminality as black.

One result of Ashcroft's reckless roiling of racial tensions is that he would have especially low credibility with the vast majority of African-Americans, including moderates and conservatives who eschew the race-baiting rhetoric of victimologists such as the Rev. Jesse Jackson. Indeed, people who hope to see the Justice Department move away from its long-standing advocacy of race-based affirmative action preferences (as I do) should wonder: Can John Ashcroft be a credible advocate of making the law more colorblind? I doubt it.

Deceptive rhetoric aside, is Ronnie White soft on crime? Not unless one equates measured concern for civil liberties with softness. According to Justice Department numbers, White, as of October 1999, had voted to uphold 41 (almost 70 percent) of the 59 death sentences he had reviewed. He voted to reverse the other 18, including 10 that were unanimously reversed and just three in which he was the only dissenter. (Some say that White reviewed 61 death sentences and voted to reverse 20.) His rate of affirmance was only marginally lower than the 75 percent to 81 percent averages of the five current Missouri Supreme Court judges whom Ashcroft himself appointed when he was governor.

Ashcroft stressed that Judge White had dissented from decisions affirming death sentences four times as often as any Ashcroft-appointed colleague. True. But does this suggest that White would ''push law in a pro-criminal direction,'' as Ashcroft said—or that Ashcroft appointees were rubber-stamping unfair trials?

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. In a 1998 decision, the majority upheld the murder convictions and death sentence of a previously law-abiding Vietnam veteran named James Johnson, who had suddenly turned violent. He stalked and killed a sheriff, two deputies, and another sheriff's wife in a horrifying succession of shootings that erupted out of a domestic dispute. The only defense was insanity. The immediate issue was whether Johnson should get a new trial, after which he would either go back to death row or be locked up in a mental hospital.

If Johnson ''was in control of his faculties when he went on this murderous rampage,'' Judge White wrote, ''then he assuredly deserves the death sentence he was given.'' But the jury's consideration of the insanity defense had been skewed by an egregious blunder. Johnson's court-appointed attorney had begun by stressing that a rope-and-tin-can ''perimeter'' around Johnson's garage was evidence that he had been under a delusion that he was back in Vietnam, at war. This was a gift to the prosecution, which blew the back-in-Vietnam strategy to bits by showing that the police had set up the perimeter.

Both Judge White and his colleagues faulted the defense attorney (for inadequate investigation) as well as the prosecution (for leaving the defense attorney with a false impression of the facts). They differed only on whether there was a ''reasonable probability'' that the jury might otherwise have found Johnson insane. The majority said no. Judge White said yes. His conclusion was plausible, debatable, highly unpopular (especially among police), and (for that reason) courageous. For Ashcroft to call it ''pro-criminal'' was obscene.

In the second case, one Brian Kinder was sentenced to die for a heinous rape-murder. Judge White's ''only basis'' for voting to give Kinder a new trial, Ashcroft claimed, was that the trial judge had said he was ''opposed to affirmative action.'' False. In fact, Judge White's dissent termed that comment (made in a campaign press release) ''irrelevant to the issue of bias.'' Instead he stressed another, ''indefensibly racist'' assertion in which the trial judge had contrasted ''minorities'' with ''hard-working taxpayers.'' This cast grave doubt on the impartiality of a judge who was to try a black man for murder in just six days, Judge White concluded. His dissent was far more candid and convincing than the majority opinion.

Pro-criminal? Some police groups, including 77 of Missouri's 114 sheriffs, criticized Judge White's record. But other law enforcement officials praised him as a good judge and ''an upright, fine individual,'' in the words of Carl Wolf, president of the Missouri Police Chiefs Association.

The smearing of Judge White makes the many testimonials to Ashcroft's integrity ring a bit hollow. But quite apart from that episode, it was most unwise for President-elect Bush to choose Ashcroft for Attorney General. The reason is that Ashcroft is an uncompromising absolutist with a bellicose approach to issues ranging from gay rights and gun control to abortion (which would be a crime, if Ashcroft had his way, even in cases of rape and incest). He is also dead wrong (in my view) on major issues, including his aggressive push to cram even more nonviolent, small-time offenders who pose no threat to society into our prison-industrial complex, which has already mushroomed to 2 million inmates.

What would I be saying if it were President-elect Al Gore trying to put the Justice Department under (say) Sen. Edward Kennedy, D-Mass.—who smeared another judicial nominee (in 1987) by saying: ''Robert Bork's America is a land in which women would be forced into back-alley abortions, blacks would sit at segregated lunch counters, rogue police could break down citizens' doors in midnight raids . . .''

I would be saying that a character assassin should not be Attorney General. How about you?

[From the National Journal, Oct. 16, 1999]

THE SHAME OF THE RONNIE WHITE VOTE

(By Stuart Taylor Jr.)

The Democratic spin is that the Republican Senate's Oct. 5 party-line vote, 54–45, to reject Ronnie L. White's nomination for a U.S. District Court seat in Missouri was tinged with racism. At the very least, as President Clinton put it, the vote adds ''credence to the perceptions that they treat minority and women judicial nominees unfairly and unequally.''

The Republican spin is, not surprisingly, quite different. In the words of White's main critic, Sen. John Ashcroft, R-Mo., White's record as a Missouri Supreme Court judge is ''pro-criminal and activist,'' and exudes a serious bias against * * * the death penalty,'' even ''a tremendous bent toward criminal activity,'' Indeed, said Sen. Don Nickles, R-Okla. ''many'' Republican Senators ''didn't know what race Judge White is.''

Which is the closer to the truth?

Numbers supply part of the answer. Judge White has voted to uphold 70 percent (41) of the 59 death sentences he has reviewed, while voting to reverse the other 18, including 10 that were unanimously reversed and three in which he was the only dissenter. That's a bit below the 75 percent to 81 percent averages of the five current Missouri Supreme Court judges whom Ashcroft himself appointed when he was Governor, according to numbers compiled by the Missouri Democratic Party. It's well above the 53 percent average of Elwood Thomas, the now-deceased Ashcroft appointee whom White replaced in 1995.

As for race, the raw fact is that the Senate's rejection of the 46-year-old White—the first black person ever to sit on the Missouri Supreme Court—was its first floor vote against any judicial nominee since 1987, when the Senate spurned Robert H. Bork for the U.S. Supreme Court. But Democrats are quick to cite statistics showing that the Senate has confirmed a substantially smaller percentage of Clinton's minority judicial nominees than of his white nominees—while taking longer to bring their nominations to a vote. Some Republicans claim that a higher percentage of Clinton's minority nominees are liberal activists. Perhaps that's true. But does Ronnie White fit that bill?

Consider White's two lone death-penalty dissents specifically criticized by Ashcroft. One involved a rape-murder for which one

Brian Kinder was sentenced to die. Judge White's ''only basis'' for voting to give Kinder a new trial, Ashcroft told his colleagues, was that Earl R. Blackwell, the trial judge, had said he was ''opposed to affirmative action.''

This was a cynical distortion. In fact, White's dissent stated that Judge Blackwell's criticism of affirmative action—which came in a campaign press release explaining his decision to leave the Democratic Party—was ''irrelevant to the issue of bias.'' What was ''indefensibly racist,'' he continued, was the following assertion in Blackwell's press release:

''While minorities need to be represented or [sic] course, I believe the time has come for us to place much more emphasis and concern on the hard-working taxpayers in this country.''

As White wrote, this ''pernicious racial stereotype * * * is not ambiguous or complex (nor, unfortunately, original).'' It means ''that minorities are not hard-working taxpayers.''

And for Judge Blackwell to issue such a statement—six days before he was to begin the trial of a black man facing the death penalty—''created a reasonable suspicion that he could not preside over the case impartially.''

Judge White was right. And his eloquent dissent was both more candid and more consistent with his court's own precedents than was the majority opinion.

Ashcroft also assailed White's dissent from a 1998 decision upholding the murder convictions and death sentence of one James Johnson. In an appalling succession of shootings growing out of a domestic dispute at Johnson's home, the previously law abiding Vietnam veteran had stalked and killed a sheriff, two deputies, and the wife of another sheriff. His only defense was insanity.

''If Mr. Johnson was in control of his faculties when he went on this murderous rampage, then he assuredly deserves the death sentence he was given,'' Judge White wrote. But a blunder by Johnson's defense lawyer, White added, had so ''utterly destroyed the credibility'' of his insanity defense as to deny him a fair trial.

In his opening statement, the defense lawyer had focused on a story that Johnson—who claimed to have no memory of what he had done—had strung a ''perimeter'' of rope and cans around his garage under the delusion that he was ''back in Vietnam,'' in combat. This scenario was soon exposed as fiction: The prosecution revealed with a flourish that the ''perimeter'' had been the work of police staking out Johnson's home after the killings.

The majority and Judge White alike faulted both the defense lawyer (for inadequate investigation) and the state (for leaving him with a false impression of the facts). They differed on whether there was a ''reasonable probability'' that, but for these unprofessional lapses, the jury might have upheld the insanity defense. The majority said no; Judge White—noting that Johnson's homicidal conduct suggested at least ''something akin to madness''—said yes.

I'm not sure whether he was right. But it surely was a case on which reasonable judges could disagree.

And in another such case, in 1996, it was Judge White who wrote the court's decision upholding a brutal killer's death sentence—and it was an Ashcroft appointee, then Chief Judge John C. Holstein, who dissented. The cornerstone of any civilized system of justice,'' Holstein wrote then, ''is that the rules are applied evenly to everyone, no matter how despicable the crime.''

That does not seem to be the view of many Senate Republicans now. Their treatment of Ronnie White suggests that they prefer judges to rubber-stamp the decisions of trial judges, prosecutors, and police.

Sen. Ashcroft also stressed criticism of White's record by police groups, including 77 of Missouri's 114 sheriffs. This may help explain why the state's other Republican Senator, Christopher S. Bond, joined Ashcroft in opposing Judge White on the floor—after having introduced him to the Judiciary Committee last year as ''a man of the highest integrity and honor,'' with the ''qualifications and character traits'' to be a federal judge.

But it turns out that Ashcroft himself orchestrated some of the police opposition. He faces a tough re-election battle next year and seems to be running as Mr. Death Penalty against the man who appointed Judge White—Democratic Gov. Mel Carnahan. (Carnahan also supports the death penalty.)

Ashcroft urged at least two police groups to oppose White, according to the St. Louis Post-Dispatch. Carl Wolf, president of the Missouri Police Chiefs Association, told the newspaper that Ashcroft's office had called to solicit his opposition. Wolf declined because his group does not comment on judicial nominations. Besides, he said: ''I really have a hard time seeing that [White's] against law enforcement. I've always known him to be an upright, fine individual.''

In short, the record shows that Judge White takes seriously his duty both to enforce the death penalty and to ensure that defendants get fair trials. It suggests neither that he's ''pro-criminal'' nor that he's a liberal activist. What it does suggest is courage.

And while White may be more sensitive to civil liberties than his Ashcroft appointed colleagues are, his opinions also exude a spirit of moderation, care, and candor.

Would the Republicans who voted against Ronnie White—most of them in deference to Ashcroft and Bond—have treated an otherwise identical white nominee any better?

I doubt it. But by giving such transparently bogus reasons for trashing a nominee who happens to be black—at a time when statistics have already raised troubling questions about the Senate's handling of minority nominees—Republicans provoked suspicious not only among those who are profligate in flinging charges of racism, but also among many fair-minded people.

And those who claimed to have been ignorant of White's race compounded insensitivity with obtuseness. Even if true, this shows that they went into the first floor vote in 12 years to reject a judicial nominee without listening to what their Democratic colleagues were saying or learning anything about the nominee's admirable life story.

In an era of politicized law, as I wrote recently, the best antidote for partisan gridlock over judicial nominees is for Presidents to shun ideological crusaders and choose moderate centrists. That's what President Clinton did here. And that's why—race aside—the Senate's vote and the smearing of Judge White were shameful acts of pettiness and partisanship.

[From the Washington Post, Oct. 13, 1999]

JUDGE WHITE'S JUDGES

(By Benjamin Wittes)

Anyone who believes that race played no role in the Senate's rejection last week of the judicial nomination of Ronnie White should read the case of Missouri v. Kinder. Sen. John Ashcroft, the Missouri Republican who led the fight to kill White's nomination to a federal district court vacancy in his state, cited Kinder on the Senate floor as one of three cases that showed not merely White's hostility to the death penalty but his ''tremendous bent toward criminal activity.''

Ashcroft described White—the first African American to serve on Missouri's Supreme Court—as willing to grant a new trial to a clearly guilty rapist and murderer who had been sentenced to death, because ''the trial judge had indicated that he opposed affirmative action and had switched parties based on that.'' This charge, if true, would indeed be evidence that White had placed politics before the law. But it is a gross distortion. The reality is that by using White's well-reasoned dissent in Kinder as a cudgel against him, Ashcroft provided as clear an example of racial politics infecting the nomination process as one could ever hope to see.

Brian Kinder was tried in the court of an elected judge named Earl R. Blackwell, At the time of the trial, Blackwell was facing a reelection campaign. Six days before Kinder's trial was to begin, Blackwell announced in a press release that he was switching parties because he found ''repugnant'' the Democratic Party's ''reverse-discriminatory quotas and affirmative action.''

The politics of the statement were not the problem. The problem was its all-but-overt racism: ''The truth is that I have noticed in recent years that the Democrat party places far too much emphasis on representing minorities such as homosexuals, people who don't want to work, and people with a skin that's any color but white. . . . While minorities need to be represented, of course, I believe the time has come for us to place much more emphasis and concern on the hard-working taxpayers in this country.''

Faced with a judge who had just gone on the record contrasting minorities with hard-working taxpayers, Kinder—an unemployed black man—asked Blackwell to recuse himself. The judge refused, saying he did not discriminate whether individuals ''are yellow, red, white, black or polka dot.'' Kinder, after his conviction, appealed, arguing that the trial was invalid because recusal should have been mandatory.

The surprising thing about this case is not that Ronnie White voted to reverse the conviction but that he was the only member of the Missouri Supreme Court—several of whose judges were appointed by Ashcroft when he was the state's governor—to stand up for the principle that a minority defendant is entitled to a trial before a judge who does not make public slurs against minority groups. Like Ashcroft, the court majority pretended Blackwell was merely making a political statement against affirmative action and concluded merely making a political statement against affirmative action and concluded that ''we do not agree that the statements in the press release . . . would cause a reasonable person to question the impartiality of the court.''

White, in an opinion characterized by admirable restraint, cut through this nonsense. ''No honest reading of [Blackwell's statement] can show that it says anything other than what it says: that minorities are not hard-working taxpayers,'' he wrote. ''I doubt that any reasonable person would think that a judge who makes provocative comments in a campaign press release . . . would be able to scrupulously set aside those views just because the judge dons a robe.'' Because of this appearance problem, he argued, recusal was required. And ''since the judge here failed to sustain the motion that he recuse himself, Mr. Kinder must receive a new trial before a judge whose impartiality is beyond reproach.''

As a general matter, the White House and its allies overstate the claim that minority and women nominees are discriminated against in the confirmation process. Having looked at many nominations, I am convinced that white men with histories and records similar to those of the women and minority

nominees who get bogged down in the Senate would also have problems. And race, to be sure, was not the predominant factor in White's rejection, either. The politics of the death penalty and the 2000 Missouri Senate race have that dishonor.

But if White was not rejected because he's black, it is also impossible to read racial politics out of his rejection. Consider what would have happened had White and Kinder both been Jewish and had Kinder been tried before a judge who had issued a press release denouncing the political parties' support for Israel that included analogous language: ''While Jews need to be represented, of course, I believe the time has come for us to place much more emphasis and concern on moral people who are not obsessed with money.''

No senator would dare argue that an appeals court judge who insisted that such overt hostility to Jews compelled a new trial—even for a guilty defendant—should be kept off the federal bench for having done so. To argue that the Kinder case is reason to keep Ronnie White off the bench is no less outrageous—just a little more socially acceptable.

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

The PRESIDING OFFICER (Mr. BUNNING). The Senator from Indiana.

Mr. BAYH. I thank the Chair. Mr. President, I convey my thanks and gratitude to my colleague from Vermont for his extraordinary leadership on this matter of utmost public importance. He has written another honorable chapter in the history of this body, and I am privileged to serve with him, as was my father privileged to serve before me.

I rise today as someone who was invited to Austin, TX, several weeks before the new year to discuss with our new President the cause of bipartisanship when it comes to improving the quality of our public schools.

I rise as someone who was in the White House several nights ago to discuss with the President bipartisanship when it comes to improving the quality of health care.

I rise as someone who wants to work with this President to enact a fiscally responsible tax cut.

I rise as someone who shares his conviction that faith-based organizations have much to contribute to the welfare and well-being of our country.

I rise as someone who deplores the gridlock in recent years and politics of personal destruction and yearns to return to bipartisanship and principled compromise for the sake of the United States of America.

Because of all these things and all we can accomplish together, I also rise to express my opposition to the President's nomination of John Ashcroft to be the next Attorney General of the United States of America.

Let me say at the beginning I do not believe in pointing fingers or calling names. Some of the things that have been said about Mr. Ashcroft, such as he is a racist, are, frankly, not true, and unfair, and for that I have deep regret. We need more civility in this town. Frankly, I wished Mr. Ashcroft himself practiced more civility when he had the privilege of gracing this Chamber. But he is the wrong man for this job.

He is the wrong man for several reasons: First, the unique character of the Justice Department. Mr. Ashcroft has said he will enforce the law, and I am sure that is true, but it begs the central question: What does Mr. Ashcroft consider the law to be? The law is not carved in stone and not subject to difference of opinion or dispute. Very able lawyers can have heated differences of opinion about what the law means, and in the Justice Department each and every day, hundreds of decisions, or thousands of decisions, will be made—some of which the public will never be aware—about which there are varying interpretations of the law. What will happen in those cases? It will be Mr. Ashcroft's interpretation; it will be Mr. Ashcroft's discretion; it will be Mr. Ashcroft's law that will be put into effect for the American people.

I have no doubt whatsoever that he will bring some of his more strident views to bear on that office in ways that will cause great conflict and controversy for this President and the people of our country.

I think about the Supreme Court. We are not dealing with a Supreme Court nominee here, but before my colleagues cast their vote, I ask how they would vote if Mr. Ashcroft had been nominated for the Supreme Court of the United States because, in many ways, the Attorney General has as much or more discretion as does a member of the U.S. Supreme Court. At least before a decision of the Supreme Court is handed down, a Justice must get four of his or her colleagues to agree. Very often, the Attorney General of the United States can make unilateral decisions and interpretations of the law.

At least the Supreme Court is bound to some degree by precedent. The Attorney General very often addresses entirely new areas of the law for which there is no precedent, giving more discretion and more free rein to the views and ideology of that individual. In Mr. Ashcroft's case, I believe that will not serve our country well.

I have been troubled by some of his behavior, and it has been outlined in the hearings Senator LEAHY and my colleague, CHUCK SCHUMER, who just left, so ably outlined in the Judiciary Committee, but I want to particularly mention the issue of Ronnie White.

I disagree with those who say Mr. Ashcroft's opposition to Judge White was racially based. I do not believe that to be true. I believe it was based upon prior political disagreements when Judge White served in the State legislature—but, frankly, when it comes to the Attorney General of the United States engaging in political payback, it is very troubling—and it was based also upon Mr. Ashcroft's desire to be reelected to this body, and the fact that he was willing to misinterpret the record of Judge White for his own political personal gain should concern us all. Not that political payback or sometimes interpreting or misinterpreting one's record is unique even to this Chamber and other political candidates across the country—it happens all the time—but it should not happen in the Justice Department of the United States, and it is not a characteristic we look for in the Attorney General of the United States of America.

I was watching these proceedings last evening, and I will not name names, but I heard a speech of one of our colleagues who expressed his belief that behind opposition to Mr. Ashcroft was, in fact, an opposition to those who are devoutly Christian in their beliefs serving in positions of high public office. I say as one Senator, nothing could be further from the truth. On the contrary. I have a deep respect for Mr. Ashcroft's religious convictions. I think he should wear them as a badge of honor. His devout faith is something we can all look to as a source of pride on his part.

It is his secular views and what implementation of those views would mean for the American people with more polarization, more divisiveness, and, as a result, more gridlock, that troubles me. It has nothing to do with his religious views, just as those of John Kennedy, Joe LIEBERMAN, and others had absolutely nothing to do with their fitness for public service.

We need to state unequivocally on the record his religious convictions have nothing to do with the reservations that at least this Senator—and I believe the majority of my colleagues who stand in opposition—has expressed.

Finally, it is quite clear that before long, Mr. Ashcroft will become the next Attorney General of the United States of America. He can take one of two lessons from the proceedings of these last several weeks. On the one hand, he can draw from these proceedings the conclusion that he should pay no attention to his critics; that there was no basis to any of the objections raised to his nomination; that he needs no reason whatsoever to reach out to those who have expressed their concerns; and he can operate as Attorney General as he will.

On the other hand, he can decide to take the criticism not personally but seriously. He can decide to reach out to those who have raised objections to his nomination. He can reach out to those who have grave concerns about how he conducts himself in the very important position of Attorney General of the United States. He can dedicate himself to proving those who raised objections to his nomination were, in fact, in error and those objections were ill-founded.

It is that course of action that I hope he will take because in the final analysis, any Attorney General of the United States of America must dedicate himself to ensuring that our country lives out the full meaning of our

creed: Liberty and justice for all Americans—all—regardless of ideology, race, creed, or orientation.

I hope it is that America to which Mr. Ashcroft will dedicate himself as the next Attorney General of the United States of America and prove that the concerns that have been expressed on the floor of this body were, in fact, misplaced.

Mr. President, I appreciate the honor of addressing my colleagues once again. I yield the floor to my colleague from Vermont.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Is somebody controlling time on our side?

The PRESIDING OFFICER. The Senator from Vermont actually has the time until 12:15.

Mr. LEAHY. Mr. President, seeing my friend from New Mexico, I certainly yield to him.

Mr. DOMENICI. I thank the Senator.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I am going to vote for John Ashcroft to be Attorney General of the United States. Let me first say, if you read what he has done in his life, he is eminently qualified. For those who are wondering whether the President of the United States has picked a person who can, in fact, be a real Attorney General for the United States, they can have no doubt about it. He graduated from the University of Chicago Law School, which is a very reputable university. In fact, it is one you do not get into unless they already know you are very bright. That means, if you look at that, he was trained to be a good lawyer.

Frankly, we have had a lot of Attorneys General of the United States who were not good lawyers. There is no question he is trained and has proven that he is not simply good but very good at matters that pertain to law.

Secondly, as a Senator from one of the sovereign States, I feel very concerned about the way this man is being treated and why the votes are being garnered against him because if I were from the State of Missouri instead of the State of New Mexico—and maybe I will transplant myself there just for the next 3 or 4 minutes—I would ask, what kind of people live in Missouri? I think I would conclude that, as you look across America, they are very good people, very diverse. They earn a living in very different ways, from agriculture to manufacturing. And guess what. They elected this man who has been under fire day after day, they elected him to be attorney general of their State two times. They elected him to be Governor twice. Then they elected him to be a Senator.

Frankly, does anybody really believe the people of Missouri would elect a person who would discriminate against people in the State of the population that has been discussed here? Do they think the citizens of the State of Missouri would elect more than once a man to be attorney general of their entire State, for all of their people, and that they have all been beguiled and fooled because he really was not a good attorney general; that he was prejudiced; that he was discriminatory against people; that he did not follow the law? That is pure bunk because he followed the law; he enforced the law. They elected him Governor twice.

For this Senate to spend this much time trying to find little things about this man that are almost the kind of things you would not even ask anybody about—I looked at some of the questions Senators asked this man, and they are not only petty in some respects, but they deserve an answer, a simple answer: I don't remember. I can't understand. It's too long ago.

They asked him questions about conversations 15 years ago with reference to one of the subject matters: Did you talk to so-and-so? Well, I do not remember.

I am a reasonably good Senator, and I can tell you right now, I really remember things when I was 9, and 10, and 12, but I don't remember too well things that happened 2 years ago. And I bet you there are a lot of Senators like that. I will bet you there are a lot of great attorneys general in the United States like that.

In fact, John Ashcroft enforced laws in his State as attorney general that were inconsistent with his beliefs. And you know what. Attorneys general across America are doing that all the time. They are elected by the people. The people know they differ in many respects. They go in, and what do they do? They follow the law. He is going to follow the law.

The one difference versus many other Attorneys General, is that he is a real lawyer. He will be a real Attorney General. He will run that place because he has the intellectual capacity, the organizational ability, and the desire to be a great Attorney General.

My friend and former colleague, Senator John Ashcroft, is fully qualified to serve as the next Attorney General of the United States, and I will vote to confirm his nomination.

I served in this body with Senator Ashcroft for 6 years, and I know him as a man of great honesty and integrity. Unfortunately, honesty and integrity are often characteristics worthy of only secondary praise in today's society. Nevertheless, it is vitally important that the public has confidence that our Attorney General, who enforces our laws, is possessed of these traits.

Of honesty, George Washington once remarked, ''I hope I shall always possess firmness of virtue enough to maintain what I consider the most enviable of all titles, the character of an Honest Man.'' It is my belief that Senator Ashcroft possesses such character and is worthy of the title.

Senator Ashcroft graduated from Yale University and the University of Chicago Law School. He practiced law in his State of Missouri, and then served as Missouri's attorney general from 1976–1985. He was twice Missouri's Governor. He was later elected to the U.S. Senate, where he served with distinction on the Judiciary Committee.

Throughout his career, he has had an impressive record on crime. During his tenure as Governor, he increased funding for local law enforcement, which resulted in a significant increase in full-time law enforcement officers.

He helped enact tougher standards and sentencing for gun crimes, and led the fight against illegal drugs. His tough stance on drugs is important to me because we are seeking to eradicate a growing heroin problem in northern New Mexico.

While Governor, total State and Federal spending for antidrug efforts in Missouri increased nearly 400 percent. In the Senate, he cosponsored the Comprehensive Methamphetamine Control Act of 1996.

Despite his impressive credentials and proven record, Senator Ashcroft's opponents suggest that his religious and ideological beliefs will prevent him from enforcing our Nation's laws. It is true that he is a religious man with strong convictions. It is untrue that this will prevent him from carrying out his duties.

Time and time again throughout his distinguished career, this nominee has enforced laws that run counter to his personal views. While serving as Missouri's attorney general, a Christian group that Senator Ashcroft favored was distributing Bibles on school grounds. After careful review, he issued an opinion stating that such activity violated the State constitution.

On another matter, even though Senator Ashcroft is pro-life, he has unequivocally stated that he will investigate and prosecute any conduct by pro-life supporters at abortion clinics that violates the law. His prior actions support this assertion.

He once asked pro-life marchers to sign a nonviolence pledge and to observe ordinary rules of courtesy with both ''friend and foe.'' It was concern about potential violence at clinics that led to his vote for Senator SCHUMER's amendment to the bankruptcy bill that made debts incurred as a result of abortion clinic violence non-dischargeable in bankruptcy.

Other critics contend that this nominee is insensitive to minorities. His record on the whole indicates otherwise.

This is a charge I take very seriously because my state of New Mexico has a large population of Native Americans and Hispanics. I am deeply concerned about the interests of these and other minority groups throughout the nation, and I have always worked to ensure that minority rights are protected. In fact, I have supported affirmative action programs in nearly every federal agency. I will hold this nominee's feet to the fire on minority issues.

As Governor, Senator Ashcroft enacted Missouri's first hate crimes bill. He was also one of the nation's first governors to sign into law the Martin Luther King Jr. holiday. In addition, he appointed numerous African Americans to the state bench, including the first African American ever selected associate circuit judge in St. Louis County.

After this appointment, the Mound City Bar Association of St. Louis—one of the oldest African-American Bar Associations in the United States—said of then-Governor Ashcroft:

> Your appointment of attorney Hemphill demonstrated your sensitivity, not only to professional qualifications, but also to the genuine need to have a bench that is as diverse as the population it serves. . . . The appointment you have just made and your track record for appointing women and minorities are certainly positive indicators of your progressive sense of fairness and equity. We commend you.

This is not the description of a man who is insensitive to the needs of minorities.

Senator Ashcroft's concern for minorities did not stop when he came to the U.S. Senate. As a matter of fact, while in the United States Senate, he and Senator FEINGOLD convened the first Senate hearing on racial profiling, a practice Senator Ashcroft described as unconstitutional. He testified during his recent confirmation hearings that if confirmed he would make the elimination of racial profiling a priority.

Senator Ashcroft supported 26 of 27 African-American judges who were nominated to the federal judiciary. However, he did not support Missouri Supreme Court Judge Ronnie White. Nor did a majority of the U.S. Senate, 77 Missouri sheriffs, the National Sheriffs' Association, and other law enforcement groups. Senator Ashcroft's opposition to Judge White was based on a review of Judge White's dissenting opinions in death penalty cases.

In my view, a person with honesty and integrity who has a strong law enforcement record and a demonstrated willingness to follow the law regardless of personal beliefs is exactly the type of individual that should lead the Justice Department. That's the Senator Ashcroft I know, and he will serve with distinction as Attorney General. He has my full support. Thank you, Mr. President.

Mr. President, I am very pleased, and I congratulate the leadership here on our side and on their side for finally deciding we would vote today, not too long from now. I am hoping John Ashcroft will be confirmed. I do not know what this magical number of whether the Democrats can get 40 or 41 is all about, but I surely would not like to be a Senator on the other side who is told: We need your vote so we can get 41 votes against this man. What does that mean? Is that some reason to vote against this candidate? To me, if I were on that side and somebody told me: We only have 39 against him; we need you to make 40, and then told somebody else 41, I would say: Don't you think I ought to decide whether I want to vote for him? What does this 49, 40, or 41 mean? I don't understand it, except some think it means that is strength.

Mr. LEAHY. Will the Senator yield on that point?

Mr. DOMENICI. I am finished. I will yield the floor.

It is strength, meaning you can defeat the next person President Bush sends up to be a Supreme Court judge. What is that about? Nobody knows who he is going send, what his philosophy is going to be. Pure speculation. Pure speculation. And they are asking Senators to vote so they can have that kind of message to those who are worried about candidates who are conservative like this man? I don't really think it matters too much if it is 39, 38, 40, or 41; he is going to be Attorney General.

I tell you, I really predict he will be a good one, a very good one.

I yield the floor.

Mr. LEAHY. Mr. President, I realize we are on the time of the distinguished Senator from Utah, but I wonder if I might take 30 seconds to respond to what my friend from New Mexico said.

Mr. HATCH. Of course.

Mr. LEAHY. One, I commend both sides for the way they have managed this. But I tell my friend from New Mexico, this Senator has not asked, urged, or cajoled any Senator to vote one way or the other. I have not lobbied one single Senator in this body or told them how I expect them to vote.

The only time I have heard—I tell the Senator from New Mexico, if I could have his attention——

Mr. DOMENICI. Sure.

Mr. LEAHY. The only time I have heard numbers expressed was from the Republican leadership, when they stated before the hearings began—before 1 minute of hearings was held—that all 50 Republican Senators were expected to, and would, vote for Senator Ashcroft, and, of course, plus Vice President CHENEY, which would make a majority.

I do also appreciate him saying that we now come to the vote. I point out this matter has come to a vote much quicker than the last contested Attorney General, which was in President Reagan's term, with a Republican-controlled Senate, where they took about 10 months to bring it to a vote. The nomination papers arrived Monday, we voted in the committee on Tuesday, and we are going to have a final vote on Thursday.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, we are at the end of this particular debate. We are rapidly coming up to the time where we are all going to have to vote.

It would be an understatement for me to say I have been disappointed in a number of our colleagues and the approaches they have taken towards this particular nominee.

There has not been a person in the Senate who has not admitted that John Ashcroft is a person of integrity, decency, and honesty. He is a very religious man who believes in what he is doing.

I believe some of the arguments that have been made have been pretty bad. They have distorted his record. Mischaracterizations have been throughout this matter. It has been really hard for me to sit here and listen to some of the arguments that have been made.

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.

In response to a question I posed to Senator Ashcroft about the wide disparity of treatment accorded him as a person of faith and that accorded to Senator LIEBERMAN when he was running for Vice-President, and whether anything in his religious beliefs would interfere with his ability to apply the law as critics had charged, Senator Ashcroft said:

> In examining my understanding and my commitment and my faith heritage, I'd have to say that my faith heritage compels me to enforce the law and abide by the law rather than to violate the law. And if in some measure somehow I were to encounter a situation where the two came into conflict so that I could not respond to this faith heritage which requires me to enforce the law, then I would have to resign.

If anyone is looking for reassurances about whether Senator Ashcroft will enforce the law as written, I do not think anyone would have to look farther than this brief paragraph. Senator Ashcroft's critics and supporters uniformly agree that Senator Ashcroft is a man who takes his faith seriously. And if he says his faith compels him to abide by the law rather than violate it, I think his promise carries some weight. As he said in his opening statement, he takes his oath of office seriously, it being an oath taken enlisting the help and witness of God in so doing.

Nevertheless, he 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. His critics cannot have it both ways. They seek to impose either a caricature of strong faith—a faith defined by them—followed with zealous determination in violation of law, or of one who flouts his faith convictions by lying about his principles to get through the confirmation process. Which is it? Apparently, his critics do not understand either a faith that transcends politics and

power-grabs or the distinction between being an advocate for change in the law and being an impartial magistrate applying the law. This is not surprising, given the proclivity of many of his critics for a largely lawless, results-oriented, politicized approach to law, whether at the Justice Department, in the Courts, or elsewhere.

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.

Strangely, though many have commented on these issues, some claim the inability to see any such religious attack on Senator Ashcroft and the large number of Americans who believe much of what he does. Following my question to Senator Ashcroft, Senator LEAHY, the ranking Democrat on the Judiciary Committee, engaged in the following exchange with Senator Ashcroft:

Mr. LEAHY. I just would not want to leave one of the questions from my friend from Utah to give the wrong impression to the people here and just, sort of, make it very clear. Have you heard any senator, Republican or Democrat, suggest that there should be a religious test on your confirmation?

Mr. ASHCROFT. No senator has said, ''I will test you,'' but a number of senators have said, ''Will your religion keep you from being able to perform your duties in office?''

Mr. LEAHY. I'm amazed at that.

I have been amazed too, and I am not alone. I ask unanimous consent to have a sampling of editorials that have pointed out the religious test element in these attacks printed in the RECORD.

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

[From the Wall Street Journal, Jan. 19, 2001]

ASHES TO ASHCROFT

(By James W. Skillen)

Do deeply held religious convictions pose a threat to government? May we trust a man like John Ashcroft, whose outlook appears to be saturated by faith, to serve as U.S. attorney general.

It may seem odd, at first, that such a question is asked at all. Odd that sincere religious belief—at least when it comes to holding public office—should be counted as a liability, whereas agnosticism and atheism are presumed to pose no problem whatsoever. But there is a logic to the question—if indeed there is a reasonable concern that some higher authority will interfere with the republic's human ones.

But is there a reasonable concern? That depends. There are religions, and then there are religions. Clearly a man whose God calls for him to overthrow the American system of government would disqualify himself for public office immediately, as would a theocrat for whom clerical edicts would trump federal and state laws.

But of course John Ashcroft is not this sort of man. He is, rather, the kind of Christian whose belief wholeheartedly supports democracy, the rule of law and religious freedom. To put it starkly: He believes that his savior and lord, Jesus Christ, approves of the American system of government.

But that won't save him from his critics, who cringe at such a claim, since they don't think the name of Jesus should be used in a political conversation. But this is a kind of bigotry. We easily accept the idea that broad liberal sentiments inspire public service and that secular, humanitarian ideals are harmonious with American democracy. Why not religious convictions too?

Of course, any truths that anyone holds dear—secular or divinely ordained—must exist in the real world on the same footing as others, under constitutional provisions that hold for everyone. But there is nothing in Mr. Ashcroft's record to suggest that he thinks otherwise.

So why do some people still find his religion so threatening? The answer, I think, is almost philosophical. It has been standard modern practice to speak of religion in isolation, as something separate. Thus we hear of ''religion and society'' or ''religion and politics.'' This manner of speech has its roots in the European Enlightenment's conviction that Christianity was a kind of residual entity that would soon be made obsolete by the progress of science and reason.

The U.S. was founded at a time when the Enlightenment was beginning to win American converts. Thomas Jefferson expressed the new moralism of the Enlightenment when, in a letter to his nephew, Peter Carr (Aug. 10, 1787), he encouraged him to read the Bible. If such reading, Jefferson wrote to Carr, ''ends in a belief that there is no God, you will find incitements to virtue in the comfort and pleasantness you feel in its exercise, and the love of others which it will procure you. If you find reason to believe there is a God, a consciousness that you are acting under his eye, and that he approves you, will be a vast additional incitement.''

From this point of view, religion is judged by its pragmatic usefulness—its power to inspire public virtue. Whether God exists, whether faith can be felt to be personally true, does not matter.

The problem with Mr. Ashcroft, in the eyes of those who have been influenced more by the Enlightenment than by Christianity, is that he reveres God as truly superior to himself and, in a moral sense, to the republic. That is, he takes religion too seriously for a modern man. He does not treat it as either a utilitarian devise or a merely private affair.

Of course, if Mr. Ashcroft's political convictions on, say, abortion were the same as those who now fault him, his critics would applaud his belief as an incitement to virtue. But he holds views contrary to their own. How to explain his unwillingness to join their moral majority? Disparage his religion as something dangerous—something out of the mainstream that belongs to a darker, or less ''enlightened,'' age.

And the best way to do this is to suggest, implausibly, that Mr. Ashcroft is blinded by his faith, that it is so illiberal that it renders him unable to honor his obligations as a public official, to revere the Constitution, to obey the law it is his job to enforce. But it is an absurd suggestion: After all, George W. Bush will put his hand on the Bible tomorrow as he takes the oath of office, just like other presidents before him. Somehow, the republic will survive, and perhaps even prosper.

[From the Washington Times, Jan. 17, 2001]

ASHCROFT UNDER FIRE

If John Ashcroft is to be known as an extremist because he is a man of faith; if, as his former Senate colleague Charles Schumer repeatedly intimates, he is deemed ill-equipped to enforce the law—even incapable of knowing whether he is enforcing the law—because of his ideological and philosophical beliefs; if the man is to be labeled a racist because, as a senator from Missouri, he opposed one black judicial nominee while supporting 26; if all these wholly spurious charges are allowed to stand in a disgraceful attempt to, first, smear an honorable and supremely distinguished man and then defeat his nomination for attorney general, it would become clear that the American mainstream is a sterile, even hostile environment.

To be sure, the Senate Judiciary Committee, under Sen. Patrick Leahy's leadership this week, seems to be just such an inhospitable place. Even before Mr. Ashcroft gave a jot of testimony, answered any questions, explained a single point of view or action, or even said howdy-do, the Senate Democrats had bayonets affixed and were on the attack. In an ill-mannered rant harkening back to that science-fictional, if slanderously effective attack on Robert Bork's Supreme Court nomination, Sen. Ted Kennedy depicted an Attorney General Ashcroft as someone who would ''advance his personal views in spite of the laws of the land''—the baseless, indeed, fanciful implication being that Mr. Ashcroft would serve as some kind of Cabinet-level desperado in the new Bush administration. Of course, Mr. Kennedy, reprising his oft-played role as Democratic heavy in the confirmation hearings of Republican nominees, was just warming up.

Mr. Schumer, if more cordial, was hardly more temperate in his opening remarks, injecting a note of condescension into the hearings by wondering how such an ''impassioned and zealous advocate'' as Mr. Ashcroft could, as attorney general, ''just turn it off? That may be an impossible task,'' said Mr. Schumer, implying that Mr. Ashcroft is constitutionally—religiously?—incapable of enforcing the law when it conflicts with his convictions.

One might have thought that Mr. Ashcroft had pricked most of the grossly—and grotesquely—inflated charges against him with his compelling opening testimony during which he emphasized his commitment to enforcing the law as written for all Americans, regardless of race, color or creed. Hardly striking an orthodox conservative pose, Mr. Ashcroft spoke of his commitment, not to a color-blind society, but rather to diversity and integration. He elaborated on his record of supporting minority appointments and nominees throughout his career, and he spoke of his opposition to racial profiling. On the incendiary issue of abortion, Mr. Ashcroft declared that, consistent with previous Republican attorneys general, he believed Roe vs. Wade to have been wrongly decided, but affirmed his unwavering acceptance of the landmark cases upholding abortion's legality.

So what's the liberals' problem? Does anyone still take seriously the charges of racism—even after, say, the brother of slain civil rights activist Medgar Evers came out for Mr. Ashcroft this week? Does anyone—even a Senate Democrat—genuinely worry that Mr. Ashcroft would not enforce abortion laws even after learning, for example, that he has supported a ban on violence against abortion clinics? Mr. Ashcroft has made it clear that, as attorney general, he would uphold the Constitution and the laws of the nation. After eight years of an increasingly degraded Justice Department, that would be—may we say it?—the department's salvation.

[From the New York Times, Jan. 17, 2001]

A CHRISTIAN, A CITIZEN

(By Robert A. Sirico)

GRAND RAPIDS, MI.—Some of the objections to the John Ashcroft nomination for attorney general hint that the problem with his conservative politics is that it is rooted in his Christian faith.

It is true that Mr. Ashcroft has made it clear that he is Christian and that his religious beliefs inform his judgment of the world. But why shouldn't someone who holds this particular belief be qualified to lead the Justice Department?

We must remember our country's progressive tradition of religious tolerance. In our nation's history, certain states subjected public officeholders to certain religious tests. For instance, in 1961, the Supreme Court struck down a Maryland law that required public officials to swear to a belief in the existence of God. Progressives fought valiantly against these religious tests, and it would be a grave error to promote a new religious test that would in effect block committed Christians from public service.

And yet some understandable questions remain. From the time of ancient Israel and the early church, believers have held that there is a law higher than those issued and enforced by government. Its source is transcendent and binds people's souls in a way in which statutory law cannot. Indeed, the idea of a natural law that transcends the political process is a powerful argument against tyranny.

Every serious believer and every conscientious person in public office must balance respect for law with the dictates of conscience. Many have disagreed profoundly with certain policies and wondered whether their religious commitments permitted them to cooperate in enforcing those policies.

Surely, as attorney general, Mr. Ashcroft would also have to struggle with this conundrum—particularly when it comes to abortion, which he opposes. But it is perfectly within Christian belief that one can participate in an essentially just system that sometimes produces unwise laws that must be enforced, as Mr. Ashcroft would do. That is at least as principled a position as that of those Catholic politicians who personally oppose abortion but vigorously support Roe v. Wade.

George W. Bush's response to the attacks on Mr. Ashcroft hints at the distinction between administering the law and advocating legislation. He says that as attorney general, Mr. Ashcroft will enforce, not interpret, the law, until such time as Congress changes them. Presumably that also includes the nation's laws on abortion.

The Bible, in Chapter 13 of Romans, tells Christians that ''the powers that be are ordained of God.'' That passage has never been held to mean that every regime governs according to God's will. But the phrase does imply that Christians face no moral obligation to flee from public life merely because a nation's laws do not always perfectly conform to the highest moral standards.

We are a nation that holds firm to the conviction that a person's religious commitments, or lack thereof, need not bar him or her from public life. The Ashcroft nomination provides an opportunity to reaffirm the best of this old liberal virtue of tolerance.

[From the Washington Post, Jan. 19, 2001]

DISQUALIFIED BY HIS RELIGION?

(By Charles Krauthammer)

A senator is nominated for high office. He's been reelected many times statewide. He has served admirably as his state's attorney general. He is devout, speaking openly and proudly about his religious faith. He emphasizes the critical role of religion in underpinning both morality and constitutional self-government. He speaks passionately about how his politics are shaped by his deeply held religious beliefs.

Now: If his name is Lieberman and he is Jewish, his nomination evokes celebration. if his name is Ashcroft and he is Christian, his nomination evokes a hue and cry about ''divisiveness'' and mobilizes a wall-to-wall liberal coalition to defeat him.

Just two months ago I addressed a gathering of the Jewish Theological Seminary arguing that the Lieberman candidacy—the almost universal applause his nomination received, the excitement he generated when he spoke of his religious faith—had created a new consensus in America. Liberals has long vilified the ''religious right'' for mixing faith and politics and insisting that religion has a legitimate place in the public square. No longer. The nomination of Lieberman to the second highest office in the country by the country's liberal political party would once and for all abolish the last remaining significant religious prejudice in the country—the notion that highly religious people are unfit for high office because they confuse theology with politics and recognize no boundary between church and state. After Lieberman, liberals would simply be too embarrassed to return to a double standard.

How wrong I was. The nomination of a passionate and devout Christian for attorney general set off the old liberal anti-religious reflexes as if Joe Lieberman had never existed.

Of course, the great anti-Ashcroft revolt is not framed as religious. The pretense is that it is about issues. Hence this exchange during John Ashcroft's confirmation hearing:

Sen. PATRICK LEAHY: ''Have you heard any senator, Republican or Democrat, suggest that there should be a religious test on your confirmation?''

JOHN ASHCROFT: ''No senator has said 'I will test you.' But a number of senators have said, 'Will your religion keep you from being able to perform your duties in office?' ''

Sen. LEAHY: ''All right, well, I'm amazed at that.''

At the clumsiness, perhaps. No serious politician is supposed to admit openly that Ashcroft's religion bothers him. The religious test that is implied is not just un-American, it is grossly unconstitutional.

The ostensible issues are abortion and racial preferences, both of which Ashcroft fundamentally opposes. But are they really? In a country so divided on these issues, can one seriously argue that opposing abortion and racial preferences is proof of extremism? It would be odd indeed if the minority of Americans who believe in racial preferences and the minority who believe in abortion-on-demand were to define the American mainstream. In fact, under these issues lies a suspicion, even a prejudice, about the fitness of a truly religious conservative for high office. ''Christian Right'' is a double negative in the liberal lexicon. It is meant to make decent Americans cringe at the thought of some religious wing nut enforcing the laws. Torquemada at Agriculture perhaps. But not Justice, God forbid.

To the anti-Ashcroft coalition, the Christian Right—numbering at least 30 million, by the way—is some kind of weird fringe group to whom bones are thrown by otherwise responsible Republicans to induce them to return to their caves. Politically, they are a foreign body to be ignored, bought off or suppressed. Hence the charge that the very appointment of a man representing this constituency is, in and of itself, divisive.

Hence the salivation when news broke that there was a tape of Ashcroft's commencement address at Bob Jones University. In it, he declared that Jesus is a higher authority than Caesar. That sent some fundamentalist church-state separationists into apoplexy. This proved, said Barry Lynn, the executive director of Americans United for Separation of Church and State, that Ashcroft ''has little or no appreciation for the constitutional separation of church and state'' and thus is disqualified from serving as attorney general.

What Ashcroft did was not merely to state the obvious—that the American experiment has always recognized its source in the transcendent—but to restate in his own vernacular what Joe Lieberman had been saying up and down the country throughout the summer and fall.

It was a great day when Joe Lieberman was nominated. and it was even greater that he publicly rooted his most deeply held political beliefs in his faith. It is rather ironic that we now need to go through that same process for Ashcroft's constituency of co-believers. When the Senate confirms him, we will have overcome yet another obstacle in America's steady march to religious toleration.

Mr. HATCH. Mr. President, let me point to just a few instances of these amazing attacks on Senator Ashcroft, made on largely religious grounds, since he was nominated. In fairness to my colleagues in the Senate, they have tried to draw a distinction between the liberal pressure groups' attacks on Senator Ashcroft's religious views and my colleagues' questioning into his ''values'' or ''beliefs.'' But their wholesale adoption of the rest of the liberal interest group critique of John Ashcroft does suggest a connection between the objections, despite a generally more guarded rhetoric. However, I was disappointed that just this morning one of our colleagues was quoted in The New York Times as saying, ''he believed Mr. Ashcroft's 'fundamental beliefs and values' would conflict with the attorney general's responsibility to enforce the law.'' NY Times, Feb. 1, 2001.

Let me turn to 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.

Most attacks have been based on the divergence of his religious beliefs and a particular law, such as abortion rights, or a suggestion that the strength of his deeply-held convictions will make it impossible for him to analyze the law dispassionately and apply it even-handedly. Professor Dunn makes his attack explicitly on religious grounds. On a personal note, I am deeply disappointed that a Divinity Professor, who has worked on important religious liberty legislation with me and other people of conscience and people of faith, would use such harsh and intemperate language to attack a person of good faith, apparently over a policy difference.

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.

This critique is particularly odd when both major-party presidential candidates have been talking up the concept of charitable choice very recently in their campaigns.

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. I hope that none of my colleagues would join in such attacks, whether explicitly stated or couched in more careful language.

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 ''his actions and statements over time with regard to choice and family planning represent no mere commentary on policy decisions of the day, but rather illustrate deeply held beliefs that put him at odds with the overwhelming majority of Americans.'' She went on to argue 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.

Where all of this leads is down one of two roads. Either the political views of about half of the country—including a duly elected pro-life President—make one unfit for office, which clearly cannot be right in a democracy. Or religious people who actually believe their religions are unfit for public office, which clearly cannot be right in a tolerant and pluralistic society founded in part on religious freedom.

Or there is a third path. That path is the one John Ashcroft's opponents have added most recently to counter his assurances that he will follow the law, even where he disagrees with it. That path is to try to brand as a liar a person who, while disagreeing on policy, promises to honor the law as the policy-makers have made it. This path attacks the very notion of dispassionate analysis and even-handed application of the law.

Besides undermining our basic assumptions supporting the rule of law, this position raises two additional objections. First, it unfairly puts the nominee in a lose-lose position where he cannot ever win the argument because if he disagrees with his opponents on policy he is branded a dangerous extremist, but if he disarms the policy dispute by acknowledging his role as enforcer of policy made by others, his veracity is called into question. There seems to be no way to satisfy these critics without violating the oath to uphold the law; they seem to want a promise that he will make up new liberal law in his enforcement position.

Besides being little more than a desperate attempt to justify opposition under any circumstances, this path 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.

Oddly, to justify questions approaching this line, one Judiciary Committee member suggested that is was perfectly appropriate to inquire whether a Quaker could faithfully discharge the office of Secretary of Defense. I am not sure we should be so blithely assured that it is appropriate to inquire about a nominee's religious beliefs and then judge that nominee based on what we think their religion requires of them. That robs the individual conscience of its freedom and robs the executive of the choice of cabinet team based on a Senator's own projection of what a nominee's religious code ought to be. 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. 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 him to be a man of integrity, a man of his word. A man who reveres American constitutionalism, democracy, pluralism, and equality before the law. 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 established by the constitutional process he reveres.

I think if we examine our hearts, we will find nothing that disqualifies him 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, sworn as he points out ''so help [him] God.'' And we know this 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.

My colleague Senator KENNEDY suggests that to oppose court-ordered busing makes a person against integration. But nothing could be farther from the truth. I think most people highly abhor racial segregation. However, the remedy for such segregation is extremely controversial. Mr. Bob Woodson testified that a significant majority of African-Americans opposes busing for integration. And it is no wonder, given that many of these programs have been a dismal failure. They may have moved some children out of city schools, but they have done little to improve inner-city schools.

I would like to address several allegations that continue to be made relating to Senator Ashcroft's involvement with school desegregation cases in Missouri. 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 has referred 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 only by a 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 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 standard achievement test went from 36.5 to 31.1 at a time when the national mean was 50. And the graduation rate has remained at a dismal 30 percent.

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 a representative of the State of Missouri. He supports integration and deplores racism.

As one who feels very strongly about drug issues, I am pleased to say I have been working with Senator LEAHY on legislation dealing with drug treatment and prevention, and we are going to get that done this year.

I feel compelled to respond to some of the criticism launched at Senator Ashcroft yesterday regarding his stance on drug treatment. Some have questioned Senator Ashcroft's dedication to investing in drug prevention and treatment programs in the battle against drug abuse and addiction.

Indeed, yesterday when giving a statement in opposition to Senator Ashcroft, one Senator suggested that Senator Ashcroft opposed investing in drug treatment. That simply is not true. Senator Ashcroft's record in the Senate proves that he placed a lot of faith in drug prevention and treatment.

He has always believed, as do many of us, that America's drug problems can only be conquered through a comprehensive, balanced approach consisting of interdiction and law enforcement efforts as well as prevention and treatment.

It is true that in 1998, Senator Ashcroft called on the Clinton administration to continue the ban on federal funding for clean-needle programs, stating ''the nation's leaders have a fundamental responsibility to call Americans to their highest and best.'' Providing clean needles to drug addicts, Senator Ashcroft reasoned, was analogous to ''giving bullet proof vests to bank robbers.'' He argued that such a policy would ''hurt kids, tear apart families, and damage the culture.'' Senator Ashcroft went on to state that providing needles to addicts ''is accommodating us at our lowest and least.'' In light of the fact that heroin use among eighth graders had doubled and that marijuana use was up 99 percent at the time when the Clinton administration was considering lifting the ban on federal funding for needle exchange programs, Senator Ashcroft concluded that ''America deserve[d] better,'' and that its leaders needed to set ''a higher standard than providing clean needles for drug users.''

Some have mischaracterized Senator Ashcroft's record on drug treatment. I have complete confidence in saying that the majority of Americans agree with Senator Ashcroft. Providing drug addicts with clean needles is not the most effective drug prevention or treatment.

Just last session, Senator Ashcroft authored and introduced S. 486, a comprehensive bill that attacked the methamphetamine problem on several fronts, including the prevention and treatment fronts. S 486 was a balanced drug bill that contained significant and innovative prevention and treatment provisions. For example, the bill: (1) Expanded the National Drug Abuse Treatment Clinical Trials Network which conducts research and clinical trials with treatment centers relating to drug abuse and addiction and other biomedical, behavioral and social issues related to drug abuse and addiction; (2) authorized $10 million in grants to States for treatment of methamphetamine and amphetamine addiction; (3) authorized $15 million to fund grants to public and nonprofit private entities to carry out school-based and community-based programs concerning the dangers of abuse of and addiction to methamphetamine and other illicit drugs; and (4) required HHS to conduct a study on the development of medications for the treatment of addiction to amphetamine and methamphetamine.

Another important treatment provision, included in S. 486, offered an innovative approach to how drug addicted patients could seek and obtain treatment by creating a decentralized system of treating heroin addicts with a new generation of antiaddiction medications. This provision, which was added to S. 486 and was fully supported by Senator Ashcroft, was taken from a bill introduced by myself and Senators LEVIN and BIDEN. I am sure Senator LEVIN would agree that Senator Ashcroft's sponsorship and support for this very provision, not to mention the countless other provisions included in the bill, demonstrate this commitment to utilizing and funding effective prevention and treatment programs in the fight against illicit drug abuse and addiction. Senator Ashcroft's record

proves he believes in prevention and treatment programs and his views on one particular, and I must say controversial, form of a treatment program.

There are so many things I could bring up that have been distortions, misrepresentations, and downright falsehoods stated on this floor and in our committee about Senator Ashcroft—especially by outside groups. The sheer volume is mind-boggling to me.

I recall the Golden Rule of ''do unto others as you would have them do unto you.''

I wonder how many people would like to be treated like Senator Ashcroft has been treated by some of our colleagues here and some of these outside groups, distorting his record, trying to make him look bad—all in the good name of politics. I think it is wrong. Buddhists say it another way. Buddhists say, ''Do as you would be done by.'' It is very similar. Do unto others as you would have them do unto you.

How many of us would like to be treated like this? Here is a man who was elected attorney general of his State, who did his best to do that job, who enforced laws he didn't agree with. And he has a record that can be shown. He was selected by his peers—the other 49 attorneys general of the United States of America—to head the National Attorneys General Association. And we have people here saying he should not be Attorney General of the United States.

You don't get elected by 49 other state attorneys general—Democrats and Republicans—unless you are a quality person. What is more, he became Governor of the great State of Missouri for 8 years. As Governor of the State of Missouri, he also became the head of the National Governors' Association elected by the other 49 Governors. I submit that you don't get elected chairman of the National Governors' Association unless you are a quality individual, of great substance, fair and decent, and you surely would not get elected if you were against desegregation. There is no way.

Then he served 6 years in this Senate and I have never heard one person in this body say that he is not a man of integrity, decency, and honor.

Do unto others as you would have them do unto you.

I have never seen treatment like this of a worthy colleague. I have never seen treatment like this of somebody who has spent a lifetime living his beliefs and doing what is right.

Of the 69 Attorneys General of the United States, John Ashcroft has more qualifications than all but a handful; some say more qualifications than any one who has been Attorneys General. I will not go that far. But there is only a handful that have at least some of the qualifications that John Ashcroft has.

Think of what Senator Ashcroft's critics are doing to the State of Missouri in the arguments that have been made here. Why, you would all have to imply that the people of Missouri just have no brains to elect somebody as vicious, as violent, and as awful as John Ashcroft, when it is completely the other way. I commend the people of Missouri for having the brains to have somebody of that quality serve them as attorney general, Governor, and Senator.

Look at the way he handled his defeat—with decency; much more than has been shown to him—consideration, and kindness. And we are happy to welcome our new colleague from Missouri because of John Ashcroft's gracious concession and because she is a great person to boot. But Senator Ashcroft could have contested the election. The loss of a Senate race has to be personal. There are other legal aspects as well, it could be argued. But he didn't. He did not do what others are doing to him.

When I see these outside groups, I welcome them because it is the first time we have seen them in 8 years. Isn't that interesting? They seem to react and get into action only when there is a Republican President. I wonder why that is the case.

I respect their right to advocate. I respect their point of view even though I don't agree with many of them. I respect their right to come in and state that point of view.

But I resent the way they have done it. I resent the way they have picked on John Ashcroft. I resent the unfair tactics. I resent the distortions of his record. Boy, it has been distorted. I think we all resent it.

Let he who is without sin cast the first stone.

Isn't it amazing that only during Republican Presidencies we have all these groups coming out of the woodwork? I guess they can say it is because Republicans don't agree with them.

That is what makes this country great. We don't all have to agree.

Let me put it bluntly. Is it getting to the point where only pro-choice people can serve in as Attorney General of the United States? Do we have a litmus test that says that we have to reject highly qualified individuals who believe otherwise, but who will enforce the law as it exists? Is that where we are going in this country? Or are we going to continue to distort his record on guns? John Ashcroft has a sterling record on getting tough with criminals who use guns. That is the way to end the misuse of guns in this society—get tough on those who misuse them. There would be a lot less crime. But no, if we don't agree with certain antigun groups and we just ignore the history of the second amendment completely, we are not worthy of being Attorney General.

To have his record distorted when he has been a forthright, strong proponent of tough anticrime laws against those who misuse guns, it is a disgrace.

Desegregation: Sometimes in the law we can differ and have a good case and we might lose. But that doesn't mean the case wasn't good. If you look at the record of court-ordered desegregation in St. Louis and Kansas City, it didn't work. The people hurt the worst were the people in the inner cities of St. Louis and Kansas City. It cost $1.8 billion, which John thought was a raid on the State treasury. The State was never found liable for interdistrict segregation. Those are important points.

I want Members to think about it. Why would anybody in this body say some of the things that have been said about John Ashcroft? Is it because they want to make John Ashcroft the new Newt Gingrich so they can raise funds for reelection? I certainly hope not. But there are some who believe that. I am not sure it is not true. Is it because they are sending a message that no conservative who believes in the right to life should ever be Attorney General? Or even more, should never be on the circuit courts or supreme court of this land? Is that what we are doing? I believe some are doing it for that reason. I know some of the outside groups are doing it for that reason. I know they are trying to get as many votes against John Ashcroft so they can claim a victory, even though John Ashcroft is going to be the next Attorney General of the United States. I guess they want to undermine him from day 1. They got the wrong guy.

This is a fellow who will do what he thinks is right, and by and large will be right. Everybody in this body admits he would be a great law enforcement Attorney General.

The fact is, they know he is tough on crime. After all, that is one of the things we are all worried about. People are scared to death in this land today because we have allowed drugs to pervade the land. We have allowed criminality to pervade the land. We haven't been as tough as we should be. We have illicit use of guns in this land because we are not enforcing the laws. Instead of going after those who misuse the guns, they have been complaining about guns themselves. I would rather attack the problem in a responsible and intelligent way. Let he who has not sinned cast the first stone. Do unto others as you would have them do unto you.

I hope we don't have another nominee that goes through this, a person of decency and honor. I hope whether he or she is a Democrat or Republican, they will have a little more class than we have had displayed in this matter. I hope my colleagues on the other side will vote for John Ashcroft because it is the right thing to do. We should never get into these name-calling contests and distort people's records, especially someone of the quality of John Ashcroft, and a colleague at that.

Mr. President, I rise today to speak in strong support of President Bush's nominee for Attorney General, our former colleague, John Ashcroft. Senator Ashcroft will be one of the most qualified Attorney Generals in our history. Unfortunately, he has also been

the target of one of the most vicious and unrelenting smear campaigns in our history, and it is with that in mind that I feel compelled to set the record straight and describe at length, the real facts and the real qualifications of someone I think this country will be very fortunate to have serve as our Attorney General.

Mr. President, much of the debate over the nomination of John Ashcroft has focused on issues tangential to the core mission of the Department of Justice. The Senate would be well-served to consider the Ashcroft nomination in light of the duties of the Attorney General. When this debate is placed in the proper perspective, it becomes even more obvious how qualified Senator Ashcroft is to be the next Attorney General of the United States.

The Department of Justice was established by Congress in 1870. It is the largest law firm in the United States, with 123,000 employees and an annual budget of approximately $21 billion. Through its thousands of lawyers, agents, and investigators, the Justice Department plays a vital role in fighting violent crime and drug trafficking, ensuring business competition in the marketplace, enforcing immigration and naturalization laws, and protecting our environment. Consider the following major components of the Justice Department in light of the qualifications of Senator Ashcroft:

The Civil Rights Division was established in 1957 to secure the effective enforcement of civil rights for all Americans. Attorneys in the Civil Rights Division enforce federal statutes that prohibit discrimination on the basis of race, gender, disability, religion, and national origin. In order to enforce these landmark laws, the Civil Rights Division engages in a variety of litigation to fight discrimination in employment, housing and immigration. In particular, the litigation brought by the Civil Rights Division under the Voting Rights Act has had a profound influence on the electoral landscape in the last three decades. As Senator Ashcroft emphatically stated at his confirmation hearing: ''No part of the Department of Justice is more important than the Civil Rights Division.''

Senator Ashcroft's record proves that he believes in the mission of the Civil Rights Division. He vigorously enforced civil rights laws as the Attorney General and Governor of Missouri. He signed Missouri's first hate crimes statute. Not content to wait for the legislature to act, John Ashcroft made Missouri one of the first States to recognize Martin Luther King Day by issuing an executive order. He also led the fight to save Lincoln University, the Missouri university founded by African-American Civil War veterans.

Furthermore, as the Chairman of the Constitution Subcommittee in the Senate Judiciary Committee, Senator Ashcroft held the first hearing on racial profiling in the history of Congress. When asked at his confirmation hearing about his priorities for the Justice Department, Senator Ashcroft cited the abolition of racial profiling as one of his top two priorities.

I ask my colleagues to look to Senator Ashcroft's record and ignore the propaganda generated by extremist lobbying groups. Under attorney General Ashcroft, the Civil Rights Division will be in good hands.

Senator Ashcroft stated at his confirmation hearing that the paramount civil right is personal safety. The Attorney General is America's chief law enforcement officer, and managing the Criminal Division is the most important aspect of the Attorney General's duties. The Criminal Division oversees thousands of federal agents and is charged with, among other things, investigating and prosecuting drug dealers, illegal gun traffickers, bank robbers, child pornographers, computer hackers, and terrorists. The Criminal Division has a visible and tangible effect on the lives of all Americans.

I have no doubt that, given his extensive experience as a public servant, Senator Ashcroft understands and appreciates the mission of the Criminal Division. Throughout his long career as Missouri Attorney General, Missouri Governor, and United States Senator, Senator Ashcroft has been a strong advocate of tough and effective criminal law enforcement.

Perhaps the greatest threat facing our nation today is the scourge of illegal drugs. For years, Senator Ashcroft has been a leader in the fight against illegal drugs. In 1996, Senator Ashcroft helped enact the Comprehensive Methamphetamine Control Act, which increased penalties for the manufacture and trafficking of methamphetamine. Senator Ashcroft also helped enact federal laws that increased mandatory minimum sentences for methamphetamine offenses and authorized courts to order persons convicted of methamphetamine offenses to pay for the costs of laboratory cleanup. Last year, Senator Ashcroft authored legislation to target additional resources to local law enforcement agencies to fight methamphetamine.

Senator Ashcroft also understands that drug treatment and prevention are vital components of an effective drug strategy. In last year's methamphetamine legislation, Senator Ashcroft included funding for drug education and prevention programs, including resources for school-based anti-methamphetamine initiatives. As Attorney General and Governor of Missouri, Senator Ashcroft increased funding for anti-drug programs by almost 40%, the vast majority of which was for education, prevention and treatment.

Senator Ashcroft has also made clear that prosecuting gun crimes will be a top priority of the Ashcroft Justice Department. Unfortunately, gun prosecutions have not always been a priority for the Department of Justice. 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. In the Senate, John Ashcroft was one of the leaders in fighting gun crimes. To reverse 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.

In order to maintain tough federal penalties, Senator Ashcroft sponsored legislation to require a five-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. I have no doubt that with John Ashcroft as Attorney General, the Justice Department will target and prosecute gun crimes with unprecedented zeal.

To his credit, Senator Ashcroft understands that the vast majority of criminal law enforcement takes place at the state and local level. Given his tenure as Missouri Attorney General and Governor, Senator Ashcroft appreciates the important role that the federal government can play in supporting state and local authorities by providing resources and training. He also understands that the Justice Department should provide such support without intruding into traditional areas of state sovereignty.

In the Senate, Senator Ashcroft steadfastly supported state and local law enforcement. He won enactment of a bill that extends higher education financial assistance to spouses and dependent children of law enforcement officers killed in the line of duty. He was the principal proponent of the ''Care for Police Survivors Act,'' a measure that increases benefits to the survivors of public safety officers killed in the line of duty. Along with Senator BIDEN, Senator Ashcroft cosponsored legislation to reauthorize the COPS program.

In addition, Senator Ashcroft cosponsored the ''Local Law Enforcement Enhancement Act of 1995.'' This act allocated $1 billion to state and local law enforcement to update and computerize criminal records, automated fingerprint systems, and DNA identification operations. John Ashcroft also cosponsored the ''21st Century Justice Act'' which included Violent Offender Incarceration and Truth-in-Sentencing Incentive Grants. These grants have provided federal resources to States to build prisons to incarcerate violent and repeat offenders. Given his record, it is no surprise that law enforcement groups such as the Fraternal Order of Police, the National Sheriff's Association, the International Association of Chiefs of Police, the National District Attorneys Association, and the National Association of Police Organizations are united in their support for Senator Ashcroft's nomination.

The Civil Division represents the United States government, including executive departments and agencies, in civil litigation. First and foremost, the Civil Division defends the constitutionality of federal statutes, regulations, and executive orders. The Civil Division also litigates complex commercial cases. This litigation is especially important for property rights because the Civil Division represents the federal government against claims that private property was taken for public use without just compensation. In addition, the Civil Division represents the federal government in consumer litigation under various consumer protection and public health statutes.

Senator Ashcroft's experience as the Attorney General of Missouri prepared him well to oversee the Civil Division. John Ashcroft established the Consumer Affairs Division in the Missouri Attorney General's office. He brought many consumer protection actions, including odometer tampering cases and financial pyramid schemes. In Illinois v. Abbott & Associates, Inc., Attorney General Ashcroft filed a brief in the United States Supreme Court supporting the right of state attorneys general to conduct antitrust investigations. In the Senate, John Ashcroft helped enact legislation to combat telemarketing scams against senior citizens.

As Missouri Attorney General, Senator Ashcroft defended the constitutionality of state laws. In 1993, he personally argued a case before the United States Supreme Court in defense of the constitutionality of a Missouri statute. Few nominees for Attorney General have been so qualified to oversee the Civil Division.

Created in 1909, the Environment and Natural Resources Division is the Nation's chief environmental lawyer. It is responsible for litigating cases ranging from the protection of endangered species to the clean-up of hazardous waste sites. In addition to prosecuting environmental crimes, the Environment and Natural Resources Division ensures that federal environmental laws are implemented in a fair and consistent manner.

As Missouri Attorney General, John Ashcroft aggressively enforced that state's environmental protection laws. To cite but a few examples, Attorney General Ashcroft brought suit to prevent an electric company from causing oxygen levels in downstream waters to harm fish. He also sought to recover damages from the electric company.

Attorney General Ashcroft brought a successful action against the owner of an apartment complex for violations of the Missouri Clean Water Law relating to treatment of waste water, and he sued the owner of a trailer park for violations of the Missouri Clean Water Law.

As Missouri Attorney General, Senator Ashcroft also filed numerous briefs in the United States Supreme Court that advanced environmental protections. For example:

In Pacific Gas & Electric Co. v. State Energy Resources Conservation & Development Commission, Attorney General Ashcroft filed a brief supporting a California law that conditioned the construction of nuclear power plants on findings that adequate storage and disposal facilities are available.

In Sporhase v. Nebraska, Attorney General Ashcroft endorsed the State of Nebraska's effort to stop defendants from transporting Nebraska groundwater into Colorado without a permit.

In Baltimore Gas & Electric Co. v. Natural Resources Defense Council, Inc., Attorney General Ashcroft filed a brief supporting the Natural Resources Defense Council's position on tougher environmental regulations relating to storage of nuclear wastes.

As Missouri Attorney General, John Ashcroft issued numerous legal opinions that furthered the enforcement of environmental laws. I would like to describe a few of these formal opinions. In Attorney General Opinion No. 123–84, Attorney General Ashcroft issued an opinion that underground injection wells constitute pollution of the waters of the state and are subject to regulation by the Missouri Department of Natural Resources under the state's Clean Water Act. Attorney General Ashcroft also opined that it would be unlawful to build or operate such a well unless a permit had been obtained from the Clean Water Commission.

In Attorney General Opinion No. 67, Attorney General Ashcroft issued an opinion that operators of surface mines must obtain a permit for each year that the mine was un-reclaimed. In reaching this opinion, Attorney General Ashcroft determined that the operator of the mine must have a permit continuously from the time mining operations begin until reclamation of the site is complete. Attorney General Ashcroft concluded that the 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.''

In Attorney General Opinion No. 189, Attorney General Ashcroft issued an opinion that Missouri's cities and counties had the authority to require that all solid waste be disposed of at approved solid waste recovery facilities, rather than be buried in landfills. In rendering his opinion, Attorney General Ashcroft gave credence to 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.'' To those who have irresponsibly charged that Senator Ashcroft will not enforce our environmental laws, I say this: Look at his record.

Mr. President, there are other offices in the Justice Department that are also very important. In the interest of time, however, I have focused on a select few. My point today is a simple one—when this nomination is considered in light of the mission of the Department of Justice, it becomes apparent how well-qualified John Ashcroft is to be Attorney General.

In addition to placing in the record Senator Ashcroft's eminent qualifications, I would also like to correct the record surrounding a number of issues that have been raised by his critics. As Senator SESSIONS has said, Senator Ashcroft has been called ''divisive'', but that has been a result of a caricature created by extremist lobbying groups who have spared nothing to demonize him. Webster includes in its definition of ''caricature'', ''a likeness or imitation that is that is so distorted or inferior as to seem ludicrous.'' The portrait of John Ashcroft that has been painted by the People For the American Way and other like-motivated people and organizations is ludicrous. They describe a man that I do not recognize as John Ashcroft. Unlike their demonization, the real John Ashcroft has the character and the intelligence to be a great Attorney General.

Before addressing some of the unfair attacks leveled against Senator Ashcroft, I should say a word or two on standards. We have heard much discussion about the appropriate standard of ''advise and consent'' that we should apply to the President's Cabinet nominees. Unfortunately, many people, knowing that opposing Senator Ashcroft on ideological grounds would be unprecedented, appear to be manipulating this standard so as to mask their true reasons for opposing this nomination. And those reasons, I must say, are purely ideological. Prodded, and perhaps in some cases even threatened, by assorted left-wing extremist groups, those on the other side appear to oppose Senator Ashcroft simply because he is a conservative.

The standard we should use is that which was applied to Attorney General

Janet Reno in 1993, and that standard has three parts. First, by longstanding tradition in the Senate, we must afford the President a significant degree of deference to shape his Cabinet as he sees fit. The election is over, President Bush won, and nothing will change that fact. Some have suggested that because the election was close and divisive, we should be less deferential with respect to Cabinet nominees. Yet, I do not recall hearing that suggestion in 1993 after President Clinton won an extremely close and hard-fought election, an election in which he failed to garner a majority of the popular vote. Despite that close election, every Republican in this body deferred to President Clinton and voted for Attorney General Reno.

The second prong of our standard focuses on the experience and qualifications of the nominee. No one can seriously contend that Senator Ashcroft lacks the experience and qualifications to serve as Attorney General. Indeed, few in our nation's history have come to the post of Attorney General with the qualifications and experience that Senator Ashcroft brings. In almost thirty years of public service, he has served as a state attorney general, state governor, and United States Senator. While Missouri Attorney General, he was elected by the other state attorneys general to head the National Association of Attorneys General, while Governor of Missouri, his fellow governors elected him chairman of the National Governors' Association, and while a United States Senator, he served four years on the Judiciary Committee. By comparison, Attorney General Reno came to the post as a county prosecutor. Yet, despite concerns about her qualifications, every Republican in this body voted to confirm her.

The final prong of our standard requires us to ensure that the nominee possesses the necessary integrity and ethics to serve the American people. Here, Senator Ashcroft is above reproach. He is, by all accounts, a man of absolute honesty and deep religious conviction. I know I speak for many of my colleagues when I say that I knew President Bush had found the right person to enforce the laws of this nation when Senator Ashcroft raised his right hand and said, ''As a man of faith, I take my word and my integrity seriously. . . . when I swear to uphold the law, I will keep my oath, so help me God.''

Mr. President, as the senior senator from Vermont succinctly stated, albeit when the president was a member of his own party, ''The president should get to pick his own team. Unless the nominee is incompetent or some other major ethical or investigative problem arises . . . then the president gets the benefit of the doubt. There is no doubt about this nominee's qualifications or integrity.'' That is the standard that this Senate has always applied to Cabinet nominees. As others have noted, over the entire history of the Senate, this body has voted to reject only 9 nominations to the President's Cabinet, and only 3 in the 20th Century. In 1993, Republicans applied that traditional standard when we unanimously voted to confirm an attorney general nominee whose views on the death penalty, the Second Amendment, and abortion stood in stark contrast to our own. Unless those on the other side wish to engage in rank hypocrisy, this is the standard we should apply to Senator Ashcroft today.

Opponents of Senator Ashcroft have accused him of being unable to set aside his opinions on certain laws sufficiently in order to enforce those laws. 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 offices of the left-wing liberal group's offices, 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 Missouri Attorney General for 8 years. He has been chief executive as Missouri's 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 us 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 distortion.

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 this interim time 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 his 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.

John Ashcroft is committed to enforcing the civil rights of all Americans. He has stated that the Civil Rights Division is the most important division of the Justice Department and that he will make enforcement of civil rights a priority during his tenure as Attorney General. Contrary to the attacks of his critics, Senator Ashcroft has demonstrated his commitment to equality under the law throughout his career. For example, as Governor, he signed Missouri's first hate crimes statute into law. He signed Missouri's Martin Luther King Holiday into law and also signed the law establishing Scott Joplin's house as Missouri's first and only historic site honoring an African-American. John Ashcroft led the fight to save an independent Lincoln University, founded by African-American soldiers. He also established an award emphasizing academic excellence in the name of George Washington Carver, a wonderful intellectual role model for all Missouri students. As Governor, John Ashcroft was presented with 9 panels for judicial appointment that contained minority candidates. In 8 of the 9 instances, Ashcroft appointed a minority candidate to fill the post, and he appointed both of the minority candidates on the 9th panel to judicial positions at a later date. He appointed many African-Americans to Missouri's courts, including David Mason, Jimmy Edwards, Charles Shaw and Michael Calvin, in St. Louis. He also appointed

the first African-American judge on the Western Missouri Court of Appeals in Kansas City, Missouri's second highest court. This jurist, Ferdinand Gaitan, now serves on the U.S. District Court for Western Missouri.

He continued this leadership in the Senate where he convened the only Senate hearing on Racial Profiling (March 30, 2000) with Senator FEINGOLD. During that hearing, Senator Ashcroft spoke out strongly on the issue stating that ''[U]sing race broadly as profiler in lieu of individualized suspicion is, I believe, an unconstitutional practice.'' He has supported efforts to study the issue and during his hearing testified that as Attorney General, he would continue the studies already underway to examine racial and geographical disparities in death penalty cases. In short, John Ashcroft's record demonstrates his ability to lead a Justice Department of which we can all be proud.

John Ashcroft will be committed to enforcing the civil rights laws protecting every American's right to vote and participate in the political process. He has done so throughout his career. Some who oppose Senator Ashcroft have charged that as Governor, John Ashcroft essentially blocked two bills that would have required 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. It was opposed by the bipartisan St. Louis County Board of Election 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 circuit attorney George Peach was a Democrat who was the prosecutor in the St. Louis area. All of these people opposed the legislation. The recommendations 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 motivation, because the City of St. Louis is predominantly black and democratic. But this implication is seriously discredited by the history of voter registration in St. Louis and earlier federal court cases.

The city board has a long history of refusing to deputize private voter registration 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 refused to deputize volunteers to prevent fraud and ensure impartiality and administrative efficiency. Moreover, these conclusions were sustained by the 8th 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, some have implied 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 go forward for any reason other than a conclusion that there wasn't credible evidence to pursue the case.'' Objective people should have no doubt that Senator Ashcroft will be vigorous in his enforcement of the Voting Rights Act and related statutes.

Critics of Senator Ashcroft have also unfairly criticized his testimony about his involvement with the desegregation cases in St. Louis and Kansas City. Senator Ashcroft gave complete and responsive answers to questions about these cases. Any assertions to the contrary distort Senator Ashcroft's responses to a flurry of questions about difficult and complicated cases in which he was involved over a decade ago.

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, or not fully clear, but when questioned further, he clarified his answers in an accurate and fair manner. Moreover, in an extended response to a written question, he fully detailed Missouri's liability and involvement with the case. Far from being misleading, Senator Ashcroft's answers get to the heart of the distinctions in the case between inter- and intra-district liability for segregation.

Some complain that Senator Ashcroft denied that the state was a party to the lawsuit, however, the initial suit was filed in 1972 and did not make the State a party. Eventually the State was made party to the lawsuit in 1977 and Senator Ashcroft acknowledged this repeatedly in his answers.

Second, Senator Ashcroft's critics argue that Senator Ashcroft denied the State's liability. The State was found liable for school segregation in St. Louis, but only for intra-district segregation within the City of St. Louis. The remedy that the district court ordered was inter-district, between St. Louis and its suburbs. The State was never found liable for the inter-district segregation that would justify such a far-ranging remedy involving the suburbs. Then-Attorney General Ashcroft was battling against this inter-district remedy, and it is fully accurate to say that the State was never found liable for inter-district segregation.

Third, opponents of Senator Ashcroft unfairly charge that Senator Ashcroft misleadingly stated that he followed all court orders in the desegregation cases. Of course, these opponents cannot say that John Ashcroft did not follow the orders, and must admit that John Ashcroft complied with the terms of the orders. They can only criticize ''his vigorous and repeated appeals.'' These appeals were undertaken in his role as attorney general—as the legal representative of the State John Ashcroft had to consider the State's best interests and raise all reasonable legal appeals, which he did. To make a legal appeal is not to disobey a court order. In fact many court orders were complied with while the appeals were pending.

Fourth, the criticisms of Senator Ashcroft's actions strongly and unfairly imply that he was indifferent to the problems of segregation. Nothing could be further from the truth. Senator Ashcroft testified that ''I have always opposed segregation. I have never opposed integration. I believe that segregation is inconsistent with the 14th Amendment's guaranteeing of equal protection. I supported integrating the schools.'' What Senator Ashcroft opposed was court-ordered remedies that we now know to have been wildly expensive and ineffective. Test results have declined, graduation rates have remained at a dismal 30 percent, and the percentage of black students has remained about the same in St. Louis schools. All of this for the price-tag of $1.7 billion. It is hard to see how a person who opposed this plan can be considered against educational equality. The result of court-ordered desegregation in St. Louis is just one example of why, as Bob Woodson testified, a significant majority of African-Americans are against forced busing for integration.

John Ashcroft will stand behind the commitments he made during his confirmation and be a staunch defender of the civil rights of all Americans. Senator Ashcroft has demonstrated his commitment to equality through his

record as Attorney General, Governor and Senator. Contrary to his critics who have distorted his record on hiring, John Ashcroft has been deeply committed to promoting equal access to government positions during his tenure as both Attorney General and Governor of Missouri. Witnesses testifying at the hearing made this commitment clear.

Mr. Jerry Hunter, former labor secretary of Missouri, testified that, ''Like President-elect George W. Bush, Senator Ashcroft followed a policy of affirmative access and inclusiveness during his service to the state of Missouri as attorney general, his two terms as governor, and his one term in the United States Senate. During the eight years that Senator Ashcroft was attorney general for the state of Missouri, he recruited and hired minority lawyers. During his tenure as governor, he appointed blacks to numerous boards and commissions . . . [B]ut I would say to you on a personal note, Senator Ashcroft went out of his way to find African-Americans to consider for appointments.''

Mr. Hunter further elaborated that, ''When Governor Ashcroft's term ended in January of 1993, he had appointed more African-Americans to state court judgeships than any previous governor in the history of the state of Missouri. Governor Ashcroft was also bipartisan in his appointment of state court judges. He appointed Republicans, Democrats and independents. One of Governor Ashcroft's black appointees in St. Louis was appointed, notwithstanding the fact that he was not a Republican and that he was on a panel with a well-known white Republican. Of the nine panels of nominees for state court judgeships, which included at least one African-American, Governor Ashcroft appointed eight black judges from those panels.''

Judge David Mason, who worked with Ashcroft in the Missouri Attorney General's office stated, ''[A]s time went on, I begin to get a real feel for this man and where his heart is. When the subject of Martin Luther King Day came up, I was there. And I recall that he issued the executive order to establish the first King Day, rather than wait for the legislature to do it. Because, as you may recall, some of you, when the Congress passed the holiday, they passed it at a time when the Missouri legislature may not have been able to have the first holiday contemporaneously with it. So he passed a King holiday by executive order. He said, in doing so, he wanted his children to grow up in a state that observed someone like Martin Luther King.''

Bob Woodson of the National Center for Neighborhood Enterprise uses faith-based organizations to help troubled young people turn their lives around. Mr. Woodson testified: ''Senator John Ashcroft is the only person who, from the time he came into this body, reached out to us. He's on the board of Teen Challenge. He's raised money for them. He sponsored a charitable choice legislation that will stop the government from trying to close them down because they don't have trained professionals as drug counselors. We have an 80 percent success rate of these faith-based organizations with a $60-a-day cost, when the conventional, therapeutically secular program cost $600 a day with a 6 to 10 percent success rate. Senator Ashcroft has gone with us. He has fought with us. And this legislation would help us.'' Mr. Woodsen further stated that ''As a consequence, day before yesterday, 150 black and Hispanic transformed drug addicts got on buses from all over this nation and came here to support him. Fifty of them came from Victory Temple throughout the state of Texas, spent two days on a Greyhound bus at their own expense to come here to voice strong support for Senator Ashcroft.''

Congressman J.C. WATTS also testified: ''I've worked with [John Ashcroft] on legislation concerning poor communities, under-served communities. I have always found John Ashcroft to have nothing but the utmost respect and dignity for one's skin color. I heard John say yesterday in some of his testimony that his faith requires him to respect one's skin color. And I think that's the way it should be. [I]n my dealings with John, I have had nothing but the utmost respect for him when it comes to his dealings with people of different skin color.''

These testimonials and Senator Ashcroft's record of hiring and appointments as Missouri Attorney General and Governor demonstrate beyond any reasonable doubt that he will be committed to equal opportunity as Attorney General of the United States.

Many have expressed 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 John'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.

John Ashcroft's testimony on this issue demonstrates that he 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.

The anti-Ashcroft groups also took advantage of a controversy concerning Bob Jones University in order to wage a ''guilt by association'' attack on John Ashcroft. John Ashcroft's visit to the school was not controversial when it occurred in May 1999. In fact, politicians of both parties had spoken there prior to Senator Ashcroft. Early in 2000, however, approximately eight months after John Ashcroft's visit, Bob Jones University became a flash point during the primary election because opponents of then-Governor George W. Bush accused Bush of associating with an anti-Catholic statement that appeared on the University's Internet site.

Following the flap over Bush's visit, John Ashcroft said, ''I didn't really know they had these positions,'' and ''[f]rankly, I reject the anti-Catholic position of Bob Jones University categorically.'' Despite having repudiated the offending statement, John Ashcroft faced a new round of criticism for his appearance after he was nominated to be Attorney General. The special interest groups aligned against him attempted to associate John Ashcroft with every form of bigotry and intolerance they could.

Any controversy over John Ashcroft's speech at Bob Jones University should have been put to rest by John Ashcroft's testimony at his confirmation hearings. That's when we finally got the chance to ask Senator Ashcroft what he thought. And Senator Ashcroft made it clear that he ''reject[s] any racial intolerance or religious intolerance that has been associated with[,] or is associated with[,]'' Bob Jones University. He couldn't have been more firm.

Senator Ashcroft went on to explain that ''[he] want[s] to make it very clear that [he] reject[s] racial and religious intolerance.'' He said he does not endorse any bigoted views by virtue of ''having made an appearance in any faith or any congregation.'' He said, for example, that he has visited churches which do not ''allow women in certain roles,'' and that he does not endorse that view, either.

Apparently, Ashcroft's answer eliminated any doubt about his personal views. As Senator LEAHY told Senator Ashcroft during the hearing, ''I made my position very clear yesterday on how I feel about you on any questions of racial or religious bias. I stated that neither I nor anybody on this committee would make that claim about you.'' Even Catholic groups were satisfied. A spokesperson for the Catholic League said, ''In short, the controversy over Ashcroft is much ado about nothing as far as the Catholic League is concerned.''

Some outside groups had questioned the meaning of the speech that Senator Ashcroft gave during his visit to Bob Jones University. Senator Ashcroft explained during the confirmation hearing that the phrase ''We have no king but Jesus,'' was a representation of what colonists were saying at the time of the American Revolution. He said that the point of his speech was ''the idea that the ultimate authority of the ultimate idea of freedom in America is not governmentally derived.'' I don't think anyone in the Senate would take issue with that. It is an understatement to say that this idea is well-documented in the Founders' writings.

Lacking any basis to criticize John Ashcroft's May 1999 appearance, members of the Judiciary Committee went in search of controversy by asking Senator Ashcroft if he would go to Bob Jones University again if invited as Attorney General. He said he would ''speak at places where [he] believe[s] [he] can unite people and move them in the right direction.'' In saying that, he contritely explained that his confirmation hearings—''and the prelude to th[o]se hearings''—taught him to be ''sensitive at a higher level now than [he] was before, that the attorney general in particular needs to be careful about what he or she does.'' Senator Ashcroft said that, if confirmed, he ''would be sensitive to accepting invitations so as to not allow a presumption to be made that I was endorsing things that would divide people instead of unite them.'' This answer apparently did not satisfy some on the Committee who have since argued that he should have pledged never to return to the University.

But as Senator Ashcroft explained at his hearing, it is shortsighted to make a pledge not to go somewhere just because you disagree with them. John Ashcroft pointed out that Bob Jones University has ''abandoned the policy on interracial dating which was offensive'' after that policy became a focus of attention last year. I think John Ashcroft was contrite about what he learned and correct not to rule out visiting places where he thinks his presence could be a force for positive change.

There has been much talk during the nominations process and in the press about the ''Ashcroft Standard.'' This is a catch-phrase invented by opponents of Senator Ashcroft who wish to create the impression that there is something unseemly about a senator vigorously exercising his constitutional duty to advise and give consent to executive branch nominees. But the Ashcroft Standard is strawman—created only so that it might be criticized.

It is telling that this so-called Ashcroft Standard has been left undefined by those who invoke it. Its very hollowness is meant to evoke something inappropriate and suspect a way of evaluating far outside of the mainstream. Apparently this Standard is to be feared, because my colleagues repeatedly stated during the hearings that they would be magnanimous in not applying the Ashcroft Standard to John Ashcroft himself. But I suspect that John Ashcroft would pass the Ashcroft standard with flying colors.

In fact the criteria that Senator Ashcroft used to evaluate executive branch nominees are entirely appropriate and in keeping with the Senate's duty to give ''advice and consent'' to the President.

For instance, John Ashcroft applied his ''Standard'' to confirm all but 15 of President Clinton's 1,636 nominees. He voted to approve every Cabinet nomination made by President Clinton. Of President Clinton's 230 judicial nominees, Senator Ashcroft voted to confirm 218. There is also an underlying insinuation that the Ashcroft Standard is tinged with racial bias—and yet Senator Ashcroft voted to confirm 26 of 28 African-American judicial nominees.

With so many of President Clinton's nominees getting past the Ashcroft Standard, some might argue that it's far too lenient, but that is the nature of the Senate's role. The President is thought to have significant leeway in choosing executive branch officials. The Senate gives advice and consent, but with great deference to the president's choice. As Hamilton wrote in the Federalist number 76,

> To what purpose then require the co-operation of the Senate? I answer, that the necessity of their concurrence would have a powerful, though, in general, a silent operation. It would be an excellent check upon a spirit of favoritism in the President, and would tend greatly to prevent the appointment of unfit characters from State prejudice, from family connection, from personal attachment, or from a view to popularity.

The advice and consent role of the Senate must be exercised with an eye to the moral character of the nominee and his suitability for the office to which he is nominated. But it is a role that must be exercised with some natural deference to the prerogatives of the President. Indeed, this is a deference that has not been shown to President Bush during Senator Ashcroft's four days of hearings followed by more than 350 written questions.

The crux of the Senate's confirmation role is to not to quibble with the policy preferences of the President's nominees, but rather to evaluate the character and moral fitness of the nominee. Indeed, I ask myself when presented with a nominee whether this person will faithfully execute the office to which they have been appointed, upholding the laws of the United States in the given position. I believe that Senator Ashcroft has applied similar criterion when evaluating nominees. This is not a sinister standard, but rather a mostly ordinary one.

When this question is asked about Senator Ashcroft the answer is incredibly clear. As attorney general of Missouri John Ashcroft showed time and

again that he was willing to uphold law with which he disagreed. John Ashcroft testified, ''I understand that being attorney general means enforcing the laws as they are written, not enforcing my own personal preference; it means advancing the national interest, not advocating my personal interest.''

For instance, in 1979 John Ashcroft issued an attorney general's opinion stating that under the state constitution and the law of Missouri, a local school board of education had no legal authority to grant permission for the distribution of religious publications to the student body on school grounds. In another situation, against the demands of pro-life advocates, then-attorney general Ashcroft directed the State of Missouri to maintain the confidentiality of abortion records because a fair reading of the law required it.

Senator Ashcroft has not only testified that he will follow laws with which he disagrees, he has repeatedly shown that he does follow such laws. He has exhibited probity in office as attorney general, governor and senator. It is hard to imagine that he will not execute the office of United States Attorney General with equal integrity and commitment. Indeed, I am certain that Senator Ashcroft passes the much maligned Ashcroft Standard.

So what is the Ashcroft Standard anyway? I admit that I am not quite sure. Is it a careful review of the nominee's written record? A judgment about how the nominee will enforce the law? A healthy dose of deference to the executive prerogative? An appreciation for diversity? These are the standards that I saw applied by Senator Ashcroft.

The opponents of Senator Ashcroft have placed considerable emphasis on several specific nominations which I will discuss in turn.

John Ashcroft's opponents have mischaracterized his actions with respect to the James Hormel nomination, and have fabricated innuendo aimed at tarnishing John Ashcroft's 30-year record of fairness with respect to employment of people without regard to sexual orientation.

I supported James Hormel's nomination as Ambassador to Luxembourg. I thought he was qualified for that post. At the same time, however, I respected the fact that others in this body, including Senator Ashcroft, did not share my opinion. I cannot conclude—as some people have—that because Senator Ashcroft and I disagreed, that Senator Ashcroft's views, which were based on the totality of the record, were not valid. I have been in public service long enough to understand that thoughtful people can have honest differences of opinion on such matters without holding unsupportable or fundamentally biased points of view.

Now, there has been a great deal of confusion about Senator Ashcroft's role in the Hormel nomination. Outside special interest groups—which are trying to derail Senator Ashcroft's nomination have accused him of singlehandedly blocking or stopping James Hormel's nomination simply because of Hormel's sexual orientation. These charges are simply false. Although, as John Ashcroft told the Judiciary Committee, he voted against the nomination when it came to a vote in the Foreign Relations Committee, he did nothing to stop that nomination. John Ashcroft did not block a Senate vote on Mr. Hormel's nomination. In fact, Senator Ashcroft did not do anything to keep James Hormel's nomination from progressing. It was Senator HUTCHINSON who put a hold on the vote. In a letter dated January 24, 2001, Senator HUTCHINSON told Ashcroft that ''I feel it is important to set the record straight that you were in no way involved in the effort to delay Mr. Hormel's consideration by the full Senate.''

So let's look beyond the smokescreen of unsupported innuendo to examine what we really know about John Ashcroft. During the confirmation hearings, Senator LEAHY asked John Ashcroft directly about his motives with respect to the James Hormel nomination. Senator LEAHY asked, ''Did you block his nomination from coming to a vote because he is gay?'' And Senator Ashcroft said, ''I did not.'' He could not have been more clear. And when a man of John Ashcroft's integrity makes such a clear statement, we can take him at his word.

Of course, opponents of John Ashcroft do not want to take him as his word. Some outside special interest groups are trying to use his Hormel nomination vote to paint a false portrait of a man who acts in a biased way against homosexuals. But there is absolutely no evidence in the record to support that accusation. Senator Ashcroft made it very clear, both during his hearing and in his responses to numerous written questions, that ''sexual orientation has never been something that I've used in hiring in any of the jobs, in any of the offices I've held.''

In an effort to cloud this crystal-clear statement, the forces opposing Ashcroft presented to the media—not to the Judiciary Committee—a man named Paul Offner, who claimed that John Ashcroft asked him about sexual orientation 16 years ago in an interview. Mr. Offner's accusations have been entirely rebutted by two eyewitnesses present during that interview, both of whom have said that John Ashcroft never asked Mr. Offner—or any of the many other people he interviewed for jobs—about sexual preference. Carl Koupal, who sat in on numerous interviews with John Ashcroft as head of Ashcroft's gubernatorial transition team, said, ''I can say John Ashcroft did not ask that question of him or any other candidate we spoke to.'' Another Ashcroft aide, Duncan Kincheloe, said, ''It's inconceivable to me, and I'm certain I would remember if it had been asked. I've never heard him ask about that, and I've sat through dozens and dozens of interviews with him.'' This evidence should lay to rest any questions about John Ashcroft's past record of fairness with respect to sexual orientation.

In addition to that past record, we also have Senator Ashcroft's clear pledge for the future. He told the Judiciary Committee in no uncertain terms that he ''will enforce the law equally without regard to sexual orientation if appointed and confirmed as attorney general.'' He also promised that sexual preference ''will not be a consideration in hiring at the Department of Justice'' if he is confirmed. And this statement reflects more than his promise to uphold current policy; it reflects John Ashcroft's own judgment. He said, ''Even if the executive order [barring the consideration of sexual orientation as relevant to hiring] would be repealed, I would still not consider sexual orientation in hiring at the Department of Justice because I don't believe it relevant to the responsibilities.'' Now, that is a very strong statement, Mr. President. Especially because it comes from a person of unquestioned integrity.

The facts described above convince me completely that John Ashcroft will always act fairly in his law enforcement decisions and hiring decisions to people regardless of sexual orientation.

While reasonable minds can differ and come to different judgments on the matter, there were many legitimate reasons to vote against confirmation for Judge White. In fact, every Republican thought it was appropriate to do so. Several of my colleagues have argued that Senator Ashcroft distorted Judge White's record and wrongly painted him as pro-criminal and anti-law enforcement, but many of us have reviewed Judge White's record and were greatly troubled by his dissenting opinions in several death penalty cases. In these cases Judge White displayed a real inclination to overturn death sentences, even when they were called for by law.

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 come up from humble beginnings. But his record of dissenting in death penalty cases troubled me enough to vote against his confirmation.

Many of my 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.''

Since his nomination for a federal judgship was defeated, Judge White has continued to dissent in criminal cases. For example, in *Missouri* v. *Johns*, 2000 WL 1779262, Dec. 5, 2000, a jury sentenced the defendant Johns to death for a murder in which he shot the victim seven times, including a fatal shot to the head. Following this murder, Johns evaded capture for six months, during which time he committed two more murders and several robberies. When finally located by authorities, Johns took a hostage, placed a gun to her head, and threaten to kill her.

Johns confessed to the initial killing, but claimed that he did so in self-defense, despite the fact that he shot the victim seven times. In addition, Johns confessed to the robbery and murder of the two other victims during his flight from justice.

During the trial, Johns tried to introduce evidence that the victim had a violent reputation, but the trial court excluded the proffered evidence on the grounds of relevancy. On appeal, Johns argued that the inability to admit evidence of the victim's reputation harmed his theory of self-defense.

In the Missouri Supreme Court, a 5–2 majority ruled that the trial court did not commit reversible error and upheld the verdict and sentence. Judge White, however, joined a dissent with only one other judge which argued that ''Johns was deprived of a fair trial with respect to his self-defense theory.''

Like the defendant in *Missouri* v. *Johnson*, the defendant in *Missouri* v. *Johns* murdered several people and confessed to the killings. There was no doubt about the defendant's guilt in either case, yet Judge White dissented and would have granted a new trial to both defendants.

I bring up the recent case of *Missouri* v. *Johns* not to criticize Judge White or reargue his nomination. Instead, I mention this decision only to show that there was a legitimate basis for Senator Ashcroft's concerns about Judge White in death penalty cases. Senator Ashcroft has made the very valid point that if Judge White had been confirmed as a federal district judge, he would have had enormous power to reverse state criminal convictions, including death penalty sentences, unilaterally because of the federal writ of habeas corpus.

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 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.'' (Cong. Rec. S. 11871, Oct. 4, 1999). Other Senators have repeatedly suggested that the Senate has ''subtle'' means of holding up nominees. But at the same time senators are rebuked for placing holds on nominees. 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.

Senator Ashcroft has also been unfairly criticized for opposing the nomination of Bill Lann Lee to head the Civil Rights Division of the Justice Department. 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.

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 did not distort Mr. Lee's testimony. When Mr. Lee stated the test of Adarand 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. Mr. Lee's misleading description can properly be assailed as a fundamental mischaracterization of the law.

Senator Ashcroft has stated that he opposed Mr. Lee because of his record of advocacy and his mischaracterization of Supreme Court precedent. The failure to recognize the established legal standard established by the Supreme Court 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 are amply supported by the record.

Another area in which Senator Ashcroft has been unfairly attacked is his ability to enforce the law in areas related to abortion. Many of those opposing Senator Ashcroft have taken great pains to state that they do not oppose him because of his ideology, but then go on to say they cannot support him because of his positions on abortion issues. Isn't that ideology?

Make no mistake about it, Senator Ashcroft has a consistent pro-life record. Contrary to what his opponents would have you believe, that is not extremist or ''out of the mainstream.'' Millions of Americans share the same view. In the end, what is important is Senator Ashcroft's commitment to enforce the law as its been interpreted by the Supreme Court—and not the policy positions he advocated as a legislator.

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 v. 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 will 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 anti-violence statutes. Being pro-life is not inconsistent with opposing violence at clinics. The primary focus of the opposition has been the Freedom of Access to Clinic Entrances Act or ''FACE''. Senator Ashcroft supports the FACE law, and always has.

Senator Ashcroft testified specifically on how he would enforce FACE and other clinic access and anti-violence laws. He stated clearly that he would enforce these laws ''vigorously'', that he would investigate allegations ''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 anti-violence statutes. These statements are totally consistent 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 ''violate 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 amendment to the Bankruptcy bill that made debts incurred as a result of abortion clinic violence non-dischargeable in bankruptcy.

Senator Ashcroft has always condemned 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 Senator Ashcroft's testimony. Senator Ashcroft could not have testified any more clearly on the issue of contraception. He stated that: ''I think individuals 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 current laws should they be attacked. What more can he say? Is there anything a pro-life nominee could say to please the pro-abortion interest groups?

Senator Ashcroft's opponents argue that someone who has been active in advocating a particular policy position cannot set that aside and enforce the law fairly. I don't believe they can be serious. Does this mean that a person of character and integrity who had been active in the pro-choice movement could never be Attorney General? And what about the death penalty? Could we have no future Attorney General, regardless of how honest 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 confirming Senator Ashcroft. He has given strong and specific assurances to the Senate on abortion questions. These assurances are backed up by his proven record as Missouri Attorney General and Governor. Most importantly, they are backed up by Senator Ashcroft's personal integrity and decency characteristics known personally by almost every member of this body.

I was quite surprised to hear Senator Ashcroft's opponents criticize his work on behalf of faith-based organizations that everyone recognizes do remarkable good works in every community across this nation. Senator Ashcroft has participated in and encouraged these programs at both a personal and policy level.

I think we should be proud of Senator Ashcroft's efforts to assist the disadvantaged. Senator Ashcroft was the author of the charitable choice provision in the landmark Welfare Reform Act of 1996. That provision encourages faith-based organizations to participate in the welfare reform effort on the same basis as secular organizations. As a result, faith-based groups can now, for example, conduct drug-treatment and job placement programs for the poor. These programs and other similar faith-based programs have proved remarkably successful. As the noted civil rights activist Robert Woodson testified before the Senate Judiciary Committee, Senator Ashcroft's charitable choice legislation ''may do more to help blacks solve the real problems in their own communities than anything else government has done.''

Some critics claim that Senator Ashcroft's charitable choice provision violates the separation of church and state embodied in the First Amendment. These criticisms, however, are misplaced. The charitable choice law states that no federal funds ''shall be expended for sectarian worship, instruction, or proselytization.'' Moreover, the charitable choice law relies on Supreme Court precedents to clarify what is constitutionally permissible when state and local governments cooperate with religious and charitable organizations. The charitable choice law also allows beneficiaries who object to the religious character of the organization to receive assistance from an alternative provider.

During last year's Presidential campaign of 2000, both President George W. Bush and Vice President Al Gore supported the charitable choice law as a

means to empower faith-based charities. As President Bush recently said: ''A compassionate society is one which recognizes the great power of faith. We in government must not fear faith-based programs, we must welcome faith-based programs.''

Thanks in large part to Senator Ashcroft's leadership, President Bush will be able to expand the role of faith-based charities in fighting poverty, addiction and other social ills. Based on the charitable choice law, President Bush created an Office of Faith-Based and Community Initiatives in the White House last week. This office will be led by the prominent University of Pennsylvania professor John DiIulio. In short, the charitable choice law was one of Senator Ashcroft's most important legislative accomplishments and something that should weigh in favor of his nomination, not against it.

The criticism leveled against Senator Ashcroft on Charitable Choice suggests the possibility of an even more dangerous problem, religious intolerance. 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 in considering the nomination of John Ashcroft to be Attorney General of the United States, some are coming very close to violating the spirit, if not the letter of that assurance.

In response to a question I posed to Senator Ashcroft about the wide disparity of treatment accorded him as a person of faith and that accorded to Senator LIEBERMAN when he was running for Vice-President, and whether anything in his faith background would interfere with his ability to apply the law as critics had charged, Senator Ashcroft said:

> In examining my understanding and my commitment and my faith heritage, I'd have to say that my faith heritage compels me to enforce the law and abide by the law rather than to violate the law. And if in some measure somehow I were to encounter a situation where the two came into conflict so that I could not respond to this faith heritage which requires me to enforce the law, then I would have to resign.

Those looking for reassurance that Senator Ashcroft will enforce the law as written need look no further than this brief paragraph. Senator Ashcroft's critics and supporters alike uniformly agree that he is a man who takes his faith seriously. If he says his faith compels him to abide by the law, I think his promise carries great weight. As he said in his opening statement, he takes his oath of office seriously, it being a sacred and solemn obligation. Nevertheless, he 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 because he says he will swear to uphold the law. Well, his critics cannot have it both ways. Apparently, his critics do not understand either a faith that transcends politics and grasping after power or the distinction between being an advocate for change in the law and being an impartial magistrate to apply the law.

The Attorney General is perhaps the most important position in the President's cabinet. The Department of Justice has a long and storied history. It represents all Americans in the pursuit of justice. As such, the Department of Justice demands an Attorney General with great ability, integrity, and judgment. John Ashcroft has all these qualities.

Senator Ashcroft's abilities are demonstrated by the fact he was elected to statewide office five times in Missouri, a classic swing state in America's political landscape. As Attorney General and Governor of Missouri, John Ashcroft served with distinction and built a record of public service and devotion to the rule of law. He continued that proud service representing Missouri in the United States Senate. His leadership and integrity has been recognized by people in both political parties throughout his career. He was elected President of the National Association of Attorneys General by his fellow state attorneys general. As Governor of Missouri, John Ashcroft was elected Chairman of the National Governors Association by his fellow governors. Each time John Ashcroft was elected to these prestigious positions, the majority of state attorneys general and governors were Democrats. The fact that he was chosen to lead these organizations while in the minority party is a testament to his integrity and ability. Mr. President, John Ashcroft is the most qualified nominee for Attorney General in history. We are fortunate to have him as a nominee. I look forward to his stewardship of the Department of Justice.

Mr. President, much of the debate over the nomination of John Ashcroft has focused only on a few important issues, but those are not the only important issues central to the core mission of the Department of Justice. I believe the Senate would be well-served to consider the Ashcroft nomination in light of all of the important duties of the Attorney General. When this debate is placed in the proper perspective, it becomes even more obvious how qualified Senator Ashcroft is to be the next Attorney General of the United States.

The Department of Justice was established by Congress in 1870. It is the largest law firm in the United States with 123,000 employees and an annual budget of approximately $21 billion. Through its thousands of lawyers, agents, and investigators, the Justice Department plays a vital role in fighting violent crime and drug trafficking, ensuring business competition in the marketplace, and enforcing immigration and naturalization laws. Consider the following major components of the Justice Department in light of the qualifications of Senator Ashcroft:

The Civil Rights Division was established in 1957 to secure the effective enforcement of civil rights for all Americans. The Civil Rights Division is responsible for enforcing federal statutes that prohibit discrimination on the basis of race, gender, disability, religion, and national origin. In order to enforce these landmark laws, the Civil Rights Division engages in a variety of litigation to fight discrimination in employment, housing and immigration. In particular, the litigation brought by the Civil Rights Division under the Voting Rights Act has had a profound influence on the electoral landscape in the last three decades.

As Senator Ashcroft stated at his confirmation hearing: ''No part of the Department of Justice is more important than the Civil Rights Division.'' John Ashcroft vigorously enforced civil rights laws as the Attorney General and Governor of Missouri. He signed Missouri's first hate crimes statute. Not content to wait for the legislature to act, John Ashcroft made Missouri one of the first States to recognize Martin Luther King Day by issuing an executive order. He also led the fight to save Lincoln University, the university in Missouri founded by African-American Civil War veterans.

As the Chairman of the Constitution Subcommittee in the Senate Judiciary Committee, Senator Ashcroft held the first hearing on racial profiling in the history of Congress. When asked at his confirmation hearing about his priorities for the Justice Department, Senator Ashcroft cited the abolition of racial profiling as one of his top two priorities.

Senator Ashcroft stated at his confirmation hearing that the paramount civil right is personal safety. The Attorney General is America's chief law enforcement officer, and managing the Criminal Division is the most important aspect of the Attorney General's duties. The Criminal Division oversees thousands of federal agents and is charged with, among other things, investigating and prosecuting drug dealers, illegal gun traffickers, bank robbers, child pornographers, computer hackers, and terrorists. The Criminal Division has a visible and tangible effect on the lives of all Americans.

I have no doubt that, given his vast experience as a public servant, Senator Ashcroft understands and appreciates the mission of the Criminal Division. Throughout his long career as Missouri Attorney General, Missouri Governor, and United States Senator, Senator Ashcroft has been a strong advocate of tough and effective criminal law enforcement.

Perhaps the greatest threat facing our nation today is the scourge of illegal drugs. For years, Senator Ashcroft has been a leader in the fight against illegal drugs. In 1996, Senator Ashcroft helped me enact the Comprehensive Methamphetamine Control Act, which increased penalties for the manufacture and trafficking of methamphetamine. Senator Ashcroft also helped

enact federal laws that increased mandatory minimum sentences for methamphetamine offenses and authorized courts to order persons convicted of methamphetamine offenses to pay for the costs of laboratory cleanup. Last year, Senator Ashcroft authored legislation to target additional resources to local law enforcement agencies to fight methamphetamine.

Senator Ashcroft also understands that drug treatment and prevention are vital components of an effective drug strategy. In last year's methamphetamine legislation, Senator Ashcroft included funding for drug education and prevention programs, including resources for school-based anti-methamphetamine initiatives. As Attorney General and Governor of Missouri, Senator Ashcroft increased funding for anti-drug programs by almost 40%, the vast majority of which was for education, prevention and treatment.

During his confirmation hearing, Senator Ashcroft has also made clear that prosecuting gun crimes will be a top priority of the Ashcroft Justice Department. Unfortunately, gun prosecutions have not always been a priority for the Department of Justice. 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. In the Senate, John Ashcroft was one of the leaders in fighting gun crimes. To reverse 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.

In order to maintain tough federal penalties, Senator Ashcroft sponsored legislation to require a five-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. I have no doubt that with John Ashcroft as Attorney General, the Justice Department will target and prosecute gun crimes with unprecedented zeal.

To his credit, Senator Ashcroft understands that the vast majority of criminal law enforcement takes place at the state and local level. Given his tenure as Missouri Attorney General and Governor, Senator Ashcroft appreciates the important role that the federal government can play in supporting state and local authorities by providing resources and training. He also understands that the Justice Department should provide such support without intruding into traditional areas of state sovereignty.

In the Senate, Senator Ashcroft steadfastly supported state and local law enforcement. He won enactment of a bill that extends higher education financial assistance to spouses and dependent children of law enforcement officers killed in the line of duty. He was the principal proponent of the ''Care for Police Survivors Act,'' a measure that increases benefits to the survivors of public safety officers killed in the line of duty. Along with Senator BIDEN, Senator Ashcroft cosponsored legislation to reauthorize the COPS program.

In addition, Senator Ashcroft cosponsored the ''Local Law Enforcement Enhancement Act of 1995.'' This act allocated $1 billion to state and local law enforcement to update and computerize criminal records, automated fingerprint systems, and DNA identification operations. John Ashcroft also cosponsored the ''21st Century Justice Act'' which included Violent Offender Incarceration and Truth-in-Sentencing Incentive Grants. These grants have provided federal resources to States to build prisons to incarcerate violent and repeat offenders. Given his record, it is no surprise that law enforcement groups such as the Fraternal Order of Police, the National Sheriff's Association, the International Association of Chiefs of Police, the National District Attorneys Association, and the National Association of Police Organizations are united in their support for Senator Ashcroft's nomination.

The Civil Division represents the United States government, including executive departments and agencies, in civil litigation. First and foremost, the Civil Division defends the constitutionality of federal statutes, regulations, and executive orders. The Civil Division also litigates complex commercial cases. This litigation is especially important for property rights because the Civil Division represents the federal government against claims that private property was taken for public use without just compensation. In addition, the Civil Division represents the federal government in consumer litigation under various consumer protection and public health statutes.

Senator Ashcroft's experience as the Attorney General of Missouri prepared him well to oversee the Civil Division. John Ashcroft established the Consumer Affairs Division in the Missouri Attorney General's office. He brought many consumer protection actions, including odometer tampering cases and financial pyramid schemes. In Illinois v. Abbott & Associates, Inc., Attorney General Ashcroft filed a brief in the United States Supreme Court supporting the right of state attorneys general to conduct antitrust investigations. In the Senate, John Ashcroft helped enact legislation to combat telemarketing scams against senior citizens.

Created in 1909, the Environment and Natural Resources Division is the Nation's chief environmental lawyer. It is responsible for litigating cases ranging from the protection of endangered species to the cleanup of hazardous waste sites. In addition to prosecuting environmental crimes, the Environment and Natural Resources Division ensures that federal environmental laws are implemented in a fair and consistent manner.

As Missouri Attorney General, John Ashcroft aggressively enforced that state's environmental protection laws. To cite but a few examples, Attorney General Ashcroft brought suit to prevent an electric company from causing oxygen levels in downstream waters to harm fish. He also sought to recover damages from the electric company.

Attorney General Ashcroft brought a successful action against the owner of an apartment complex for violations of the Missouri Clean Water Law relating to treatment of waste water, and he sued the owner of a trailer park for violations of the Missouri Clean Water Law.

As Missouri Attorney General, Senator Ashcroft also filed numerous briefs in the United States Supreme Court that advanced environmental protections. For example:

In Pacific Gas & Electric Co. v. State Energy Resources Conservation & Development Commission, Attorney General Ashcroft filed a brief supporting a California law that conditioned the construction of nuclear power plants on findings that adequate storage and disposal facilities are available.

In Sporhase v. Nebraska, Attorney General Ashcroft endorsed the State of Nebraska's effort to stop defendants from transporting Nebraska groundwater into Colorado without a permit.

In Baltimore Gas & Electric Co. v. Natural Resources Defense Council, Inc., Attorney General Ashcroft filed a brief supporting the Natural Resources Defense Council's position on tougher environmental regulations relating to storage of nuclear wastes.

As Missouri Attorney General, John Ashcroft issued numerous legal opinions that furthered the enforcement of environmental laws. I would like to describe a few of these formal opinions. In Attorney General Opinion No. 123–84, Attorney General Ashcroft issued an opinion that underground injection

wells constitute pollution of the waters of the state and are subject to regulation by the Missouri Department of Natural Resources under the state's Clean Water Act. Attorney General Ashcroft also opined that it would be unlawful to build or operate such a well unless a permit had been obtained from the Clean Water Commission.

In Attorney General Opinion No. 67, Attorney General Ashcroft issued an opinion that operators of surface mines must obtain a permit for each year that the mine was un-reclaimed. In reaching this opinion, Attorney General Ashcroft determined that the operator of the mine must have a permit continuously from the time mining operations begin until reclamation of the site is complete. Attorney General Ashcroft concluded that the 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.''

In Attorney General Opinion No. 189, Attorney General Ashcroft issued an opinion that Missouri's cities and counties had the authority to require that all solid waste be disposed of at approved solid waste recovery facilities, rather than be buried in landfills. In rendering his opinion, Attorney General Ashcroft gave credence to 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.'' To those who have irresponsibly charged that Senator Ashcroft will not enforce our environmental laws, I say this: Look at his record.

In conclusion, there are other offices in the Justice Department that are also very important. In the interest of time, however, I have focused on a select few. My point today is a simple one when this nomination is considered in light of the mission of the Department of Justice, it becomes apparent how well-qualified John Ashcroft is to be Attorney General. I look forward to his stewardship of the Department of Justice.

Mr. President, I rise to respond to mischaracterizations about John Ashcroft's role in the James Hormel nomination, and about John Ashcroft's public record of fairness with respect to employment of people.

Let me say at the outset that I supported James Hormel's nomination as Ambassador to Luxembourg. I thought he was qualified for that post. At the same time, however, I respected the fact that others in this body, including Senator Ashcroft, did not share my opinion. I cannot conclude—as some people have—that because Senator Ashcroft and I disagreed, that Senator Ashcroft's views, which were based on the totality of the record, were not valid. I have been in public service long enough to understand that thoughtful people can have honest differences of opinion on such matters without holding unsupportable or fundamentally biased points of view.

Now, there has been a great deal of confusion about Senator John Ashcroft's role in the Hormel nomination. Outside special interest groups—which are trying to derail Senator Ashcroft's nomination—have accused him of singlehandedly blocking or stopping James Hormel's nomination simply because of Hormel's sexual orientation. These charges are false. Although, as John Ashcroft told the Judiciary Committee, he voted against the nomination when it came to a vote in the Foreign Relations Committee, he did nothing to stop that nomination. John Ashcroft did not block a Senate vote on Mr. Hormel's nomination, and he did not vote against that nomination on the floor because it never came to the floor.

So let's look beyond the smokescreen of unsupported innuendo to examine what we really know about John Ashcroft. during the confirmation hearings, Senator LEAHY and John Ashcroft directly about his motives with respect to the James Hormel nomination. Senator LEAHY asked, ''Did you block his nomination from coming to a vote because he is gay?'' And Senator Ashcroft said, ''I did not.'' He could not have been more clear. And when a man of John Ashcroft's integrity makes such a clear statement, we should take him at his word. Still, however, several Senators have repeated the unsupported allegation that Ashcroft's sole reason for voting against Hormel is that Hormel is gay.

Some opponents of John Ashcroft are taking the position of using his Hormel nomination vote to paint a false portrait of a man who acts in a biased way towards homosexuals. But there is absolutely no evidence in the record to support that accusation. Senator Ashcroft made it very clear, both during his hearing and in his responses to numerous written questions, that ''sexual orientation has never been something that I've used in hiring in any of the jobs, in any of the offices I've held.''

In an effort to cloud this crystal-clear statement, the forces opposing Ashcroft presented to the media a man named Paul Offner, who claimed that John Ashcroft asked him about sexual orientation 16 years ago in an interview. Mr. Offner's accusations have been entirely rebutted not only by Senator Ashcroft but also by two eyewitnesses present during that interview, both of whom have said that John Ashcroft never asked Mr. Offner—or any of the many other people he interviewed for jobs—about sexual preference. Carl Koupal, who sat in on numerous interviews with John Ashcroft as head of Ashcroft's gubernatorial transition team, said, ''I can say John Ashcroft did not ask that question of him or any other candidate we spoke to.'' Another Ashcroft aide, Duncan Kincheloe, said, ''It's inconceivable to me, and I'm certain I would remember if it had been asked. I've never heard him ask about that, and I've sat through dozens and dozens of interviews with him.'' This evidence should lay to rest questions related to the uncorroborated charges of Mr. Offner.

At least one Senator, however, continues to ignore the facts and draw out the innuendo. That Senator said that Mr. Offner's allegations—even if untrue—would not have had any resonance if it were not for a history of unfairness. But that Senator has presented absolutely not evidence of any such history. Not a single person has come forward with a credible story of unfairness in John Ashcroft's 30-year public life, during which he conducted hundreds if not thousands of interviews and meetings, and made many hiring and firing decisions. Given all the public attention to this issue, and all of the league of special interest powerful lobbyists who are working hard to find just one witness against John Ashcroft, the absence of such a witness speaks loudly and clearly.

In addition to his 30-year record of fairness, we also have Senator Ashcroft's clear pledge for the future. He told the Judiciary Committee in no uncertain terms that he ''will enforce the law equally without regard to sexual orientation if appointed and confirmed as attorney general.'' He also promised that sexual preference ''will not be a consideration in hiring at the Department of Justice'' if he is confirmed. And this statement reflects more than his promise to uphold current policy; it reflects John Ashcroft's own judgment. He said, ''even if the executive order [barring the consideration of sexual orientation as relevant to hiring] would be repealed, I would still not consider sexual orientation in hiring at the Department of Justice because I don't believe it relevant to the responsibilities.'' Now, that is a very strong statement, Mr. President. Especially because it comes from a person of unquestioned integrity.

The facts that I have just described convince me completely that John Ashcroft, once confirmed, will always act fairly in his law enforcement decisions and hiring decisions to people regardless of sexual orientation.

Mr. President, I ask unanimous consent to print an op-ed from the Wall Street Journal from today.

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

[From the Wall Street Journal, Feb. 1, 2001]

THE HORMEL DEMOCRATS

With Bill Clinton having split for Chappaqua with the Spielberg china, Democrats have a chance to present a new image to the public. Yet by opposing John Ashcroft for Attorney General, Senate Democrats seem intent on reminding Middle America why it voted against Al Gore.

Some of our readers may already have seen the nearby map of America breaking down

the vote in the last election. Mr. Gore won the two left coasts, the latte towns and tonier suburbs, and remnants of the progressive upper Midwest. President Bush won everything else. The map reflects a country divided by culture, with the traditionalist middle rejecting the anything-goes mores of the Clinton years.

Well, here we go again, with the same culturally liberal interests groups who ordered around Mr. Gore now making the Ashcroft vote a litmus test for Senate Democrats. NARAL, NOW, People for the American Way and the rest know they can't defeat him. But they're twisting arms behind the scenes to get as large a negative vote as possible, as a way to show their muscle and to warn Mr. Bush not to name any conservatives to the Supreme Court.

The problem for many Democrats, however, is that voters may notice the company they're keeping. Barbara Boxer, the superliberal from California, was the first Senate Democrat to declare against Mr. Ashcroft. Ted Kennedy followed close behind, this week joined by Pat Leahy from the Swedish Republic of Vermont and the noted moderate from the great state of New York, Hillary Rodham Clinton. This may all be thrilling news in Hollywood and Manhattan. But we wonder how this brand of Democratic leadership is going to look in, say, Georgia, Montana or South Dakota.

Especially because this time the liberal Borking strategy has been a bust. First the interest groups played the race card, but not even rejected judicial nominee Ronnie White would say that Mr. Ashcroft was racially motivated. The debate over Judge White had been about crime, specifically the death penalty, and Democrats sure didn't want to be soft on that. Then the opposition tried the gender/abortion card, but Mr. Ashcroft defused that one by pledging to enforce even laws he dislikes.

The latest attack line has been to suggest that Mr. Ashcroft is a relentless gay basher. Democrats went to the unusual lengths of calling in the recently returned U.S. ambassador to Luxembourg, James Hormel, to allege that in opposing his nomination to be ambassador Mr. Ashcroft had shown himself to be intolerant. In fact, fellow Republican Tim Hutchinson admitted that he (and not Mr. Ashcroft) was the Senator who had placed a hold on Mr. Hormel, who also helped to found the Human Rights Campaign, the gay lobby that has tried to stigmatize the Boy Scouts.

If nothing else, the Hormel matter certainly is instructive about our current cultural divide. Liberals want to make homosexuality not just a matter of tolerance but essentially a qualification for office: Oppose a gay nominee and you're automatically a bigot.

Never mind that Mr. Hormel was also opposed by the U.S. Catholic League for Religious and Civil Rights because he had pronounced himself amused at the public mockery of the Sisters of Perpetual Indulgence, a notorious anti-Catholic gay group. ''When Senator Tim Hutchinson gave James Hormel the opportunity to denounce anti-Catholicism, Hormel refused to do so,'' wrote William Donohue of the Catholic League in 1998. Luxembourg is more than 90% Catholic.

Mr. Hormel claims he was misrepresented, and maybe he was. But the politics of ''tolerance'' cuts both ways, and there's no denying that the modern gay-rights agenda has moved beyond mere peaceful co-existence to mock and stigmatize traditional religion. Catholics have been a special target because of the Pope's refusal to bend the church's centuries-old belief that homosexual acts are sinful. Mr. Hormel's critics were merely using the kind of identity politics that liberals have used for years.

The news is that so many Senators are nonetheless lining up to be Hormel Democrats. It's no accident that both North Dakota Democrats, the usually hyper-partisan Byron Dorgan and Kent Conrad, came out early for Mr. Ashcroft. George Bush won their state by two-to-one. But all of the potential Democratic presidential candidates seem to be falling into opposition line: Hillary of course, and even Indiana's Evan Bayh. Joe Lieberman is still pondering from Mt. Olympus.

Mr. Lieberman might reflect that following the liberal line didn't help him or his running mate last year. Democrats lost the White House, despite peace and prosperity, because Middle America didn't share their cultural values. Lining up against John Ashcroft won't help win them back.

Mr. HATCH. Mr. President, I want to respond to an unfair and untrue statement made on the floor of the Senate about John Ashcroft's work to combat the practice of racial profiling.

Senator Ashcroft has a good record on the issue of racial profiling. It was Senator Ashcroft's decision to hold the first-ever congressional hearing on the topic, a decision that Senator FEINGOLD, who is an expert on the issue in his own right, appropriately acknowledged during the confirmation hearings. Senator FEINGOLD reported that Senator Ashcroft and his staff ''not only permitted, but assisted in a significant and powerful hearing on racial profiling in the Constitution subcommittee.''

Those who attempt to downgrade the importance of that hearing have failed to understand that Senator Ashcroft's motives are genuine. Senator Ashcroft opposes injustice of all kinds. As he explained in his opening statement to the Judiciary Committee, ''[f]rom racial profiling to news of unwarranted strip searches, the list of injustice in America today is still long. Injustice in America against any individual must not stand; this is the special charge of the U.S. Department of Justice.''

Senator Ashcroft made clear that his efforts to combat racial profiling will continue if he is confirmed as Attorney General. In response to Senator FEINGOLD'S direct question ''will you make racial profiling a priority of yours?'', John Ashcroft pledged, ''I will make racial profiling a priority of mine.'' He could not have been more clear. And he was equally lucid when describing the basis for his views. He said, ''I think racial profiling is wrong. I think it's unconstitutional. I think it violates the 14th Amendment.'' These are powerful words when spoken by a man such as John Ashcroft who is committed to enforcing the rule of law.

Senator Ashcroft's views on racial profiling are part of his larger conception of the role of the Department of Justice on racial issues. Senator Ashcroft has pledged that, if confirmed, ''I would do my best never to allow a person to suffer solely on the basis of a person's race.'' He went on to say that ''it is important that the federal government be leading when it comes to respecting the rights of individuals and the Constitution. I will do everything I can to make sure that we lead properly in that respect.'' These are firm assurances from a man of integrity.

As you can see, Mr. President, it is not only unfair but also inaccurate to portray Senator Ashcroft as insensitive to the issue of racial profiling. I hope my comments help to set the record straight.

Mr. President, I would like to correct some misstatements that were made on the floor of the Senate concerning John Ashcroft's speech at Bob Jones University. There has been a real attempt here to wage a ''guilt by association'' attack on Senator Ashcroft, and I want to set the record straight.

John Ashcroft's visit to the school was not controversial when it occurred in May 1999. But early in 2000—approximately eight months after John Ashcroft's visit—Bob Jones University became a flash point during the primary election because opponents of then-Governor George W. Bush accused Governor Bush of associating with an anti-Catholic statement that appeared on the University's Internet site.

Following the flap over Bush's visit, John Ashcroft said, ''I didn't really know they had these positions,'' and ''[f]rankly, I reject the anti-Catholic position of Bob Jones University categorically.''

Despite having repudiated the offending statement, John Ashcroft faced a new round of criticism for his appearance after he was nominated to be Attorney General. The special interest groups aligned against him attempted to associate John Ashcroft with every form of bigotry and intolerance they could.

But any controversy over John Ashcroft's speech at Bob Jones University should have been put to rest by John Ashcroft's testimony at this confirmation hearings. That's when we finally got the chance to ask Senator Ashcroft what he thought. And Senator Ashcroft made it clear that he ''reject[s] any racial intolerance or religious intolerance that has been associated with[,] or is associated with[,]'' Bob Jones University.

Senator Ashcroft went on to explain that ''[he] want[s] to make it very clear that [he] reject[s] racial and religious intolerance.'' He said he does not endorse any bigoted views by virtue of ''having made an appearance in any faith or any congregation.'' He said, for example, that he has visited churches which do not ''allow women in certain roles,'' and that he does not endorse that view either.

Apparently, Ashcroft's answer eliminated any doubt about his personal views. As Senator LEAHY told Senator Ashcroft during the hearing, ''I made my position very clear yesterday on how I feel about you on any questions of racial or religious bias. I stated that neither I nor anybody on this committee would make that claim about you.'' Even Catholic groups were satisfied. A spokesperson for the Catholic

League said, ''In short, the controversy over Ashcroft is much ado about nothing as far as the Catholic League is concerned.''

Some outside groups had questioned the meaning of the speech that Senator Ashcroft gave during his visit to Bob Jones University. Senator Ashcroft explained during the confirmation hearing that ''the phrase, 'We have no king but Jesus,' was a representation of what colonists were saying at the time of the American Revolution.'' He said that the point of his speech was ''the idea that the ultimate authority of the ultimate idea of freedom in America is not governmentally derived.'' I don't think anyone in the Senate would take issue with that. It is an understatement to say that this idea is well-documented in the Founders' writings.

Some went in search of controversy by asking Senator Ashcroft if he would go to Bob Jones University again if invited as Attorney General. He said he would ''speak at places where [he] believes[s] [he] can unite people and move them in the right direction.'' In saying that, he contritely explained that his confirmation hearings—''and the prelude to th[o]se hearings''—taught him to be ''sensitive at a higher level now than [he] was before, that the attorney general in particular needs to be careful about what he or she does.'' Senator Ashcroft said that, if confirmed, he ''would be sensitive to accepting invitations so as to not allow a presumption to be made that I was endorsing things that would divide people instead of unite them.'' This answer apparently did not satisfy some of the committee who have since argued that he should have pledged never to return to the University.

But as Senator Ashcroft explained at his hearing, it is shortsighted to make a pledge not to go somewhere just because you disagree with them. John Ashcroft pointed out that the Bob Jones University has ''abandoned the policy on interracial dating which was offensive'' after that policy became a focus of attention last year. I think John Ashcroft was contrite about what he learned and correct not to rule out visiting places where he thinks his presence could be a force for positive change.

Thank you for the opportunity to correct the misimpressions about this issue that were unfortunately created on the Senate floor.

Mr. President, I feel compelled to address some of the misperceptions I fear may have been created by my colleagues in their comments about several aspects of Senator Ashcroft's record with regard to his role in antitrust litigation against politically-motivated boycotts and abortion when he was an elected official in Missouri.

First, several of my colleagues have unfairly criticized Senator Ashcroft for the lawsuit Senator Ashcroft filed against the National Organization of Women (NOW) when he was Attorney General of Missouri. In response to Missouri's decision not to ratify the Equal Rights Amendment (''ERA''), NOW organized a boycott against Missouri (as well as other states that failed to ratify the ERA). Pursuant to that boycott, NOW urged organizations not to hold conventions in Missouri. In 1978, Missouri, through then-Attorney General Ashcroft, sued NOW in federal court, alleging that the boycott violated the antitrust laws. As Senator Ashcroft testified during his confirmation, he filed the lawsuit because the boycott was hurting the people of Missouri, and he believed it to be in violation of the antitrust laws. Senator Ashcroft testified that the lawsuit had nothing to do with the ERA or with political differences that Senator Ashcroft might have held with NOW. The decision to file it was purely a legal and economic one. The boycott hurt Missouri and, in his view, was illegal, and it was his duty to act on behalf of Missouri and its citizens.

While some have charged this was settled law because a case cited in an opinion was more than a decade old, the fact that a case is cited in a decision is no indicator of whether the law of the particular case is settled. In fact, the legal question at issue—whether the Sherman Act covers boycotts engaged in with political rather than economic aims—was acknowledged by all the judges on the 8th Circuit panel to be one of first impression. With all appellate judges acknowledging the novelty of the case, I do not know how the argument that the law was settled can be maintained. The language of the Sherman Act on its face covered the conduct at issue, and it was well established that it generally covered boycotts. The court eventually ruled 2 judges to 1 against General Ashcroft, but obviously it was an unanswered question in the law and could have gone either way. The law is clear now, but it wasn't then. An Attorney General for a state represents that state, and like any lawyer, is to zealously defend the rights of those he represents. So, naturally appeals were made. Not to make an appeal from an adverse ruling—especially in a case of first impression—would have departed from normal practice and may have violated his duty to his client, the people of Missouri. And the fact that the Supreme Court denied review means little in this case. The Supreme Court often denies review on cases of first impression to allow the lower courts to develop the law before it reviews and settles a question to get the benefit of broader thinking than a single court. It seems odd to criticize an Attorney General for trying to serve his client's interest, but I guess the point of John Ashcroft's critics is that results are what is important, and if your clients' opponent is a group favored by liberal politicians, serving their needs is more important than serving your constituents and clients, in this case, citizens of Missouri, no matter what your normal duty would be. That cannot be what we expect of either a state or our federal Attorney General.

I would also like to respond to the number of comments that have been made about Senator Ashcroft's actions in *Sermchief* v. *Gonzales*, 660 S.W.2d 683 (Mo. 1983). This case was a declaratory action brought by nurses working at family planning clinics to permit them to prescribe contraceptives and other reproductive health materials according to the same protocols dictated by physicians under the Nursing Practice Act of 1975. The nurses also challenged the constitutionality of the statute. Attorney General Ashcroft's office was served with the lawsuit as required by law when any party challenges the constitutionality of a statute. Attorney General Ashcroft fulfilled his duty to defend the constitutionality of the statute. The brief his office filed did not address the proper scope of nursing practices as some have claimed.

The Attorney General's Office also represented the State Board of Nursing, who was not a party to the case, and filed an amicus brief on behalf on their behalf urging an interpretation of the statute consistent with the position taken by the nurses. This is the view that prevailed in the Missouri Supreme Court. In other words, both of the Attorney General's briefs supported the constitutionality of the statute. It was proper for the Attorney General to file briefs on behalf of parties on either side of the litigation because the positions taken were not in conflict insofar as they supported constitutionality of statute. Even if they had been in conflict, the law recognizes that an Attorney General may take conflicting positions because he or she is the only lawyer the government has—even when different government entities cannot agree.

The nurses were concerned about the Nursing Practice Act of 1975, and whether the term ''professional nursing'' expanded the scope of authorized nursing practices. The Board of Healing Arts threatened to order the nurses to show cause why the nurses should not be found guilty of the unauthorized practice of medicine, and physicians guilty of ''aiding and abetting.'' The Board of Healing won this argument at trial. The Missouri Supreme Court reversed the trial court and determined that the services complained of by the Board of Registration for the Healing Arts did indeed fall within the legislative standard of ''professional nursing'' and there were permissible.

The nurses in question were performing services including breast and pelvic examinations, laboratory testing of PAP smears, gonorrhea cultures, and blood serology and providing information about contraceptives. The trial court, in ruling in favor of the Board, found, among other things, that the findings derived from pelvic examinations which the nurses performed to attempt to diagnose the existence or nonexistence of contraindications to the

use of contraceptives ''require an individual to draw upon education, judgment and skill based upon knowledge and application of principles in addition to and beyond biological, physical, social, and nursing sciences.'' *Sermchief*, 660 S.W.2d at 686.

It was not unreasonable for the Board to argue that services that were generally performed by physicians and required the ''education, judgment and skill'' beyond ''nursing sciences.'' In fact, at trial, many prominent physicians testified as such. The Supreme Court, however, ruled in favor of the plaintiffs, based upon the legislative standard that was set at the time. The court relied on the nurses' professional status to know what their limits were. The Board, in bringing the case originally, simply didn't feel comfortable relying on the knowledge of an individual nurse as to what his or her limits were.

Any characterization of Senator Ashcroft's actions as Missouri Attorney General as an effort to deny health services to rural or low income patients, is at war with the facts. He was the Attorney General, and he had an obligation to defend the constitutionality of the statute. That is what he did, and it was perfectly appropriate.

Finally, I would like to respond to some criticism leveled at Senator Ashcroft for his support of pro-life legislation while Governor of Missouri. Even ardent supporters of Roe v. Wade must admit that the decision is not the model of clarity. Moreover, it did not, contrary to what many special interest groups claim, authorize abortion on demand. The decision, while establishing a constitutional right to abortion, set up a scheme that, in the words of Justice White, left the Supreme Court to serve as the country's ''ex officio medical board with powers to approve or disapprove medical and operative practices and standards throughout the United States.'' *Planned Parenthood of Central Mo.* v. *Danforth*, 428 U.S. 52, 99 (1976). Thus, even after the Roe decision, there remained many unanswered questions about the contours of this new constitutional right. These questions included, for example, issues about parental consent for minors, minimal standards for abortion clinics, and whether public facilities or employees can be used to perform abortions. Many state legislatures—not just Missouri's—sought to answer these questions left unanswered by Roe.

The statute passed by the Missouri legislature and signed by then-Governor Ashcroft in 1986 was one of these attempts to define the parameters of the right to an abortion. Many abortions-rights extremists forget that the Supreme Court, in its abortion cases, has consistently held that states have an interest in protecting the health and safety of its citizens and in reducing the incidence of abortions. The 1986 Missouri statute sought to do just that, with 20 provisions covering various issues left unresolved by the Roe decision. The Supreme Court, in its Webster decision, agreed that many of these provisions did not infringe on a woman's constitutional right to an abortion. *See Webster* v. *Reproductive Health Services, et al.*, 492 U.S. 490, 522 (1989). Throughout this legislative and judicial process, the State of Missouri—not simply Governor John Ashcroft—followed established legal rules and procedures in their good faith effort to balance the right to an abortion with the state's interest in protecting the health and safety of its citizens. While it may have asserted its rights to appeal, the State of Missouri and then-Governor Ashcroft always respected the opinions and orders of the court and the rules governing litigation. The good faith use of the courts to decide legal issues is no basis on which to criticize Senator Ashcroft.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, is Senator LEAHY going to speak?

Mr. LEAHY. I yield to the distinguished majority leader.

UNANIMOUS CONSENT AGREEMENT—ZOELLICK NOMINATION

Mr. LOTT. We have a couple of agreements we have worked out we want to get in place.

Mr. President, I ask consent that immediately following the reconvening of the Senate on Tuesday at 2:15 p.m. the Senate proceed to executive session to consider the nomination of Robert Zoellick to be the U.S. Trade Representative, and if not reported at that time, the nomination be discharged and the Senate proceed to its immediate consideration, and that there be up to 2 hours of debate, equally divided, between the chairman and the ranking minority member of the Finance Committee.

I further ask consent that at 4:15 on Tuesday the Senate proceed to vote on the confirmation, and following the confirmation, the motion to reconsider be laid upon the table, the President be immediately notified, and the Senate resume legislative session.

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

Mr. LOTT. Mr. President, I appreciate the fact there is no objection. I believe this nominee will be confirmed overwhelmingly, probably even unanimously. There is a feeling by Senators on both sides of the aisle that this trade issue is very important. This is an important position. A number of Senators did want to be able to have an opportunity to speak about our trade relations and our trade agreements around the world. That is why it was not completed this afternoon. I believe it will be done in regular order on Tuesday.

MEASURE READ THE FIRST TIME—S. 235

Mr. LOTT. I understand S. 235 is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 235) to provide for enhanced safety, public awareness and environmental protection in pipeline transportation, and for other purposes.

Mr. LOTT. Mr. President, I now ask for its second reading, and I object to my own request.

The PRESIDING OFFICER. The objection is heard.

The bill will be read the second time on the next legislative day.

Mr. LOTT. Mr. President, I should note that the purpose in taking this action now is to get this legislation ready for consideration next week. Senator DASCHLE and I are trying to get in a position to have the Zoellick nomination on Tuesday, the U.N. dues issue on Wednesday, and the pipeline safety legislation next week. These are all issues we are all very familiar with that have broad support. I believe we can do the three of them next week without any problem.

ORDERS FOR MONDAY, FEBRUARY 5, 2001, AND TUESDAY, FEBRUARY 6, 2001

Mr. LOTT. I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 10 a.m. on Monday, February 5, for a pro forma session only. No business will be transacted during Monday's session. The Senate would immediately adjourn until 9:30 a.m. on Tuesday, February 6. I further ask consent that on Tuesday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate then proceed to a period of morning business until 12:30, to be divided in the following fashion: Senator DASCHLE or his designee controlling the time between 9:30 and 11 a.m.; Senator HUTCHISON of Texas or her designee controlling the time between 11 a.m. and 12:30.

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

Mr. REID. If I could ask for a modification, that Senator DORGAN control the time from 10:30 to 11 o'clock a.m. on that date.

Mr. LOTT. I have no objection to that addition to the request.

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

Mr. LOTT. I further ask consent that the Senate stand in recess between the hours of 12:30 and 2:15 in order for the weekly caucuses to meet.

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

PROGRAM

Mr. LOTT. On Tuesday, following the weekly recess, at 2:15 we will proceed to the nomination of Robert Zoellick

to be USTR for up to 2 hours. Therefore, a rollcall vote will occur at 4:15 on Tuesday on that nomination, by a previous consent. On Wednesday, the Senate is expected to consider the U.N. dues bill. Therefore a vote or votes could occur, then, on Wednesday of next week relative to that legislation, and on Thursday with relation to the pipeline safety bill.

I yield the floor.

Mr. LEAHY. Mr. President, while my friend from Mississippi is still here, I ask unanimous consent, it is only a matter of a few minutes, that I still have the full half hour that had been reserved under the previous order.

Mr. LOTT. Are you making a request or observation?

Mr. LEAHY. I make it as a request because the time that the distinguished leader took went into that time.

Mr. LOTT. I certainly would not object to that. I do wish to speak briefly myself. I believe I would be in control of the time after that.

Mr. LEAHY. In fact, I will add to that: In doing so, that it not impinge on the time reserved for the distinguished majority leader.

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

The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, as we get to the end of this debate, I think it is wise if we look at some of the facts of the debate and not just the rhetoric.

We debated this matter virtually nonstop from 10:30 yesterday morning until 8:10 yesterday evening. We did it without intervening business. I do not think we had as much as 5 minutes expended in quorum calls. For our side, this was certainly not a dilatory debate but a substantive one. It was not the politics of personal destruction, but the Senate exercising its constitutional responsibility to examine one of the most important nominations that this President or any President could send to the Senate.

Let's go over the facts. The Senate received the President's nomination on Monday afternoon of this week. The Judiciary Committee debated this nomination on Tuesday afternoon the following day, and voted on it that evening. We began the Senate debate yesterday morning, less than 48 hours after receiving the nomination. We are concluding it in less than 14 and one half hours of Senate debate. We are voting up or down on this nomination this afternoon.

I mention this because I have heard those who point to the nomination of the last Attorney General, Janet Reno, as some sort of model of speedy confirmation. She was nominated after an earlier nomination had hearings and was withdrawn. Her nomination was not voted upon for a month after she was nominated. By comparison, we are voting on John Ashcroft when his nomination has been before us for only less than three days. That was not a controversial nomination. Republicans, as well as Democrats, came to the floor to praise her record, but she was still not sworn in until mid-March.

A better comparison would be to find the last controversial nomination; that was that of Attorney General Meese. He was first nominated in January 1984 by President Reagan. He was finally considered by the Republican-controlled Senate in February 1985, 13 months after being nominated. Five weeks ensued between his nomination and his initial hearing.

The nomination underwent 7 days of hearings, involved nearly 50 witnesses, under a Republican-controlled Senate, when he was Republican nominee by a popular Republican President. He was reported by the Judiciary Committee, a Republican-controlled Judiciary Committee, by a 12–6 vote, not the lesser margin of 10–8 by which the Ashcroft nomination was reported.

The Senate, with a Republican majority leader, allowed 2 weeks between the committee vote and Senate consideration—2 weeks, not the 17 hours we had on the Ashcroft nomination. The Senate debated the Meese nomination over 4 days, on February 19, 20, 21, and 23—not the day and a half devoted to the Ashcroft nomination. Then, the Republican-controlled Senate voted 63–31 to confirm Attorney General Meese.

I believe those 31 negative votes were the most ever against an Attorney General. Even as the very popular President Reagan was preparing to begin his second term, the nomination of his Attorney General resulted in 7 days of Senate hearings, 4 days of Senate debate, and 31 votes in opposition. I mention this because there was some suggestion that maybe some on this side held this up. This nomination was handled a lot more rapidly done than at the time of Attorney General Meese.

The Senate is soon going to vote on the nomination of John Ashcroft to be Attorney General. I think it is safe to say that all of us in this body would like to be able to vote in favor of the next Attorney General. Those of us who are going to vote no on this nomination take no pleasure in doing so. Frankly, I have heard many say—and I feel this myself—we wish the President had sent a different nomination for this critical job. We wish, if he wished to have our colleague, Senator Ashcroft in the Cabinet, that he had nominated him for a different position. We wish the President had adhered to the standard he set forth in his own inaugural address and that he had sent us a nominee who would unite the country and have the utmost credibility with the disaffected, dispossessed, and disenfranchised.

We knew the nomination of Senator Ashcroft had become a ''done deal'' weeks ago. The Republican leadership reported that all 50 Republican Senators would be voting in favor of this nomination, and, of course, with the Vice President they would be able to win.

This decision was made before any hearing, before the nominee answered any question, written or oral, before any background check or review of his record was ever begun, let alone completed. That is why some members of the Judiciary Committee on the other side went so far as to argue that the committee need not hear testimony from the public at all, and need not review the nominees's required financial disclosures, papers required of every nominee.

Most Democratic Senators, I am happy to say, declined to prejudge the matter. As chairman during the 17 days of the Judiciary Committee hearing, I expedited a balanced hearing to review the nominee's record and to hear people from Missouri and others, pro and con, on this important nomination. We had virtually an equal number for Senator Ashcroft as against him—I think actually one more for. But I believe that all Senators can be proud that our hearings focused on issues, not on the nominee's personal life. We can also be proud of the tone set during this debate on the Senate floor.

But there is one big exception. I take strong exception—in fact, the strongest terms I can think of in my 26 years in the Senate—to the characterization we have heard about the issue of religion and this nomination. The Senate was told that opponents of this nomination have implied that Christians have no place in public life.

If that charge was not on its face so absolutely preposterous in this body, it would have invited several hours of discussion to set the record straight. It is such an untrue and inflammatory assertion.

Needless to say, if that was the debate, it would be fair to speculate that many, probably most of President Bush's nominees are Christians and confirmed by this body. All of his nominees are confirmed. I know of none planned, or who have been announced by the distinguished leader as ready for votes, who are not going to be confirmed. If their religion has been mentioned at all, it has been mentioned to their credit.

Is it really necessary to point out that men and women of Christian faiths are plentiful in both parties in these very Halls of Congress? More to the point, there are good people, who are Christians, on both sides of the Ashcroft nomination, just as there are good people, who are not Christians, on both sides of the Ashcroft nomination. In fact, the reason religion has come up during these confirmation proceedings is not because of John Ashcroft's religious beliefs, but because of concern about the level of tolerance he may show towards those with different religious beliefs. That is why his visit to and acceptance of an honorary degree from, and comments made during the hearings about Bob Jones University, have been a legitimate concern to many.

The relevance of Senator Ashcroft's association with Bob Jones University

is not about his own religious beliefs. It is about what it says about Senator Ashcroft's sensitivity and tolerance towards those whom that institution regards in such negative ways, and treats so differently. The policies of that institution have been to bar African Americans, to bar interracial dating, and to derogate Mormons and Catholics as belonging to cults.

That John Ashcroft does not seem to fully understand the concern that this causes to many Americans is itself troubling to so many. We have heard from some the term they have seemed to coin: ''religious profiling.'' I will say it once again as clearly as I can. No Senator on either side of the aisle during these proceedings has sought to apply any religious test to John Ashcroft. No Senator has sought to tar the nominee as a racist. Senator Ashcroft's religious beliefs have not been a source of inquiry or concern for any member of the Judiciary Committee.

Notwithstanding, ironically enough, what Bob Jones University has said about Catholics and Mormons—with the two leaders of this committee being one a Catholic and the other a Mormon—both Senator HATCH and I have said we have never once heard Senator Ashcroft take the position that Bob Jones University has towards us or anybody of our religions.

This confirmation debate has not been about religious profiling. If anything, this is a nomination struggle about issue profiling, and those issues include the nominee's record on civil rights and women's rights, the rights of gay Americans, and voter registration.

Those supporting this nomination argue that he should be confirmed because his religious devotion represents a special, unimpeachable level of integrity, and that his religion makes him more likely to abide by his oath of office. My view is that religion is neither a qualification nor disqualification for public office. I hold deep religious beliefs. But as I told someone as I left church this Sunday, this past Sunday: I would not expect anybody to vote either for or against me because of my religious beliefs.

I would expect them to vote for or against me because of my political beliefs.

Indeed, article VI of the Constitution prohibits any religious test as a qualification for public office. I hope Senator Ashcroft's supporters are not urging any form of such unconstitutional test.

The issue is his public record, not his religious faith. I and several others have said how much we admire his commitment to his family and his religion. I consider those two of the most admirable qualities in our former colleague. The issue, though, is how he has fulfilled his public duties.

Senator BYRD posed the question yesterday whether any man's past can withstand scrutiny. Confirmation hearings should not be held to dissect a nominee's personal life—and this one did not—but they are to examine his past record and actions, to hear from the nominee about how he views his prior positions and actions within the perspective and wisdom that time should bring.

What I observed of this nominee at his hearings can be summed up in two words: No regrets.

He had no regrets about the aggressive manner in which he litigated in opposition to a voluntary desegregation plan in St. Louis, or about the missed opportunity to resolve that divisive matter, about his use or his involvement for political gain, or about the misleading testimony he initially gave the committee about whether the State of Missouri was a party to the litigation and had been found liable.

He had no regrets about vetoing two bills designed to ensure equal voting rights for African American voters in St. Louis.

He had no regrets about appearing at Bob Jones University, and he even testified that he might return there after being confirmed as Attorney General of the United States.

He certainly passed up the opportunity, as has been suggested, now that he knows so much about Bob Jones University, to take the honorary degree, put it in an envelope, and send it back. He had no regrets about granting an interview to the Southern Partisan and praising this neo-Confederate magazine and appearing to embrace its point of view.

One of the things that bothered me greatly is that he had no regrets about his treatment of Judge Ronnie White, Ambassador James Hormel, Bill Lann Lee, Judge Margaret Morrow, or any of the other Presidential nominees he opposed.

Each of us has a duty to determine how we exercise our constitutional duty of advise and consent. As I said at the outset of this debate, strangely enough—or perhaps not so strangely—the Constitution is silent on the standard we should use in deciding how to fulfill our advise and consent duty.

I have thought about this over the years, and I have come to the conclusion that it is testament to the wisdom of the framers because, in the end, those who elect us have the final say in whether they approve of how we conducted ourselves and, if they approve, of how we exercised our constitutional responsibilities.

Some have argued that the issues that have arisen during this confirmation process have been generated out of thin air by advocacy groups or by Senators who oppose this nomination. In fact, these are the same issues upon which the voters of Missouri based their verdict on election day last November, an election Senator Ashcroft lost.

John Ashcroft's actions toward Judge Ronnie White and his association with Southern Partisan magazine and Bob Jones University were hotly debated in Missouri. They were issues in his unsuccessful reelection campaign.

The Kansas City Star noted in November 1999:

> A lot of Missourians are still struggling to understand why Sen. John Ashcroft took out Ronnie White.

Rallies for Judge White were held in downtown St. Louis. Local groups circulated petitions calling for Senator Ashcroft to ''publicly retract'' his comments in Southern Partisan. At least one Missouri municipality passed a resolution asking Senator Ashcroft to ''cease the promotion of Jefferson Davis'' and other Confederate leaders in Southern Partisan, and they criticized his actions with respect to Judge White.

Another Missouri city council passed a resolution asking Senator Ashcroft to apologize to Missouri residents for his comments in Southern Partisan.

Yesterday, an old friend, a Republican, contacted me to share a quote from Reinhold Niebuhr:

> Man's capacity for justice makes democracy possible; but man's inclination to injustice makes democracy necessary.

In this regard, I note that we heard often about John Ashcroft's past election victories in Missouri. What has gone unmentioned is the fact that the voters of Missouri registered a negative judgment on the politics, policies, and practices of John Ashcroft just last November. Not surprisingly, they are the same issues that have arisen during his confirmation debate. We heard during our hearings how African American voters of Missouri had voted overwhelmingly against him.

John Ashcroft's stubborn defense of his past record and the fact he has no regrets over incidents that concern many of his Missouri constituents and that now concern many Americans does not instill confidence. On the contrary, to many it is a troubling signal. He lacks the sensitivities and balance we need in the Attorney General. We need an Attorney General who has the trust and confidence of the American people and who is dedicated to protecting the rights of all of us.

Remember, the Attorney General is not the President's lawyer. He has a White House counsel. The White House counsel is not required to come to the Senate for confirmation. The Attorney General is there for all of us—black, white, rich, poor, Democrat, Republican, no matter who we are.

The American people are entitled to an Attorney General who is more than just a friend to many of us in the Senate, as John Ashcroft is a friend, and who promises more than just the bare minimum, that he will enforce the law. All Americans, whether they are part of the 100 Members of a Senate club, no matter what they may be, all Americans, the 280 million other Americans who do not serve here, are entitled to someone who will uphold the Constitution as interpreted by the Supreme Court, who will respect the Congress

and the courts, who will abide by decisions with which he disagrees, and enforce the law for all people regardless of politics. They are entitled to someone whose past record demonstrates that he or she knows how to exercise good judgment in wielding the enormous discretionary power of the Attorney General.

I said before that we cannot judge John Ashcroft's heart, nor should we be able to, but we can examine his record. And running through that record are disturbing recurrent themes: Disrespect for Supreme Court precedents with which he disagrees; grossly intemperate criticism of judges with whom he disagrees—the ''ruffians in robes'' comment—insensitivity and bad judgment on racial issues; and the use of distortions, secret holds, and ambushes to harm the careers of those whom he opposes or for political gain.

I engaged in a colloquy yesterday with the senior Senator from Virginia during this confirmation process. Senator WARNER is a dear and valued friend. We have been friends for decades. He observed that he thought the hearings and consideration by the Senate will result in John Ashcroft being a stronger, more deeply committed public servant.

It is my fervent hope that John Ashcroft has come to understand the reasons that many of us are troubled by his record and troubled by the manner in which he responded to our concerns at the nomination hearing.

I hope Senator Ashcroft better appreciates the concerns of the significant number of Americans who oppose this nomination. Public opinion polls show there are as many people opposed to the nomination as support it. For those who doubt the promise of American justice—and, unfortunately, there are those in this country who do, for whatever reason—this nomination has not inspired confidence in the man nominated to head the U.S. Department of Justice.

If John Ashcroft is to be confirmed, then he is going to have a lot of work to do to prove that the President's choice was a wise one, and that he will be the people's lawyer and defender of their rights—all the people.

The country is sharply divided about this nomination, but so is the Senate. I wish the President had sent the Senate a nominee who would unite us and not divide us, but that did not happen.

I hope the President knows—after this debate, and after this divisive election—the task of bringing the Nation together still lies ahead of us. I hope all of us will be able to help in that uniting.

I think nothing I will ever do in my life will mean as much to me as serving in the Senate. I have served with 280 or so Senators, who have all been people I have admired and respected. I hope that after this nomination, and after this battle—however the vote comes out; I expect I know how it will come out—then the Senate will work together, on both sides of the aisle, with the new President, and with all members of his Cabinet, and with the new Attorney General, to start healing these wounds, to not just talk about bringing us together, but to actually do it.

There are deep, deep concerns in the country about this nomination. I would suggest that every one of us—Republican and Democrat—have a long road ahead of us to bring those sides together, but on that long road we also have the responsibility to take that trip.

I reserve the remainder of my time.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I ask unanimous consent to have printed in the RECORD some materials that I believe will be relevant to the consideration of this nomination: a letter from the National Sheriffs' Association; a letter from the Missouri Sheriffs' Association; a written statement of Sheriff Kenny Jones before the Committee on the Judiciary; and testimony of U.S. Representative KENNY HULSHOF before the U.S. Senate Committee on the Judiciary.

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

NATIONAL SHERIFFS' ASSOCIATION,
Alexandria, VA, October 4, 1999.

Hon. JOHN ASHCROFT,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR ASHCROFT: I am writing to ask you to join the National Sheriffs' Association (NSA) in opposing the nomination of Mr. Ronnie White to the Federal Judiciary. NSA strongly urges the United States Senate to defeat this appointment.

As you know, Judge White is a controversial judge in Missouri while serving in the Missouri Supreme Court. He issued many opinions that are offensive to law enforcement; one on drug interdiction and one involving the death penalty. Judge White feels that drug interdiction is not a proper function of law enforcement. He wrongly reasons that drug abuse is a private matter that causes no public harm, and drug abusers should not be inconvenienced by interdiction efforts. We strongly disagree. Drug interdiction is a cornerstone in the fight against crime, and this reckless opinion undermines the rule of law.

Additionally, Judge White wrote an outrageous dissenting opinion in a death penalty case. In 1991 Pam Jones, the wife of Sheriff Kenny Jones of Moniteau, Missouri, was gunned down while hosting a church service at home. The assailant, who was targeting the Sheriff, was tried and convicted of murder in the first degree. He was subsequently sentenced to death for Mrs. Jones' murder. During the appeals process, the case came before the Missouri Supreme Court where six of the seven judges affirmed the conviction and the sentence. Judge White was the court's lone dissenter saying the assailant had a tough childhood and was therefore not accountable for the heinous crime he committed. In our view, this opinion alone disqualifies Judge White from service in the Federal courts. He is irresponsible in his thinking, and his views against law enforcement are dangerous.

We urge you in the strongest possible terms to actively oppose the nomination of Judge White. He is clearly an opponent of law enforcement and does not deserve an appointment to the Federal Judiciary. His views and opinions are highly insulting to law enforcement, and we look forward to working with you to defeat this nomination.

Respectfully,

PATRICK J. SULLIVAN, JR.,
Sheriff.

MISSOURI SHERIFFS' ASSOCIATION,
Jefferson City, MO, September 27, 1999.

Senator ORRIN HATCH,
Chairman, Senate Judiciary Committee, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR HATCH: Attached please find a copy of the dissenting opinion rendered by Missouri Supreme Court Judge Ronnie White in the case State of Missouri, Respondent, v. James R. Johnson, Appellant.

Also, please find attached a copy of a petition signed by 92 law enforcement officers in Missouri, including 77 Missouri sheriffs.

In December 1991, James Johnson murdered Pam Jones, wife of Moniteau County Sheriff Kenny Jones. He shot Pam by ambush, firing through the window of her home during a church function she was hosting. Johnson also killed Sheriff Charles Smith of Cooper County, Deputy Les Roark of Moniteau County and Deputy Sandra Wilson of Miller County. He was convicted and sentenced to death. When the case was appealed and reached the Missouri Supreme Court, Judge White voted to overturn the death sentence of this man who murdered Mrs. Jones and three good law officers.

As per attached, the Missouri sheriffs strongly encourage you to consider this dissenting opinion in the nomination of Judge Ronnie White to be a U.S. District Court judge.

Sincerely,

JAMES L. VERMEERSCH,
Executive Director.

WRITTEN STATEMENT OF SHERIFF KENNY JONES BEFORE THE COMMITTEE ON THE JUDICIARY, CONFIRMATION HEARINGS OF JOHN ASHCROFT, U.S. ATTORNEY GENERAL DESIGNATE, JANUARY 2001

Senator Leahy, Senator Hatch, Members of the Judiciary Committee, I am honored and a little overwhelmed to be here today to testify on the nomination of John Ashcroft to be Attorney General of the United States.

Mr. Chairman, my name is Kenny Jones and I am the elected Sheriff of Moniteau County, Missouri, an office I have been privileged to hold for the last sixteen years. For those who may not know, Moniteau County is a very small unusually quiet county in mid-Missouri with a population of approximately 13,000. We are a strong tight knit community in the heartland of America. We believe in traditional values and we have a deep faith. We are small town America at its best.

As you know, much has been said about John Ashcroft and his fitness for this office. I for one support his nomination and urge this Committee to support him as well. Last year, Senator Ashcroft was unjustly labeled for his opposition to the nomination of Judge Ronnie White to federal district court. This one event has wrongly called into question his honor and integrity. Be assured that Senator Ashcroft had no other reason that I know about, to oppose Judge White except that I asked him too. 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 December 1991, James Johnson changed the lives of many families in our small rural community. He held an elderly woman hostage, killed four people, and seriously

wounded another. Johnson murdered in cold blood, the sheriff from a neighboring county, two deputy sheriffs, and my wife, Pam Jones. For this, he was tried by a jury, convicted of four counts of first degree murder, and sentenced to death.

To understand just how horrid this event is and to comprehend the devastating impact this crime has on my county, you need to understand the facts of that December night. It is easy to talk about dissenting opinions and legal maneuvering in this case and take the human tragedy out of it. But, that is a mistake. This case is entirely about human tragedy and justice. Not a day goes by that I don't think about what James Johnson did to my family and my community. Can you even imagine how it forever changed life in a small Missouri community?

On the evening of December 9th, Deputy Leslie Roark, was dispatched to the residence of James Johnson on a domestic disturbance call. After arriving on the scene and speaking with Johnson, his wife and his stepdaughter, Deputy Roark apparently ascertained they were all fine. He could not have been more wrong. As Deputy Roark turned to leave, Johnson pulled a gun and shot him in the back. My deputy fell face down, rolled over, and struggled to defend himself. Johnson then shot Les in the forehead at point-blank range. After shooting Leslie Roark, Johnson armed himself with more weapons and drove to my house in rural Moniteau County looking for me. I was not home. I had taken my two sons to their 4-H Club meeting. My wife, Pam, and our two daughter were home, however. They were hosting a Christmas party for a group of local churchwomen and their children. Upon arriving at my house, Johnson opened fire on completely innocent people. He fired several shots through a bay window, hitting my wife who was sitting with my daughter on a bench in front of the window. After the assault on my home, Johnson went to the home of Deputy Russell Borts and shot him, also through a window, as he was talking on the telephone. Russ lives today with several injuries inflicted by Johnson.

During the attack on my family and Deputy Borts, a call for help went out and many officers from surrounding counties responded to my office. Sheriff Charles Smith, from Cooper County personally responded to the call for help. What he did not know was that Johnson had moved down the block from the Borts residence and was laying-in-wait at my office. As Sheriff Smith was getting in his car, Johnson gunned him down in front of the Moniteau County Sheriff's Office. Just moments later, Johnson shot and killed Officer Sandra Wilson who had driven in from Miller County responding to the call for help. It is important to note that this coward never once confronted his victims fact to face. Every single person he shot and killed was shot in the back.

Before Johnson was apprehended, he held an elderly woman hostage until for some unknown reason, he released her. She escaped and told the authorities where Johnson was hiding. A team of negotiators finally convinced Johnson to surrender and he was taken into custody.

After dropping off my boys at 4-H, I found out that Les Roark had been shot. I went to be with him while we waited for the Life Flight helicopter. While there, I received the call that would change my life forever. I was told of an emergency at my own house. I raced home. There I saw an ambulance in the driveway and shocked people standing around. My secretary, Helen Gross, told me that Pam had been shot and our daughters had been taken to a neighbor's home. Pam was flown by helicopter to the University of Missouri Hospital. I gathered my four children and went to Pam's side. She died just a short time later.

James Johnson was tried, convicted and sentenced to death by a jury in February 1993. Every one of his appeals, including his appeal before the Missouri Supreme Court, was denied. In the Missouri Supreme Court, all but one of the judges affirmed the decision of the lower court. The only dissent was from Judge Ronnie White. 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 Johnson killed were not given a second chance.

When I learned that Judge White was picked by President Clinton to sit on the federal bench, I was outraged. Because of Judge White's dissenting opinion in the Johnson case, I felt he was unsuitable to be appointed for life to such an important and powerful position. During the Missouri Sheriffs' Association Annual Conference in 1999, I started a petition drive among the sheriffs to oppose the nomination. The petition simply requested that consideration be given to Judge White's dissenting opinion in the Johnson case as a factor in his appointment to the federal bench. Seventy-seven Missouri sheriffs, both Democrats and Republicans, signed the petition and it was available to anyone who asked. I have the petition with me and respectfully ask that it be made a part of the record of this hearing. A copy was forwarded to both Senator Bond and Senator Ashcroft. I also asked that the National Sheriffs' Association support us in opposing Judge White's nomination. They willingly did so and I am grateful that they joined us and wrote a strong letter opposing Judge White's nomination.

While some would have you believe otherwise, this is the only reason sheriffs opposed the nomination of Judge White. We contacted Senator Ashcroft and urged him to oppose this nomination as well. He agreed with our position, but unfortunately, his view on Judge White's nomination was misrepresented in the press and misrepresented to other members of the Senate. People alleged all sorts of reasons for the eventual defeat of Judge White's nomination. I can only speak for myself and can only testify to what I know to be true. I opposed Judge White's elevation to the federal bench solely because of his opinion in the Johnson case. Johnson murdered my wife in cold blood. He killed three close friends and colleagues and seriously wounded a fourth. Offering him a second chance as Judge White would do, is something that I will never understand. I asked Senator Ashcroft to oppose the nomination based on what I have shared with you here during this hearing. By opposing the nomination of Judge White, Senator Ashcroft did nothing more than properly exercise Constitutional authority based on the information he had available. I hope this information will correct the record and prove that John Ashcroft did not act with an unseemly intent.

To deny John Ashcroft and reject his nomination to be Attorney General based solely on his opposition to Judge White would be wrong and a terrible loss for the country. I hope my testimony today provides the information you seek to make a truly informed decision on John Ashcroft. In my view, he will make a fine Attorney General and I hope that he will be confirmed. Thank you Mr. Chairman and I stand ready to answer your questions.

TESTIMONY OF U.S. REPRESENTATIVE KENNY HULSHOF BEFORE THE U.S. SENATE COMMITTEE ON JUDICIARY, JANUARY 18, 2001

I would like to thank Chairman LEAHY and Ranking Member HATCH for the opportunity to testify before this committee.

I fully support President-elect Bush's decision to nominate Senator John Ashcroft to the position of Attorney General. His past service to the people of my home state of Missouri as Attorney General, Governor and Senator give him the experience and knowledge to be an effective agent of justice for all Americans.

I am not here today as a U.S. Representative from Missouri's Ninth District. My appearance here is to share with you my unique knowledge of the case of State of Missouri vs. James Johnson.

From February of 1989 until January of 1996, I served as a Special Prosecutor for the Missouri Attorney General's Office. In this capacity, my duties included the prosecution of politically sensitive or difficult murder cases across the State of Missouri. I handled cases in 53 Missouri counties and have tried and convicted violent criminals in more than 60 felony jury trials. In January, 1992, I was assigned as co-counsel in the prosecution of the Johnson case.

As you know, the Johnson case has taken on national prominence, but not because it involves a convicted cop killer. It has become a focal point in this process due to the strong disagreement that John Ashcroft and some law enforcement groups had with Missouri Supreme Court Judge Ronnie White's sole dissent on the appeal of this case.

You are measuring John Ashcroft's ability to be the nation's Attorney General by examining his record. In the same manner, John Ashcroft measured Ronnie White's ability to be a federal jurist by scrutinizing his record and published opinions—not his race as some have charged. John Ashcroft has testified that he had serious reservations about Judge White's opinions regarding law enforcement.

Let me share with you the facts of the Johnson case:

In December of 1991, Moniteau County Deputy Sheriff Les Roark responded to a domestic disturbance call at the home of James Johnson in rural Missouri. After assuring himself the domestic quarrel had ended, Deputy Roark turned to return to his waiting patrol car. James Johnson whipped a .38 caliber pistol from his waistband of his pants and fired twice at the retreating officer. Johnson, realizing that Roark was clinking valiantly to life, walked over to the fallen officer and shot him again execution-style.

He next negotiated the dozen or so miles to the home of Moniteau County Sheriff Kenny Jones. Peering through the window, he saw Pam Jones, the sheriff's wife. She was leading her church women's group in their monthly prayer meeting in her family's living room, her children at her knee. Using a .22 caliber rifle, Johnson fired multiple times through the window, hitting her five times. She was gunned down in cold blood in front of her family.

I wish I could tell you that the carnage soon ended. Instead, James Johnson proceeded to the home of Deputy Sheriff Russell Borts. Displaying the methodical demeanor of a calculating killer, Johnson shot Deputy Borts four times through a window as Borts was being summoned for duty via telephone. Miraculously, Borts survived. Cooper County Sheriff Charles Smith and Miller County Deputy Sandra Wilson were not so fortunate. They died in a hail of bullets when Johnson ambushed them outside the sheriff's office.

As a result of Johnson's rampage, three dedicated law enforcement officials were dead, one was severely injured and Pam Jones, a loving wife and mother, had been slaughtered.

Mr. Chairman, I wish to clarify a few of the points raised during yesterday's hearing regarding the quality of James Johnson's representation at trial. Mr. Johnson hired counsel of his own choosing. He chose a team of

three experienced defense attorneys who possessed substantial experience in litigation and criminal law. The three litigants had tried a previous capital case together.

The record conclusively establishes that counsel launched a wide-ranging investigation in an effort to locate veterans who had served with the accused in Vietnam. Counsel hired and presented three nationally-renowned mental health experts on the relevant issue of posttraumatic stress disorder.

The evidence of guilt, however, was unassailable. Based on the strength of a detailed confession by the accused to law enforcement officers, incriminating statements to lay witnesses, eyewitness accounts to one of the murders and circumstantial evidence, including firearms identification, James Johnson was convicted by a jury of four counts of murder in the first degree. The jury later unanimously recommended a sentence of death on each of the four counts.

After a lengthy post-conviction hearing on the adequacy of counsel, Circuit Judge James A. Franklin, Jr. found that Johnson's attorneys devoted a significant period of time and expense to his case, including a substantial attempt to develop and present a mental defense. The court found as a matter of law that James Johnson received skilled representation throughout his trial. The case was then automatically appealed to the Missouri Supreme Court, where the convictions and sentences were upheld 4–1. Judge White's lone dissent focused on inadequate assistance of counsel at trial. As I have stated and the record indicates, this is clearly not the case.

I have been deeply troubled during these confirmation proceedings by statements insinuating, overtly or otherwise, that John Ashcroft is a racist. More to the point, there have been allegations made that John Ashcroft's rejection of Judge Ronnie White's nomination to the federal district court was racially motivated. As a Missourian, I am offended by these baseless claims.

It is my belief that members of this distinguished panel and members of the entire Senate take the constitutional role of ''advice and consent'' very seriously. It is an integral part of our system of checks and balances.

It is my humble opinion that no individual took that responsibility more seriously than your former colleague, John Ashcroft. As evidence of that fact, I cite to you the October 5, 1999, Congressional Record:

''[Mr. Ashcroft] Confirming judges is serious business. People we put into these Federal judgeships are there for life, removed only with great difficulty, as evidenced by the fact that removals have been extremely rare. There is enormous power on the Federal bench. Most of us have seen things happen through judges that could never have gotten through the House and Senate. Alexander Hamilton, in Federalist Paper No. 78, put it this way:

'' 'If [judges] should be disposed to exercise will instead of judgement, the consequence would equally be the substitution of their pleasure to that of the legislative body.'

''Alexander Hamilton, at the beginning of this Nation, knew just how important it was for us to look carefully at those who would be nominated for and confirmed to serve as judges.''

Former Senator Ashcroft then elaborated on the dissenting opinions by Judge White in a series of criminal cases, including State of Missouri v. James Johnson. He acknowledged an outpouring of criticism levied against Judge White's nomination by respectable law enforcement groups. His ultimate rejection of Judge White's nomination was based on his judgement and legal reasoning. As you know, a majority of the Senate voted to reject the nominee.

Reasonable minds can differ on John Ashcroft's conclusion regarding Judge White's fitness as a federal jurist. These differences should be vigorously debated and considered. That is the hallmark of our republic. But branding a good man who has devoted his professional life to one of public service with the ugly slur of ''racist without justification or cause is intolerable.

I know John Ashcroft. He is an honorable man of high integrity and morals. His commitment to his family, his state and his country are beyond compare. His experience and public service make him very qualified to be the next Attorney General of the United States. You have his assurance that he will faithfully execute the law in a way consistent with the will of Congress, in accordance with the rulings of our judicial system and in a manner that protects the liberties of all Americans.

Again, I would like to thank Chairman Leahy, Ranking Member Hatch and this distinguished panel for allowing me to testify.

Mr. BOND. Mr. President, 28 years ago, I had the responsibility to appoint a State auditor for Missouri. Based upon what I saw to be the promise in John Ashcroft—his character, intelligence, and commitment to public service—I selected him.

For the past 28 years, I have had the honor and privilege to work with him as he handled his duties in the best and highest tradition of Missouri and of this country. Many of my colleagues have also seen him during the last 6 years, when he served with distinction in the Senate.

I know this man. Most of you in this body know this man. He is a good man, whose service reflects well on his friends, his family, our State of Missouri, and on this great body.

Everything about John Ashcroft's record of public service and his personal integrity and character tells us that he will be faithful to the law. Everything about John's career also tells us that he understands one thing above all else: The promise contained in this Nation of laws can only be realized when all the laws are properly enforced.

Two weeks ago, I went before the Judiciary Committee to ask that they judge John Ashcroft's nomination to be Attorney General on the content of his character, and reject the slime campaign then underway against him.

Today I must say I stand here profoundly disappointed so many failed to push away those whose only goal is to tear down and destroy.

However, let me add my sincere appreciation of the fact that some of our colleagues on the other side of the aisle have chosen to support this nomination, despite the strong political winds blowing against them, including clear-cut threats of retaliation at the polls for any vote in favor of John Ashcroft.

Senator RUSS FEINGOLD was courageous in casting the lone Democratic vote in favor of the nominee in committee. My friends, Senator BYRD, Senator DODD, and others, have announced on the floor they intend to support the nominee for reasons they gave. I commend them and thank them for that.

I note that others of my colleagues appear to have given the nomination full consideration and concluded, for their own substantive reasons, not to support this nomination. While I disagree with their final decision, I certainly cannot condemn their actions. But I am deeply disturbed and disappointed in some of the things done and said in the Judiciary Committee and some of the remarks made on the Senate floor.

Over the past month, we have seen self-described spokesmen of various activist groups—groups that preach tolerance, diversity and religious freedom—systematically display their intolerance, narrowness, and dogmatic views, as they try to smear the record of the man who has been nominated to be the Attorney General of the United States.

In fact, I think the words on this chart tell us all we need to know—this is from the special interest groups of what they are doing—''by any means necessary.'' ''We're going to spend whatever it takes.'' These are the words of the extreme liberal groups that are out to sabotage John Ashcroft and, incidentally, his nomination. The purpose—search and destroy.

Like millions of Americans, I watched the Senate confirmation hearing to see both how my friend would do in answering questions defending his record but also to see how potential opponents would handle their responsibilities.

I, too, hoped for full and fair hearings.

Two weeks ago, the American people did not see a confirmation hearing. They did not see the Senate Judiciary Committee acquit itself in the best and highest traditions of this fine body. They did not see full and fair hearings. What they saw—pure and simple—was an exercise in political theater of the worst kind.

I cannot begin to express my profound disappointment in how some of my colleagues handled their few days in the majority—mishandled their days to rise above the rancor. In the Ashcroft hearing, there was an opportunity to set an example for us to follow for the rest of this session. Instead of rising to the occasion, too many sank to the level of the interest groups, where only the shrillest survive.

What we heard was a campaign designed to create a caricature, and to fan the grotesque charges of racism, bigotry, and so-called political opportunism—a campaign so out of control that 2 days of questions were not enough. An extra day of attack witnesses, and hundreds of additional questions—often asking the same questions over and over again—were then submitted for the record. They even went so far as to ask for a ''complete discussion'' of all conversations that then-Senator Ashcroft had with Senate leaders about any of the 1,600 Presidential nominations considered by the Senate during his term.

That is an impossible task. Nobody can recall those. The reaction was that the answers were incomplete, when they did not report all those conversations. Who of us could have done that unless we had carried a tape recorder in our pocket at all times.

To the special interest groups who invented the term ''Borking,'' I had little expectation they could or would understand or embrace the terms of civility and respect. So I expected that false charges would be leveled—repeated and repeated—in hopes that something would stick. But I had hopes that colleagues would resist those charges. Too often, they did not.

What are those false charges? One of the false charges thrown against John Ashcroft was that he could not be entrusted to enforce laws with which he personally disagrees. Now, Janet Reno opposed the death penalty, yet she was trusted to follow the law. Now, 8 years later, why is it that with John Ashcroft, a conservative and committed Christian, doubts are aired—and given credence—about his ability to enforce the law?

Some activists who claim to embrace and promote religious diversity and tolerance seem unable to extend their beliefs to a conservative Christian. I thought we broke that barrier when John F. Kennedy became President and we saw the obvious that he did not put his Catholic beliefs above the law of the land. And what of our colleague JOE LIEBERMAN, whose candidacy for Vice President and his public religious utterances tore down even more barriers? Should religious diversity and tolerance be extended only to some religions and not others? What we see in this part of the smear campaign against John Ashcroft is nothing less than religious bigotry.

Second, we have seen the absolutely reckless charge that John Ashcroft opposed desegregation. Several Members have attempted to use the long, tortured and controversial school desegregation cases in the State of Missouri to color further their caricature of John Ashcroft as insensitive and an extremist. To do so, however, they have to ignore the facts of the case, the various tortured rulings, the victory in the Kansas City case, the fiduciary duty of the Attorney General and the widespread opposition to the court-ordered desegregation plan by the public and elected officials alike.

The truth of the matter is that the desegregation cases were filed in St. Louis and Kansas City in 1972, with Kansas City being litigated until 1995 and the St. Louis case being litigated until 1999. The lawsuits and the various court orders have been opposed by Democratic and Republican Governors, Attorneys General and State Treasurers and the overwhelming majority of Missourians for nearly three decades. To single out John Ashcroft and to say his positions on the case and his work was that of an extremist insensitive to the needs of Missouri school children is one of the more misleading positions ever staked out on this floor.

Since I cannot imagine that colleagues and critics would have one set of standards for John Ashcroft, and another for those in their own party, it is only fitting that we review the whole record of the day.

In September of 1981, in response to the controversial Eighth Circuit decision, the current Minority Leader of the House of Representatives, RICHARD GEPHARDT, introduced a constitutional amendment to ban court ordered busing to achieve racial integration. Congressman GEPHARDT was also a sponsor of legislation to bar federal courts from mandating busing as a remedy for segregated schools. In explaining his legislation, the esteemed minority leader called busing for desegregation ''a total failure'' and called the court-ordered busing program in the St. Louis schools ''an obscenity and a crime against the youth of St. Louis.'' About the same time, again while Senator Ashcroft was Missouri Attorney General, Missouri Senator Tom Eagleton, my predecessor, stated publicly that he ''personally opposes court ordered busing'' and did not believe the St. Louis plan would work. While in the Senate he fought the Department of Health, Education and Welfare practice of denying funding to school districts that do not have a school desegregation plan in place.

Beyond that, both Missouri State Treasurers who served while John Ashcroft was Attorney General, both of whom were Democrats, opposed the court ordered desegregation. In fact, the second of those Treasurers, the late Mel Carnahan, was highly critical of both Attorney General Ashcroft and me for the handling for the desegregation case. He was not critical of anyone opposing the plan, rather he felt the Attorney General was not being aggressive enough in the fight. In 1981, he told UPI, ''In my opinion, they have not staffed up and produced in this case and that's the reason we're where we are today on desegregation.''

And in 1983, as he was gearing up to run for Governor, Treasurer Carnahan even took the unusual action of requesting a state appropriation so that the Treasurer's office could join the case, initiating new litigation against the federal court order desegregating the St. Louis schools. The Treasurer said the desegregation payments represented ''burdensome demands on the taxpayers of the state.'' He further stated ''my staff and I have been intensely studying the financial problems created for the State of Missouri by the court orders in the St. Louis desegregation case. It is my intention to file additional actions or motions directed to testing the issues of state liability for payments . . . I plan to use outside counsel for a separate additional effort to supplement and complement the efforts of the Attorney General to reverse or modify the orders as to state financial liability.''

As Governor, I refused to support the appropriation because it was the job of the Attorney General to handle legal matters that impact the state. But that statement by the state Treasurer, a Democrat and future Governor, shows that John Ashcroft was clearly in the mainstream and representing the people of the state in a complicated and controversial legal matter. Unless of course Mel Carnahan was an extremist too. The strong democratic opposition did not stop in the eighties but continued right on through the '98 election cycle. In fact, the current Missouri Attorney General, Democrat Jay Nixon, made opposition to state involvement in school desegregation a platform of his first campaign for Attorney General, calling busing ''a failed social experiment'' that must end in the State of Missouri. And he criticized Ashcroft and Webster, the two previous Attorneys Generals by stating ''The republican team hasn't been fighting the battle against unfair desegregation payments; they've been losing it.'' ''We need new and better lawyers to win the case.''

Upon taking office, Nixon filed suit to end state involvement in the St. Louis desegregation case and filed suit to overturn a court decision in Kansas City. Shortly after that he appealed and fought the Kansas City plan all the way to the United States Supreme Court. In St. Louis, he criticized the appointment of a well respected St. Louisan appointed to negotiate a settlement. He even filed suit on the eve of the beginning of the school year to bar student participation in a St. Louis city-county transfer program.

Former Congressman Bill Clay, in a letter to President Clinton, sharply criticized the Democratic Attorney General as ''waging unremitting warfare'' against the court orders which ''provided educational opportunity for many thousands of students in St. Louis''. Nixon was also repeatedly criticized by the St. Louis chapter of the NAACP for his efforts. In 1995, the group said those efforts ''will wipe out the gains made by desegregation and deprive city parents of opportunities they now have to better their children's education''. The Kansas City Star said this Attorney General ''climbed over the backs of African Americans'' to advance his career.

Yet when this man wanted again to advance his political career, was the Senator from Massachusetts condemning his actions? Quite to the contrary, the Senator from Massachusetts was actively promoting his political career, even headlining a fund raiser for him here in Washington. Nor can I imagine the Senator labeling the positions of Congressman GEPHARDT, former Senator Eagleton, and the late Governor Carnahan, whose campaign the Senator from Massachusetts supported, as extreme. The hypocrisy could not be clearer. And leads us back to those guiding principles of this entire effort against John Ashcroft—by

any means necessary, and spend whatever it takes.

The third charge centers around his handling of the nomination of Judge Ronnie White. Much has been said about this, but let me simply say that the emotional power and pain of the Johnson case remains as strong today as it was 10 years ago when the brutal murders tore apart the lives of 4 families and their communities.

For all my colleagues who agreed with Judge White's reasoning that would have tossed out the conviction and granted a new trial to the triple cop-killer who also killed the sheriff's wife right in front of her 8 year old daughter; for those who agreed with his lone dissent that Johnson's lawyers didn't do a good enough job so he deserves a new trial—I would hope they would channel their strong views and weigh in with Missouri's Governor in seeking a commutation of his death sentence. Johnson's appeal to the U.S. Supreme Court has been denied and he now sits on death row. I can certainly provide any of you the correct address of the Governor in Jefferson City.

Finally the latest attempt to smear—so weak that's it more of a smudge—was made by a democrat activist who claimed that 16 years ago John Ashcroft asked a legal but inappropriate question during a job interview. Quickly refuted by others present in the interview this attempted smear fades from view, but again takes time and energy to respond to. And when all one's energy is spent knocking down false charges it is hard to find the time to talk about what you believe can be accomplished at the Justice Department—which of course is what the people of America are really interested in. How will you do the job? What are your plans to improve the lives and opportunities for all Americans?

So where does all this leave us? Back where we started.

A conservative, pro-life, Christian simply isn't fit to serve according to the litmus test of a bunch of left-wing groups. And rather than admit it, the smokescreen of false charges must be used to justify their own intolerance. It is a sad day that we have come to this. But through it all John Ashcroft has stayed firm. Firm in his belief that in America our sense of fairness will outweigh short term political gain. Firm in his belief that while his attackers have been shameless and unrelenting, that he should not, and will not respond in kind.

I am so proud of John Ashcroft. I am proud of his service to Missouri and the nation over the last 28 years. At each level of responsibility, he not only acquitted himself as a gentleman and good American, but he did great work on behalf of so many citizens. That is true of his terms as Missouri Attorney General. As Governor. And United States Senator. He is a fine man. He is a gentleman. A good man of deep conviction who will do great service on behalf of all Americans as our next Attorney General. So I am also very proud that a fellow Missourian will become the next Attorney General of the United States of America. But perhaps most of all, I am proud to be able to call John Ashcroft my friend.

I yield the floor.

Mr. NELSON of Nebraska. Mr. President, today I will vote to confirm former Senator John Ashcroft as Attorney General of the United States. The President of the United States has the constitutional authority to nominate those individuals he thinks will most ably advise him; therefore, I give President Bush latitude in choosing the members of his Cabinet. My role in this process, as defined by the Constitution, is to give my advice and consent to the President on his nominees for Cabinet positions. In keeping with that duty, I want to present a clear explanation as to why I will vote to confirm the President's choice for Attorney General.

I have known John Ashcroft for well over 10 years. We both have had the honor to serve as the Chief Executive for our respective States. We were even colleagues for 2 years when our terms as Governor overlapped. I am familiar with his philosophy and his viewpoints and though we do not see eye-to-eye on every issue I respect him as a person and consider him a friend.

But before my statement is dismissed as a rubber stamp approval, let me be clear: My vote to confirm Senator Ashcroft is not without some concerns. I am disappointed with his decision to accept an honorary degree from Bob Jones University, an institution that has become a national symbol for racial and religious intolerance, without any acknowledgement or discussion let alone repudiation of that school's policies that were egregious. And secondly, his handling of the Judge White nomination was considered by many of his former colleagues to have been unfair.

But these two instances, while troubling, are not disqualifying. For me this vote today is an affirmative vote as a prologue to the future rather than a reaction to the past. This is supported by his pledge he made at his confirmation hearing to serve as Attorney General for ''all the people.''

I take Senator Ashcroft at his word when he says, and I quote, ''I understand that being Attorney General means enforcing the laws as they are written, not enforcing my own personal preferences. It means advancing the national interest, not advocating my personal interest.'' Throughout his confirmation hearing, Senator Ashcroft was unequivocal and unwavering with respect to the manner in which he would serve, if elected, as Attorney General.

Additionally, yesterday I spoke to Senator Ashcroft and expressed my reservations and concerns. In that conversation, he reiterated his commitment to lead a professional and nonpartisan Justice Department, and assured me of his intention to honor his pledge.

For me, this affirmative vote is not about politics; it is about potential and opportunity. If Senator Ashcroft is a man of integrity—which he says he is and which I believe him to be—then he will uphold his constitutional duty, prove his nay-sayers wrong, and work tirelessly to help ensure justice for all. Indeed, the stakes are high, but that is exactly where Senator Ashcroft has put them. I look forward to working with him and to helping him keep his unequivocal promise to the American people.

Mr. SMITH of New Hampshire. Mr. President, Senator Ashcroft has received broad bipartisan support from a number of organizations. I ask unanimous consent that a list of 332 organizations supporting Senator Ashcroft be placed in the RECORD.

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

332 ORGANIZATIONS ENDORSING JOHN ASHCROFT FOR U.S. ATTORNEY GENERAL

(Compiled by the Free Congress Foundation)

48th Ward Regular Republican Organization (Chicago), 60 Plus Association, A Choice for Every Child, Adirondack Solidarity Alliance, Alabama Citizens for Life, Alabama Policy Institute, Alaska Catholic Defense League, Alaska Right To Life, America's Survival, Inc., American Association of Christian Schools, American Association of Pro-Life Obstetricians and Gynecologists, American Center for Law and Justice, American Civil Rights Coalition, American Civil Rights Union, American Conservative Union, American Council for Immigration Reform, American Decency Association, American Family Association, American Family Association of Arkansas, American Family Association of Colorado, American Family Association of Kentucky, American Family Association of Michigan, American Family Association of Mississippi, American Family Association of New Jersey, American Family Association of New York, American Family Defense Coalition, California Central Coast Chapter.

American Freedom Crusade, American Immigration Control, American Land Rights Association, American Policy Center, American Pro-Constitutional Association, American Renewal, American Shareholders Association, Americans for Ashcroft, Americans for Military Readiness, Americans for Tax Reform, Americans for the Right to Life, Americans for Voluntary School Prayer, Americans United for the Unity of Church and State, Arkansas Family Council, Association of American Educators, Association of American Physicians and Surgeons, Association of Christian Schools International, Association of Concerned Taxpayers, Association of Maryland Families, Baptist International Missions, Inc.

Brass Roots, BrotherWatch, California Public Policy Foundation, California Republican Assembly, Calvary Baptist Academy, Campaign For California Families, Capital Research Center, Catholic Citizens of Illinois, Catholicvote.org, Center for Military Readiness, Center for Pro-Life Studies, Center for Reclaiming America, Center for the Study of Popular Culture, Christian Coalition of Alabama, Christian Coalition of America, Christian Coalition of California, Christian Coalition of Florida, Christian Coalition of Georgia, Christian Coalition of Maine, Christian Coalition of Montana, Christian Coalition of Ohio, Christian Coalition of Rhode Island, Christian Schools of Vermont, Christian Voice.

Christus Medicus Foundation, Citizen Soldier, Citizens Against Government Waste, Citizens Against Higher Taxes, Citizens Against Homicide, Citizens Against Repressive Zoning, Citizens for a Sound Economy, Citizens for Community Values, Citizens for Constitutional Property Rights, Citizens for Excellence in Education, Citizen for Law and Order, Citizens for Less Government, Citizens for Traditional Values, Citizens United, CNP Action, Inc., Coalition for Better Community Standards, Coalition for Constitutional Liberties, Coalition for Local Sovereignty, Coalition on Urban Renewal and Education, Coalitions for America, Colorado Association of Christian Schools.

Committee for a Republican Future, Concerned Citizens Opposed to Police States, Concerned Women for America, Concerned Women for America of Colorado, Concerned Women for America of Kansas, Concerned Women for America of Mississippi, Concerned Women for America of New Jersey, Concerned Women for America of North Carolina, Concerned Women for America of N.E. Texas, Concerned Women for America of S.E. Texas, Concerned Women for America of Utah, Concerned Women for America of Virginia, Connecticut Eagle Forum, Conservative Caucus, Inc., Conservative Party of New York State, Conservative Party of Ontario County, New York, Conservative Victory Funds, Constitution Party of Vermont, Coral Ridge Ministries, Coral Ridge Ministries Media, Inc., Council of Conservative Citizens, Inc., Crime Victims United of California, Culture of Life Foundation, Cutting Edge—A Talk Show, Defenders of Property Rights, Delaware Christian Coalition, Delaware Home Education Association, D.T. Crime Victims Bureau.

Eagle Forum, Eagle Forum of Alabama, Eagle Forum of Alaska, Eagle Forum of Arkansas, Eagle Forum of California, Eagle Forum of Georgia, Eagle Forum of Mississippi, Eagle Forum of New Jersey, Eagle Forum of North Carolina, Eagle Forum of Ohio, Eagle Forum of Oklahoma, Eagle Forum of Rhode Island, Eagle Forum of South Carolina, Eagle Forum of Wisconsin, Eastern Orthodox Women's Council of Greater Bridgeport, English First, Environmental Conservation Organization, Erie Citizens Against Pornography, Evergreen Freedom Foundation, Families Allied for Intelligent Reform of Education, Families and Friends of Murder Victims, Family Association of Kentucky, Family First, Nebraska, Family Life Communications, Family Policy Network, Family Research Council, Family Research Forum of Wisconsin.

Family Research Institute of Wisconsin, Family Taxpayers Network, Florida Eagle Forum, Inc., Focus on the Family, Fraternal Order of Police, Freedom Alliance, Friends of Oregon, Georgia Report, Global Evangelism Television, Government Is Not God—PAC, Graham Williams Group, Granite State Taxpayers, Guardians of Education for Maine, Hawaii Christian Coalition, Heritageridge Church and School, Home Education Radio Network, Home School Legal Defense Assoc., Human Life Alliance, Illinois Assoc. of Christian Schools, Illinois Citizens for Life, Illinois Right to Life Committee, Independent Women's Forum, Indiana Eagle Forum, Information Radio Network, Institute for Justice, Int'l. Assoc. of Chiefs of Police, Iowa Family Policy Center, Islamic Institute Foundation.

Justice Against Crime, Justice for Murder Victims, Kansas Conservative Union, Kansas Eagle Forum, Kansas for Life, Kansas Taxpayers Network, KBRT AM 740 (Costa Mesa, CA), KFLR Radio (Phoenix, AZ), Landmark Legal Foundation, Landowners Assoc. of North Dakota, Law Enforcement Alliance of America, League of American Families, Liberty Counsel, Life Action League of Massachusetts, Life Advocacy Alliance, Life Coalition International, Life Decisions International, Life Issues Institute, Life Legal Defense Foundation, Los Angeles Coalition of Crime Victims Advocates, Louisiana Family Forum, Madison Project, Maine Right To Life Committee, Inc., Maryland Constitution Party, Maryland Taxpayers Association, Massachusetts Citizens for Life.

Massachusetts Eagle Forum, Massachusetts Family Institute, Medina County Christian Coalition, Memory Of Victims Everywhere, Michigan Decency Action Council, Michigan Family Forum, Minnesota Association of Christian Schools, Minnesota Christian Coalition, Minnesota Family Council, Mississippi Family Council, Missouri Eagle Forum, MKL Associates, National Alliance Against Christian Discrimination, National Association of Christian Educators, National Association of Korean Americans, National Assoc. of Muslim American Women, National Center for Constitutional Studies, National Center for Home Education, National Coalition for the Protection of Children and Families, National District Attorneys Association, National Federation of Republican Assemblies, National Institute of Family and Life Advocates, National Law Enforcement Council, National Legal and Policy Center, National Legal Foundation, National Liberty Journal, National Organization for Women—Dulles Area, National Rifle Association, National Sheriffs' Association, National Tax Limitation Committee.

National Taxpayers Union, National Troopers Coalition, Neighborhood Research/Mountaintop Media, Nevada Eagle Forum, Nevada Republican Assembly, New Hampshire Right to Life, New Jersey Christian Coalition, New Jersey Family Policy Council, New York Eagle Forum, North Carolina Christian School Association, North Carolina Conservatives United, Northern Virginia Republican Action Committee, Northwest Legal Foundation, Oklahoma Council of Public Affairs, Oklahoma Family Policy Council, Old Dominion Association of Church Schools, Open Door Baptist Church, Operation Rescue, Operation Save America, Organized Victims of Violent Crime, Orthodox Union, Parents in Control, Parents Requesting Open Vaccine Education, Parents Rights Coalition of Massachusetts, Pennsylvania Family Institute.

Pennsylvania Landowners Association, Pennsylvania Republican Assembly, People Advancing Christian Education, Personal Request, Project 21, Pro-Life Action League, Pro-Life America, Pro-Life Ohio, Property Rights Congress, Providence Foundation, Religious Freedom Coalition, Republican Liberty Caucus, Republican National Coalition for Life, Republican National Hispanic Assembly (Dallas County), Republican Platform Committee, Republicans Against Pornography, Right To Life of Cincinnati, Save America's Youth, Second Amendment Sisters, Small Business Survival Committee, South Dakota Family Policy Council, South Dakota Shooting Sports Association, Southern Baptist Convention, Sovereignty International, Speaking the Truth in Love Ministries, St. John County Private Property Rights Group.

Taxpaying Adults, Teen-Aid, Inc., Tennessee Association of Christian Schools, Tennessee Eagle Forum, Tennessee Republican Assembly, Texas Eagle Forum, Texas Home School Coalition, Texas Journal, Texas Public Policy Foundation, The Alliance for Traditional Marriage and Values, The American Family Policy Institute, The American Pistol and Rifle Association of Vermont, The Armstrong Foundation, The Center for Arizona Policy, The Center for Equal Opportunity, The Center for Security Policy, The Christian Civic League of Maine, The Constitutional Coalition, ''The Don Kroah Show'' (WAVA Radio), The Family Council, The Family Foundation, The Family Foundation (Kentucky), The Family Institute of Connecticut, The Federalist.

The Greenfield, Tennessee Movement To Impeach Federal Judge John T. Nixon, The National Center for Public Policy Research, The Niobrara Institute, The Patrick Henry Center for Individual Liberty, The Strategic Policies Institute, Toward Tradition, Tradition Family, Property, Inc., Traditional Values Coalition, U.S. Family Network, United Seniors Association, United Seniors Association of Lee County, United States Justice Foundation, U.S. Business and Industry Council, Utah Eagle Forum, Utah Republican Assembly, Victims and Friends United, Watchdogs Against Government Abuse, We the People Congress, We the People Foundation, Weld County Republicans, Well of Living Water, West Virginians Against Government Waste, Whatcom County Republican Party, Wisconsin Information Network, Wisconsin State Sovereignty Coalition, Young America's Foundation, Young Americans for Freedom.

Mr. CORZINE. Mr. President, I rise in opposition to the nomination of John Ashcroft to be Attorney General.

I have given a great deal of thought to this nomination and have considered it very seriously. As a new Senator, I did not serve with Senator Ashcroft, so I do not know him personally. However, I personally attended the nomination hearings and listened carefully to the testimony. I also reviewed many of the statements prepared by supporters and opponents of the nomination, and heard from a large number of my constituents in New Jersey.

After considering all the facts, I concluded that Senator Ashcroft, while in many ways a very fine and distinguished public servant, simply is not the right person for the job. Let me take a few moments to explain my thinking.

In general, I believe that a President's choice for a Cabinet position deserves deference. However, the position of Attorney General deserves special scrutiny. As head of the Justice Department, the Attorney General has the unique responsibility to interpret the law on behalf of the executive branch, to investigate and prosecute suspected criminals, to uphold our civil rights laws, to represent the government before the Supreme Court through the Office of the Solicitor General, and to manage immigration, among many other critically important responsibilities. In addition, the Attorney General, while serving the President, also must maintain a degree of independence from politics, so that he or she can pursue wrongdoing within the government. The Attorney General is the people's lawyer. For all these reasons, it is imperative that the Attorney General be an individual not only of unquestioned personal integrity, but someone who will be broadly perceived as administering justice and enforcing the law fairly and impartially for all people.

Unfortunately, after examining Senator Ashcroft's record, I have serious

concerns about whether as Attorney General he would be able to set aside his long-standing and strongly held views and perform his duties in a fully objective, fair and impartial manner.

I base this conclusion on several prior instances in which Senator Ashcroft's view of the law and the facts seem to have been heavily biased and colored by his ideology. Perhaps most importantly, in 1997, he led the opposition to Judge White of the Missouri Supreme Court by making a series of accusations that were inaccurate. For example, he claimed that Judge White opposed the death penalty and believed that ''it apparently is unimportant . . . how clear the evidence of guilt.'' This was very unfair, as Judge White voted to affirm death sentences in the vast majority of cases that had come before him, and had unequivocally assured the Judiciary Committee that he was prepared to impose the death penalty. In fact, in the case that Senator Ashcroft used to criticize Judge White, the Judge's decision was based not on opposition to the death penalty, but on a reasoned analysis of serious constitutional problems that he believed had prevented the defendant from receiving a fair trial. This was a clear example of Senator Ashcroft's ideology coloring his interpretation of the facts.

Senator Ashcroft's strong ideological approach also seemed to skew his views in the case of Bill Lann Lee, a nominee to head the Civil Rights Division of the Department of Justice. Senator Ashcroft said he voted again Lee because of ''serious concerns about his willingness to enforce'' a Supreme Court decision limiting preferences for minority companies in awarding government contracts, and the Senator adopted a highly restrictive interpretation of that decision, challenging Mr. Lee's interpretations of the Court's instructions and guidance. However, this challenge appears to have been based on Senator Ashcroft's own ideological opposition to affirmative action, not the law or the Court's direction.

In another case, when he served as attorney general of Missouri, Senator Ashcroft sought to invalidate a State law that authorized nurses to engage in various practices, including the dispensing of contraceptives. Senator Ashcroft, a strong opponent of abortion, argued that this was unconstitutional. Yet there was no constitutional authority for this position, and it was rejected by the Missouri Supreme Court on a unanimous vote. Again, Senator Ashcroft's strongly held ideological views had skewed his views of the law and led to a highly subjective and biased conclusion with little objective merit.

These are just a few of many examples in which Senator Ashcroft demonstrated an inability to move beyond his own views and reach a fair, objective and balanced conclusion about the merits of a legal position. If history is any guide, his enforcement of the law will be seriously biased by his ideological views. This, in my view, disqualifies him for a position as Attorney General, for which fairness, objectivity and balance are perhaps the most important qualities. In a period in our nation's history in which we need to come together after a divisive election, I believe it would be a mistake to select an Attorney General whose tendency to view the law ideologically could aggravate our nation's divisions.

For all these reasons, I oppose this nomination.

Mr. HUTCHINSON. Mr. President, I ask unanimous consent that the following editorial that appeared last week in the Arkansas Democrat-Gazette regarding the nomination of Senator John Ashcroft to be the next Attorney General appear in the CONGRESSIONAL RECORD.

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

[From the Arkansas Democrat-Gazette, Jan. 23, 2001]

TED KENNEDY'S AMERICA—THE NEW MCCARTHYISM

Is anybody surprised that the senator who made Bork a verb is looking for ways to derail John Ashcroft's confirmation as attorney general? And Ted Kennedy knows just how to do it: Talk it to death. He says he may lead a filibuster against the nominee. It'd be an historic first—and an historic low.

Ted Kennedy has a way of being first, and low. The first to get to a party, the first to abandon a car submerged under water with a young lady still in it, the first to leave the scene of an accident. Some of us remember another of Mr. Kennedy's firsts: His classic War of the Worlds performance during the Senate's hearing on Robert Bork's nomination to the Supreme Court. In the 1930s Orson Welles reported an invasion from Mars; Ted Kennedy imagines an invasion from the neolithic Right.

Speaking in the well of the Senate, he envisioned Robert Bork's America as one where ''Women would be forced into back-alley abortions, blacks would sit at segregated lunch counters, rogue police would break down citizens' doors in midnight raids.'' It all made 1984 look kind of warm and homey.

The intensity of the fight over Robert Bork's confirmation, and the acrimony it sparked, didn't come without warning. It was billed in advance as a battle of virgin ideologies—the far, far left versus the far, far right, each side too pure to give quarter to the other. It hardly surprised that ultra-liberal Ted Kennedy would come out swinging against ultra-conservative Robert Bork. What surprised—and appalled—was the senator's neo-McCarthyisms.

In Ted Kennedy's America, you no longer ruin people's character by calling them Communists. You call them racists. Or just imply it. Robert Bork was morphed from a respected, if very conservative, judge to a kind of American Nazi. Ted Kennedy and hysterical company had no more evidence of Judge Bork's racism than Joe McCarthy had the goods on George Marshall. But that's the strategy of the witch-hunter: Indict first, then the other guy has to prove he's not guilty—that he's stopped beating his wife. It's called shifting the burden of proof.

Ted Kennedy isn't waving a list of Communists in the State Department, la Machine Gunner Joe, but a list of racists in the next Cabinet. At the top is one John Ashcroft, former attorney general, governor, and United States senator from Missouri. And seg, if you can believe Ted Kennedy.

During last week's hearing, Senator Kennedy accused John Ashcroft of fighting desegregation and voter registration. Even for the U.S. Senate, the message wasn't subtle: John Ashcroft's America would also be one of segregated lunch counters. This is the same John Ashcroft who appointed more African American judges than any other governor in Missouri. The same John Ashcroft who signed the Martin Luther King holiday into law. The same John Ashcroft who appointed the first black judge to that state's court of appeals. And the same John Ashcroft who signed the first Missouri hate-crimes law as governor, and then voted for 26 out of 28 African American judicial nominees as a U.S. Senator.

John Ashcroft seems to have failed at being a racist as completely as Ted Kennedy has at being a civil leader of the opposition. To quote a former Democratic senator, Bob Kerry: ''I think John Ashcroft is colorblind. That's one of the good things that comes from his religious belief.'' But being colorblind is the worst things you can be in Ted Kennedy's America. If you dare embrace Martin Luther King's dream—that one day all Americans will be judged not by the color of their skin but by the content of their character—you're a racist.

John Ashcroft learned this the hard way after he opposed His Honor Ronnie White's appointment to the federal bench in 1999. He made the mistake of judging the nominee's record without considering the color of his skin. He felt Judge White had dissented from one too many death sentences. It was a clash of philosophy, not a racial preference.

But in Ted Kennedy's America, race is a philosophy. His is a country where Colin Powell is tarred as an Uncle Tom, and Bill Clinton is hailed as Our First Black President. ''In my view,'' Ted Kennedy declared, ''what happened to you is the ugliest thing that's happened to any nominee in all my years in the United States Senate.'' He wasn't addressing Robert Bork, but Ronnie White.

There are times when the irony is so thick in Washington, it becomes farce. Please note that Ted Kennedy voted against Clarence Thomas, a conservative who still managed to become a justice of Supreme Court of the United States. Nobody insinuated that Senator Kennedy based his vote on Clarence Thomas' race, which happens to be African American. He voted against Justice Thomas because he opposed the conservative jurist's philosophy, which he had every right to do. But he won't recognize the same good faith in John Ashcroft.

For all the talk of the New Civility in Washington, we're back to the old incivilities. The politics of personal destruction? We have sunk even lower—to the politics of national division. It wouldn't be the first time: Joe McCarthy, like Ted Kennedy, was an aimless demagogue who drank a lot.

What was disturbing was not the man but the -ism. It allowed Joe McCarthy to be seen as the representative of the American way, rather than a freakish exception. The junior senator for Wisconsin was a political accident who never had the sense of purpose to be really dangerous. In the end, the clumsy oaf sabotaged the Right, not the Left. He made anti-communism, not communism, suspect.

Now the McCarthyites of the Left was poised to do the same dubious service for their political persuasion. The more hysterical they sound, and the more outlandish their accusations, the more credibility they will lose. John Ashcroft's case is not the exception, but part of the trend. Remember the campaign ads that tried to associate George W. Bush with the lynching of James Byrd? The Democratic Party has found its Red Scare. Or white scare.

The party of Abraham Lincoln was to be re-cast as the party of George Wallace and Orval Faubus (who happened to be Democrats, but never mind). And Ted Kenndy now emerges as the new Joe McCarthy, sniffing out any opportunity to paint a political opponent as a racist. His victims, like John Ashcroft, are left to prove that they aren't.

Where are the Margaret Chase Smiths and Dwight Eisenhowers of the Democratic Party? The kind of people who will put country above party, and distance themselves from the demagogues? Don't look for any before 2002.

The Democrats are on the verge of taking back Congress—if they can just scare enough people. Joe McCarthy would understand.

Mrs. CARNAHAN. Mr. President, encircling the Great Seal of the State of Missouri are the words ''United We Stand; Divided We Fall.'' It is a motto that has guided our people well over the last 180 years.

In that same spirit, President Bush, at the onset of this new century, has declared that he wants to be ''uniter not a divider.''

I am deeply encouraged, for I want to join with him and the Congress to reach across the chasm of our political differences to do some hard work for the American people.

Within the Senate, we have already reached out in a spirit of bi-partisanship in structuring our committees. So far I have had the opportunity to vote in favor of all of the President's Cabinet nominees.

This was the beginning of a conciliatory course—a fragile alliance—but, nonetheless, one that I believe must mark any real progress in the 107th Congress.

But I do not believe that the nomination of John Ashcroft furthers the conciliatory tone that President Bush has set.

Senator Ashcroft has a long record of public service—a record that I brought to the attention of the Judiciary Committee when I introduced him. But in the end, I must determine if that record makes him suitable to be the United States Attorney General.

Had Senator Ashcroft been nominated for any other Cabinet post, I could have easily supported him. His credentials or faith are not in dispute here, nor should they ever be. Rather, it is the conflict that his words and deeds have generated throughout his public career.

Given the sweeping discretionary power of this position, I do not believe that the office of Attorney General of the United States is the right job for Senator Ashcroft.

When asked by my colleagues about this nomination, I urged them to ignore their personal relationships and political considerations. Instead, I called on them to vote their conscience. I must do the same.

Regrettably, I am unable to provide my consent for this nomination.

I am compelled by principles and beliefs I shared with my husband for over forty years in public life, including the belief that we should do all in our power to bring people together rather than drive them apart.

The call of conscience must supersede all others. It is the only reliable anchor in the tempestuous sea of public life.

In casting this vote, I do so knowing that John Ashcroft will likely be confirmed. I wish him every success. I hope he will take these votes of dissent as they are intended: not as acts of spite or recrimination, but as pleas for healing and harmony.

While I must withhold my vote on his confirmation, I pledge my support on all matters that he and the President pursue in the interest of a more just and peaceful nation.

Mr. ENZI. Mr. President, I rise today in support of the confirmation of my friend and former colleague, Senator John Ashcroft, to be Attorney General of the United States. As a man of the highest integrity, experience, and ability, Senator Ashcroft is uniquely qualified to serve as our nation's premier law enforcement officer and the administrator of one of the federal government's largest agencies.

Senator Ashcroft's qualifications for the position of Attorney General have been well documented on the floor and I only need mention them in passing: law professor, State auditor, two-term Attorney General, two-term Governor, and United States Senator from the State of Missouri. Such a record of public service spanning such a period of years demonstrates the great trust and admiration the people of Missouri have placed in Senator Ashcroft over nearly 30 years.

What has impressed me about Senator John Ashcroft's record is not only the length of public service, but the breadth of this experience as well. There is no doubt that the ideal candidate for the position of attorney general is someone who has a good grasp of the law and a true dedication to enforce that law. However, the job entails a great deal more than that. In fact, the attorney general needs to be a good manager to oversee the 125,000 employees of the Department of Justice in departments as diverse as the Immigration and Naturalization Service, the Federal Bureau of Investigation, and the Federal Bureau of Prisons. Senator Ashcroft's sixteen years as an executive in Missouri, first as State attorney general and then as Governor, have made him uniquely qualified to manage one of the largest federal agencies. Moreover, his service with us in the United States Senate and his involvement on the Senate Judiciary Committee have prepared him to work closely with Congress in enforcement and development of Federal law.

In addition to Senator Ashcroft's remarkable credentials to serve as United States Attorney General for all Americans, I would like to remark on his particular interest and experience in the crime issues facing rural communities. As many of my colleagues know, in the past several years rural America has witnessed an explosion in illegal methamphetamine use, especially among our nation's youth. Nationwide, meth use increased 60% between 1992 and 1999 among America's high school seniors. Unfortunately, the story is much bleaker in our rural communities. In my own State of Wyoming, methamphetamine investigations increased 600% between 1992 and 1998. Like all illegal drug abuse, meth abuse tears at the very fabric of society by destroying families, increasing violent crime, and dashing the dreams and promise of all too many of our nation's youth.

While the battle against meth use and trafficking is primarily a State responsibility, there is a role for the federal government by supplying resources for law enforcement training, meth lab cleanup, and education and prevention programs to help parents and teachers teach children the dangers of meth. Senator Ashcroft was a true leader in recognizing and furthering a limited, focused role for the Federal Government in the battle against methamphetamine use and trafficking. In 1999, Senator Ashcroft introduced legislation to combat this problem. While I knew that Missouri had faced many of the same problems faced in Wyoming, I was truly impressed with Senator Ashcroft's understanding of the meth problem and willingness to listen to the problems facing law enforcement in other states. Before introducing his legislation, Senator Ashcroft and his staff made a particular effort to understand the problems facing law enforcement personnel in Wyoming and incorporated our suggestions in Senator Ashcroft's legislation to help address these problems. I have to say that Senator Ashcroft's deep understanding of the greatest crime issue facing our State of Wyoming and his experience as a problem solver both as Governor of Missouri and United States Senator give me great encouragement that he will work with the Congress to address the needs of all states, not just those with large urban areas.

I must say that Senator Ashcroft's understanding and appreciation for the issues involved in the area of rural crime stands in stark contrast with my experience with the previous Administration. Law enforcement officials in my State have all too often been given the run around by the Department of Justice and the Office of National Drug Control Policy when they have attempted to pursue additional funding programs or when they have attempted to include additional Wyoming counties to the list of High Intensity Drug Trafficking Areas. In fact, in one conversation, an employee at the ONDCP told a top law enforcement officer in Wyoming that they didn't have anyone at the department that could approve new HIDTAs! I found that somewhat astonishing given that is one of the very purposes of the office of the Drug Czar. Given his track record in the State of Missouri and in the United States Senate, I have every confidence

that a Justice Department headed by John Ashcroft will pursue a coordinated approach with the Office of National Drug Control Policy and other agencies to help eliminate the red tape and ensure that our law enforcement personnel in rural states are receiving the resources they need to keep our communities safe and drug free.

We have heard a great deal of acrimony from some of the far-left interest groups over the nomination of Senator Ashcroft. Evidently these groups are intent in destroying Senator Ashcroft's reputation even if they are unsuccessful in derailing his confirmation. The attacks by these organizations are entirely unfounded and seem more designed to raise funds for the particular interest groups than to find the truth about our former colleague.

I must say that one of the charges that has been most disturbing to me is the insinuation that Senator Ashcroft will not faithfully enforce the laws of the United States because he is a devoted Christian. Not only are such charges entirely unfounded, but they smack of a religious bigotry of the most dangerous Kind. Such bigotry is nothing new, but is should be condemned in any age in which it raises its ugly head. One no less than George Washington warned against the efforts in his own day to banish religion from the public square. In his farewell address of September 29, 1796, President Washington remarked:

> Of all the dispositions and habits which lead to political prosperity, Religion and morality are indispensable supports. In vain would that man claim the tribute of Patriotism, who should labor to subvert these great Pillars of human happiness, these firmest props of the duties of Men and citizens.

We should pay heed to the words of our first president and disavow any effort to banish Senator Ashcroft, or any other public servant, from public life because of his or her religious beliefs.

The founders were well aware of the dangers inherent in applying religious tests to the holding of public office. That is why they included a specific prohibition to any such practice in Article six of the Constitution where they said ''no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States''. Rather than ask that Senators apply an explicit test such as that prohibited in Article six, the far-left special interest groups that oppose Senator Ashcroft's nomination have turned instead to rumor and innuendo to imply that anyone who has strong religious beliefs such as those held by Senator Ashcroft is incapable of enforcing federal laws with which he might not be in total agreement.

Nor surprisingly, these groups have not brought forth any specific examples where Senator Ashcroft failed to enforce the laws when he served as attorney general or governor of the State of Missouri. Instead, all the evidence seems to point to the contrary. Not only did the people of Missouri continue to elect John Ashcroft to positions of public trust, but his fellow State attorneys general and his fellow governors elected him in turn president of their respective organizations. Keep in mind that these organizations are bi-partisan and represent members from a wide spectrum of political and philosophical views. The fact that the State attorneys general and the State governors would choose John Ashcroft to head their organizations is evidence of the trust and respect that his colleagues had for his integrity, his ability, and his willingness to fairly and faithfully enforce the laws as he found them. This record stands in stark contrast to the revisionist history that has been spread in the media by groups opposed to Senator Ashcroft's nomination.

I have known Senator Ashcroft both as a colleague and a friend. He is a thoughtful and honorable public servant who has served the people of Missouri and the United States with distinction for nearly thirty years. He is dedicated to consistently and fairly upholding and enforcing the Constitution and laws of the United States. I have every confidence that Senator Ashcroft will bring dignity and integrity to the office of the Attorney General as he has to the numerous positions of public trust he has filled in the past. I urge my colleagues to join my voting to confirm Senator Ashcroft as Attorney General.

Mrs. LINCOLN. Mr. President, if there is one thing I have learned about working in Washington is that we must learn to respect and recognize our differences. I certainly expect a new President to select Cabinet nominees who share his basic beliefs and ideology. I have thus far voted to confirm every nominee that President Bush has submitted to the Senate since he took office—even those who hold positions on important issues that are different from my own. In fact, it is fair to say that I have been generally pleased with the talented and dedicated public servants President Bush has chosen to lead this Administration.

While the President retains the Constitutional authority to appoint his Cabinet, I also take very seriously my Constitutional responsibility as a Senator to provide advice and consent on his appointments. Our role in the confirmation process isn't to afix a rubber stamp on presumptive nominees, especially for a position as important as this. Unlike other Cabinet posts, Mr. President, the Attorney General is responsible for representing and defending the rights and constitutional freedoms of every American. I believe this position requires someone who understands and appreciates that not every American is born with equal access to the opportunities and blessings that make our nation great.

In my opinion, to fulfill the duties with which the Attorney General is entrusted, the nominee must be pro-active in his pursuit against discrimination and injustice as the law demands. Successfully defending the rights of every citizen ultimately depends upon the wide discretion an Attorney General exercises to initiate investigations, establish Task Forces and prosecute wrongdoers.

After reading Senator Ashcroft's response to the questions I submitted together with his testimony before the Senate Judiciary Committee, I am reasonably confident he is prepared to react to crime and injustice when it occurs. I am not convinced, however, that he is prepared to do any more when called upon to enforce a law with which he passionately disagrees. His convictions are deeply held and he has fought stubbornly for them in the past. I truly doubt that he can set them aside so easily now.

I must tell you that I am deeply moved by the constitutional role I am called upon to perform today. Passing judgement on a former colleague is extremely difficult and not a part of our normal responsibilities. I respect Senator Ashcroft as a former colleague and someone I know to be deeply committed to his religious teachings and the causes he champions. Also, I would like to add that I would gladly support his confirmation to any other Cabinet post.

In the end, though, I have concluded it is his deeply held beliefs over issues that fall directly under the jurisdiction of the Justice Department that will impede his ability to do this job—to enforce the law without bias or favor toward anyone; to vigorously fight discrimination and its painful legacy and to defend the constitutional rights he has fought so zealously to overturn in the past. Ironically, his passionate advocacy that inspires respect in me and others is what, in my opinion, makes Senator Ashcroft the wrong man for this job.

For the benefit of my constituents who hold passionate views on both sides of this issue and for my colleagues listening today, I would like to take a few moments to highlight some of the factors I considered when making my decision.

I must confess, Mr. President, when I reviewed the history of Senator Ashcroft's involvement in an effort to desegregate public schools in St. Louis, I was surprised and troubled by what I read. According to testimony presented at his confirmation hearing, Senator Ashcroft, in his capacity as Attorney General of Missouri, engaged in an extraordinary legal campaign that spanned several years to block implementation of a voluntary school integration plan in St. Louis. During the course of this litigation, Senator Ashcroft initiated numerous challenges and appeals that were firmly and repeatedly rejected by the courts. Instead of accepting the decisions rendered, he pursued a course of action that drew judicial criticism and, in one instance, a threat of contempt for failure to comply with a court order.

I believe it is one thing to vigorously assert your legal rights in a court of law. Its something else, however, for a state's top law enforcement official to display such a cavalier attitude toward the judicial branch of government. I know the issue of racial integration in public education can ignite powerful emotions. I was a young elementary school student when Helena public schools in Arkansas were integrated. This was not an easy transition at the time and it certainly left a powerful and positive impression on me that I shall never forget. So I know that honest people can disagree passionately about this issue and I don't question the personal views Senator Ashcroft may have on this matter generally. I do, however, question the judgement he exercised as a public official in this case.

As a Senator from a state that experiences difficulty in recruiting physicians and other qualified medical professionals to work in rural communities, I was also concerned by actions Senator Ashcroft took as Attorney General to restrict access to medical care in under served communities. According to the record, Senator Ashcroft issued an opinion as Attorney General of Missouri and later intervened in a court case to prohibit qualified nurses with advanced training from providing necessary and routine gynecological services to underprivileged female patients at clinics in Missouri. The medical services at issue included conducting breast and pelvic examinations, performing PAP smears and providing information about effective contraceptive practices. Furthermore, the health clinics involved were located in counties in which there was not a single physician who would accept Medicaid eligible patients for pre-natal care or childbirth.

Senator Ashcroft put the weight of his office behind an effort to declare the gynecological services at issue in this case outside the scope of practice for professional nurses in Missouri. Thankfully, for the female patients who depend on qualified medical professionals who aren't physicians to deliver necessary care, that claim was rejected in a unanimous ruling by the Missouri Supreme Court.

I am concerned about access to care because, after growing up in East Arkansas, I am well aware of the obstacles women face in obtaining the specialized medical care they need. While I respect the right of each state to establish their own standards of medical practice, I think that by going to court against the nurses of his state, Senator Ashcroft displayed a relevant degree of insensitivity on a critical issue to the persons most affected in this case.

I must tell you I'm still deeply disappointed by the way this body treated Judge Ronnie White. In my opinion, Judge White is a decent, honorable man who deserved much better. Even though I believe Senator Ashcroft is sincere in his belief that Judge White should not sit on the federal bench, I seriously question the manner in which he acted to defeat his nomination. Now that we have all had time to review a more complete and balanced report of Judge White's record, I am confident the Senate would not make the same mistake again. In fact, Senator Ashcroft has received the same kind of deference and fair treatment that I wish he had shown Judge White.

I was taught at an early age that public service is a high calling and a noble profession. In accordance with that belief, it is essential that we in the Senate discharge our responsibility to consider nominations in a manner that encourages the most talented and qualified individuals to seek employment in the public sector. I am confident that the Senate fell short of that standard in this case.

Taken together—the battle waged over desegregation in St. Louis, the attempts to stop nurses from providing basic medical services to underserved patients and the decision to defeat the nomination of a qualified nominee who deserved better—these instances and other facts in the record lead me to conclude that Senator Ashcroft will further divide our country on these sensitive issues.

I encourage the President to consider another nominee who will help him heal these wounds, not open them anew. In the alternative, I hope our new President will work to heal the wounds inflicted by this nomination on the Senate, the Presidency and our nation so that we can move forward to address the problems of all Americans in a bipartisan way.

Mr. KYL. Mr. President, I rise in strong support of the nomination of John Ashcroft to be the U.S. Attorney General.

Senator Ashcroft has superb legal qualifications. He was educated at Yale and the prestigious University of Chicago law school. While in the U.S. Senate, he served on the Judiciary Committee and chaired its Subcommittee on the Constitution.

Senator Ashcroft is also the most experienced nominee for U.S. Attorney General in American history. He served as Missouri's attorney general, its governor, and, of course, one of its U.S. Senators. Since the founding of the nation, none of the previous 66 Attorneys General had his level of experience.

Opponents have offered a number of reasons for their opposition. I would like to take this opportunity to respond.

First, what should the standard for confirmation be? The general rule for confirmation of Justice Department nominees was well-stated by Senator LEAHY in connection with President Clinton's nomination of Walter Dellinger to be head of the Office of Legal Counsel at the Department of Justice:

> The Senate has a responsibility to advise and consent on Department of Justice and other executive branch nominations. And we must always take our advice and consent responsibilities seriously because they are among the most sacred. But I think most Senators will agree that the standard we apply in the case of executive branch appointments is not as stringent as that for judicial nominees. The President should get to pick his own team. Unless the nominee is incompetent or some other major ethical or investigative problem arises in the course of our carrying out our duties, then the President gets the benefit of the doubt. There is no doubt about this nominee's qualifications or integrity. This is not a lifetime appointment to the judicial branch of government. President Clinton should be given latitude in naming executive branch appointees, people to whom he will turn for advice. I should also note that his nomination went through the Judiciary Committee—by no means a rubberstamp—unanimously.
>
> The recent debate over Walter Dellinger is another instance of people putting politics over substance. Yes, he has advised and spoken out about high-profile constitutional issues of the day. I would hope that an accomplished legal scholar would not shrink away from public positions on controversial issues, as it appears his opponents would prefer. One can question Professor Dellinger's positions and beliefs, but not his competence and legal abilities.

This is the standard that is traditionally applied and it is the proper standard. While acknowledging that presidents are ordinarily entitled to deference in the selections for their cabinet, in the nomination of John Ashcroft critics argue that they are justified in applying a tougher standard for confirmation because of the standard that Senator Ashcroft allegedly used in evaluating Bill Lann Lee to head the Civil Rights Division of the Department of Justice. In considering Bill Lann Lee, Senator Ashcroft had said 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.''

Some Democrats say that because John Ashcroft applied this ''standard'' to Bill Lann Lee, they are justified in applying the same standard to John Ashcroft. First, this is not a standard, but a conclusion about Lee based upon his record and testimony. Second, what Senator Ashcroft did on the Lee nomination was justified. Senator Ashcroft's concerns with Bill Lann Lee were based on Lee's long record of activism as a public interest lawyer. Republicans on the Judiciary Committee opposed Lee's nomination because they were justly concerned about his willingness to enforce the law as stated in Justice O'Connor's opinion for the Supreme Court in Adarand. In Adarand, the Supreme Court held that all governmental racial classifications were subject to strict scrutiny—that is, they must be narrowly tailored to serve a compelling government interest. Mr. Lee repeatedly stated the standard for

racial preferences in less strict terms. He also found that only one of the 150 current federal programs involving racial classifications would be invalid under Adarand.

Senator Ashcroft explained why he opposed Bill Lann Lee's nomination—he was concerned that Mr. Lee would not enforce the law. Senator Ashcroft testified: ''I joined with eight other Republicans on the Senate Judiciary Committee in opposing Bill Lee's nomination to be assistant attorney general because I had serious concerns about his willingness to enforce the Adarand decision . . . [Mr. Lee] was an excellent litigant, but I had concerns that he viewed the Adarand decision as an obstacle rather than as a way in which the law was defined. Adarand held that government programs that establish racial preferences based on race are subject to strict scrutiny, that is the highest level of scrutiny under the Supreme Court's equal protection clause. Adarand was a landmark decision, it was substantial, it was important. Mr. Lee did not indicate a clear willingness to enforce the law based on that decision.''

Senator Ashcroft's concerns about Bill Lann Lee proved to be well-founded. For example, 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.'' The Division then turned around and filed a similar suit in Texas defending the constitutionality of contracting preferences on the basis of race and sex. Mr. Lee also continued to unlawfully coerce state and local governments to adopt race and sex preferences by threatening costly lawsuits based on dubious employment statistics.

Moreover, under Mr. Lee, the Civil Rights Division 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 continued despite the fact that Proposition 209 has repeatedly been upheld by federal courts.

It is also important to note that Bill Lann Lee had never held an executive position—or any position—in the government, whereas Senator Ashcroft served as attorney general of Missouri for eight years and as governor for eight years. He had distinguished tenures in both offices. In fact, he served as President of the National Association of Attorneys General and as Chairman of the National Governors Association and Chairman of the Education Commission of the States.

In sum, Senator Ashcroft had serious reasons for concern with the Lee nomination, and his concern was borne out. In contrast, Senator Ashcroft has not waffled, redefined, or otherwise given reason to believe that he would not apply the law as it is. While Lee continued to aggressively litigate, John Ashcroft has shown no sign that he will continue to legislate. He did not do so as Missouri Attorney General, and he would not do so as U.S. Attorney General. In fact, John Ashcroft has repeatedly stated that he will enforce the law—yet this reassurance has failed to satisfy his critics. It's a Catch-22. He has, like every nominee, said he will uphold the law; and no one has ever questioned his integrity. But when John Ashcroft pledges to uphold the law, critics say that this is a ''new'' John Ashcroft, that he has flipped and is not credible. What they are saying is that he cannot satisfy them whatever he says. John Ashcroft knows the difference between being a legislator and being an executive. He is a man of integrity. He should be taken at his word. He cannot prove a negative—that he won't fail to do his job. To hold him to that standard is to ask of him the impossible. Senators have the right to vote on any grounds they like; but they should not shroud their vote in a sham standard.

An example of setting up an impossible standard is the view by some that, because Senator Ashcroft opposes abortion he cannot by definition enforce laws such as the Freedom of Access to Clinic Entrances law—the federal criminal statute that punishes those who commit acts of criminal intimidation or violence at abortion clinics. There is no logic to this position. Senator Ashcroft's opposition to abortion does not mean that he supports violations of the law prohibiting violence at clinics. Indeed, Senator Ashcroft supports the freedom of access to clinic entrances law and stated in his written answers that he ''will fully enforce FACE.'' This reinforces the view that he has previously expressed. For example, long before he had any idea he would ever be nominated for attorney general, Senator Ashcroft wrote that, regardless of his personal views on abortion, people should be able to enter abortion clinics safely: ''I believe people should be able to enter legal abortion clinics safely. I oppose unlawfully barricading or otherwise curtailing access to legal abortion clinics. I condemn violence regarding this issue by individuals either in favor of or against abortion.'' Quoted from a May 15, 1996 letter to George Sorenson of St. Clair Shores, MI.

Senator Ashcroft opposes criminal violence at abortion clinics and believes people who commit these acts of violence and intimidation should be punished. As Attorney General he'll do just that. It is irrational for critics to vote against him in the belief that merely because he opposes abortion the won't enforce the freedom of access to clinic entrances law.

While he cannot prove a negative, he can point to past situations that belie the assertion that he won't properly apply the law. As Missouri Attorney General, John Ashcroft did not let his personal opinion on abortion cloud his legal analysis. For example, in Attorney General Opinion No. 5, issued on October 22, 1982, 1981 WL 154492, Mo. A.G., John Ashcroft opined that the Missouri Division of Health should not release to the public information from reports it maintains on the number of abortions performed by particular hospitals. He stated that the legislature made clear its intent that such reports ''shall be confidential and shall be used only for statistical purposes'' and even made failure to maintain confidentiality a misdemeanor. John Ashcroft opined that, for these reasons, and to protect the patient-physician privilege as recognized by Missouri law, access to the health data maintained by the Division was subject to review only by local, state or national public health officers.

Additionally, in Attorney General Opinion No. 127, issued on September 23, 1980, 1980 WL 115450 Mo. A.G., John Ashcroft was asked to opine on whether a death certificate was required for all abortions, regardless of the age of the fetus. Despite his personal view that life begins at conception, he stated that Missouri statutes did not require any type of certificate if the fetus was 20 weeks or less. After 20 weeks Missouri statutes specifically require a ''certificate of stillbirth'' regardless of whether death was by natural causes such as a miscarriage or an intentional act such as an abortion.

It is also worth noting that Senator Ashcroft voted for Senator SCHUMER's amendment to the bankruptcy bill that made debts incurred as a result of abortion clinic violence non-dischargeable in bankruptcy.

Finally, it is important to note that Senator Ashcroft has a strong record on women's issues, contrary to what some have charged. As governor, he signed a rape shield law that made inadmissible evidence of the victim's past sexual conduct. He also signed a law recognizing battered woman's syndrome as a defense in criminal cases. As Missouri attorney general, he took a broad view on allowing domestic violence funds to be used by non-profits to establish a network of ''safe homes.'' As Senator, John Ashcroft co-sponsored the Violence Against Women Act.

Third, opponents express concern that Senator Ashcroft does not favor stricter gun control and previously opposed some measures that are now law. As a result, they conclude he will not enforce the gun control laws. Some people may be so pinched in their opinions that they could not distinguish between these two circumstances. Not John Ashcroft.

As a former state attorney general and president of the National Association of Attorneys General, Senator Ashcroft knows how important it is to enforce gun laws vigorously. Unfortunately, the Clinton Justice Department has failed to make gun prosecutions a priority. Between 1992 and 1998, prosecutions of criminals who use a gun to commit a felony dropped nearly 50 percent from 7,045 to 3,765. Senator

Ashcroft was one of the leaders in the Senate in directing the Justice Department to increase the prosecution of gun crimes. He sponsored legislation to authorize $50 million to hire additional federal prosecutors and law enforcement officers to increase the federal prosecution of criminals who use guns. Additionally, Senator Ashcroft sponsored legislation to require a five-year mandatory minimum prison sentence for federal gun crimes and for legislation to encourage schools to expel students who bring guns to school.

Moreover, in the Senate, John Ashcroft had a strong record in fighting gun crimes. Last Congress, for example, Senator Ashcroft authored legislation to prohibit juveniles from possessing assault weapons and high-capacity ammunition clips. The Senate overwhelmingly passed the Ashcroft legislation in May 1999.

Senator Ashcroft voted for legislation that prohibits any person convicted of even misdemeanor acts of domestic violence from possessing a firearm, for legislation to extend the Brady Act to prohibit persons who commit violent crimes as juveniles from possessing firearms, for the ''Gun-Free Schools Zone Act'' that prohibits the possession of a firearm in a school zone, and for legislation to require gun dealers to offer child safety locks and other gun safety devices for sale. Senator Ashcroft also voted for legislation to close the so-called ''gun show loophole.'' This bill required mandatory instant background checks for all firearm purchases at gun shows.

Senator Ashcroft will uphold the nation's laws on firearms.

Fourth, critics question Senator Ashcroft's record or civil rights. They often begin by raising the issue of desegregation litigation in Missouri. Senator Ashcroft did defend the state of Missouri as state attorney general in a long-running school-desegregation case. Every Missouri attorney general since 1980, including Jay Nixon, John Ashcroft's Democratic successor, backed the state's (and Ashcroft's) position. According to an article in National Review, the attorneys general in Missouri,

> fought the orders because they were unjust, saddling innocent parties with exorbitant costs. They fought the orders because they were unpopular, not only with their victims, but with their beneficiaries. A leitmotif of the desegregation was the persistent splintering of minority groups from the ''class action'' litigants, whose one-size-fits-all remedies ran roughshod over the aspirations of parents for their children. . . . In Missouri, 400 other public-school districts suffered cutbacks so that a handful of attorneys for civil-rights groups and teachers unions could run uncontrolled clinical trials on a generation of urban school kids, Indeed, non-urban school officials were among the most persistent and vociferous foes of the desegregation orders.

The article continues: ''Twenty years of forced bussing, which Ashcroft opposed, left the Kansas City school district slightly less integrated than it was before. Twenty years of forced bussing, plus $3 billion, left Kansas City and St. Louis with schools that consistently rate among the poorest in the nation in reading and math skills.'' To oppose a particular court order is not, as some critics have said, to ''relentlessly oppose school desegregation.'' That characterization is unfair, even slanderous.

Another point that critics often raise is the fact that Senator Ashcroft spoke at Bob Jones University. The controversy over the Bob Jones University speech has been put to rest. At his confirmation hearings, Senator Ashcroft made it clear that he ''reject[s] any racial intolerance or religious intolerance that has been associated with[,] or is associated with[,]'' Bob Jones University. Senator Ashcroft explained that ''[he] want[s] to make it very clear that [he] reject[s] racial and religious intolerance.'' He said he does not endorse any bigoted views by virtue of ''having made an appearance in any faith or any congregation.'' He said, for example, that he has visited churches which do not ''allow women in certain roles,'' and that he does not endorse that view, either.

In the matter of the role faith plays in our public life, there appears to be a double standard. Senator LIEBERMAN made numerous speeches connecting God to American government when he was running for Vice President last year. In fact, during a campaign speech in a church in Detroit, he said he hoped his candidacy ''will enable all people . . . to talk about their faith and about their religion, and I hope it will reinforce a belief that I feel as strongly as anything else—that there must be a place for faith in American public life.'' [Newsweek 9/11/00] I share in that hope. Sadly, critics of John Ashcroft, who almost universally supported Senator LIEBERMAN, apply a different standard on this issue to John Ashcroft.

During his career, Senator Ashcroft has compiled an outstanding record of protecting the rights of all people. As governor, Fortune named him one of the top 10 education governors in the nation. John Ashcroft was an inclusive governor, signing into law Missouri's first hate-crimes statute and state holiday that recognizes Dr. Martin Luther King's birthday. He nominated the first woman to the Missouri Supreme Court.

John Ashcroft's work on behalf of minorities earned him a commendation from the Mound City Association, an African-American Bar Association of St. Louis, and a campaign endorsement from the Limelight Newspaper, the largest African-American newspaper in St. Louis.

In the U.S. Senate, John Ashcroft convened the first and only Senate hearing on racial profiling. He secured more funding to combat violence against women, voted to prohibit those who have been convicted of domestic violence from owning a gun, and supported the crime victims' rights amendment and Violence Against Women Act.

John Ashcroft has been deeply committed to promoting equal access to government positions during his tenure as both Attorney General and Governor of Missouri. Witnesses testifying at the hearing made this commitment clear.

Mr. Jerry Hunter, former labor secretary of Missouri, testified that, ''Like President-elect George W. Bush, Senator Ashcroft followed a policy of affirmative access and inclusiveness during his service to the state of Missouri as attorney general, his two terms as governor, and his one term in the United States Senate. During the eight years that Senator Ashcroft was attorney general for the state of Missouri, he recruited and hired minority lawyers. During his tenure as governor, he appointed blacks to numerous boards and commissions . . . [B]ut I would say to you on a personal note, Senator Ashcroft went out of his way to find African-Americans to consider for appointments.''

Mr. Hunter further elaborated that,

> When Governor Ashcroft's term ended in January of 1993, he had appointed more African-Americans to state court judgeships than any previous governor in the history of the state of Missouri. Governor Ashcroft was also bipartisan in his appointment of state court judges. He appointed Republicans, Democrats and independents. One of Governor Ashcroft's black appointees in St. Louis was appointed, notwithstanding the fact that he was not a Republican and that he was on a panel with a well-known white Republican. Of the nine panels of nominees for state court judgeships, which included at least one African-American, Governor Ashcroft appointed eight black judges from those panels.

Congressman J.C. WATTS testified:

> I've worked with [John Ashcroft] on legislation concerning poor communities, underserved communities. I have always found John Ashcroft to have nothing but the utmost respect and dignity for one's skin color. I heard John say yesterday in some of his testimony that his faith requires him to respect one's skin color. And I think that's the way it should be . . . [I]n my dealings with John, I have had nothing but the utmost respect for him when it comes to his dealings with people of different skin color.

Judge David Mason, who worked with Ashcroft in the Missouri Attorney General's office stated,

> As time went on, I begin to get a real feel for this man and where his heart is. When the subject of Martin Luther King Day came up, I was there. And I recall that he issued the executive order to establish the first King Day, rather than wait for the legislature to do it. Because, as you may recall, some of you, when Congress passed the holiday, they passed it at a time when the Missouri legislature may not have been able to have the first holiday contemporaneously with it. So he passed a King holiday by executive order. He said, in doing so, he wanted his children to grow up in a state that observed someone like Martin Luther King.

Bob Woodson of the National Center for Neighborhood Enterprise uses faith-based organizations to help troubled young people turn their lives around. Mr. Woodson testified:

> Senator John Ashcroft is the only person who, from the time he came into this body, reached out to us. He's on the board of Teen

Challenge. He's raised money for them. He sponsored a charitable choice legislation that will stop the government from trying to close them down because they don't have trained professionals as drug counselors. We have an 80 percent success rate of these faith-based organizations with a $60-a-day cost, when the conventional, therapeutically secular program cost $600 a day with a 6 to 10 percent success rate. Senator Ashcroft has gone with us. He has fought with us. And this legislation would help us. As a consequence, day before yesterday, 150 black and Hispanic transformed drug addicts got on buses from all over this nation and came here to support him. Fifty of them came from Victory Temple throughout the state of Texas, spent two days on a Greyhound bus at their own expense to come here to voice strong support for Senator Ashcroft.

Kay James of the Heritage Foundation testified:

The system our founders designed, of course, is famous for its many checks and balances from which no public official is immune. Nevertheless, the charge is still made that these are insufficient to deal with a man of religious conviction. As such, a person cannot be trusted to faithfully execute the laws, especially those which may conflict with his deeply held belief. I reject such religious profiling. On this matter, let me attempt to reassure John Ashcroft's opponents by enlisting the very thing they profess to fear most: his religious faith.

Fifth, opponents claim that Senator Ashcroft has a poor record on the nominations of President Clinton's nominations to the federal bench. This somehow justifies voting against Ashcroft under a standard of ''what's good for the goose is good for the gander.''

Apart from the intellectual contradiction in such a position, Senator Ashcroft's record contradicts this assertion. He supported 218 out of 230 Clinton judicial nominees, or, put another way, Senator Ashcroft supported more than 94 percent of President Clinton's nominees, many of whom were women and minorities. This is hardly a record of obstruction. Indeed, Senator Ashcroft supported 26 of the 27 African-American judges nominated by President Clinton and considered by the Senate. All other Republican senators also opposed the only one Ashcroft opposed.

That nominee was Ronnie White—nominated to the federal district court bench. Senator Ashcroft, along with the majority of the U.S. Senate, had grave concerns about White's record in Missouri death-penalty cases. White wasn't just the state's leading dissenter in death-penalty cases, he even went so far as to try (unsuccessfully) to overturn the conviction of a man who confessed to brutally murdering four people. White was the only dissenter in that case, which caused his nomination to be opposed by numerous law-enforcement groups and officers, including the National Sheriff's Association, the Missouri Federation of Police Chiefs, the Mercer County Prosecuting Attorney's office, and numerous individual Missouri sheriffs and police departments.

Senator Ashcroft took very seriously his duty to evaluate Judge White's record. He reluctantly concluded White had a propensity to work against the imposition of the death penalty even when called for by law. As Senator Ashcroft testified,

Judges at the federal level are appointed for life. They frequently have power that literally would allow them to overrule the entire Supreme Court of the state of Missouri. If a person has been convicted in the state of Missouri, but on habeas corpus files a petition with a U.S. district court, it's within the power of that single U.S. district court judge to set aside the judgment of the entire Supreme Court of the State of Missouri. So that my seriousness with which I addressed these issues is substantial. I did characterize Judge White's record as being pro-criminal. I did not derogate his background.

Judge White argued in dissent in the Johnson case, where the defendant was convicted of killing three law enforcement officers and the wife of a sheriff, that the defendant received ineffective assistance of counsel. Congressman HULSHOF, the prosecutor in that case, rebutted that argument quite effectively. Congressman HULSHOF testified, ''The points I'd like to raise briefly about the quality of James Johnson's representation is this: He hired counsel of his own choosing. He picked from our area in mid-Missouri what we've referred to as—as I referred to as a dream team.'' And the court later ruled that the counsel was effective.

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

Be assured that Senator Ashcroft had no other reason that I know about to oppose Judge White except that I asked him to. 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 Johnson killed were not given a second chance.

Some Democrats claim that Ronnie White was treated shabbily. They say the treatment was shabby because it was embarrassing for White to be suffer defeat on the Senate floor and because of alleged misstatements by Senator Ashcroft about White's record. In response to the first point, it must be said that throughout the last Congress, Democrats constantly stressed that they wanted their nominees brought to the floor for a vote. In fact, on June 29, 1999, more than three months before the nomination came to the floor, Senator LEAHY took to the floor to say that Ronnie White ''should be allowed a vote, up or down.'' He continued: ''Senators can stand up and say they will vote for or against him, but let this man have a vote.'' Well, this is what can happen when a nominee is brought to the floor—the nomination can be defeated. If Democrats are concerned that a nominee will be embarrassed if the nominee loses, then Democrats must be careful when they clamor for a vote. I personally expressed to Judge White my regret that his nomination was considered by the full Senate in a way that ended in defeat.

A second point: when Democrats complain that there were misstatements about Ronnie White's record, why didn't they correct the record? Every senator, of course, has the right to set the record straight if there is an error. Further, on this matter there have been misstatements not by Senator Ashcroft but about Senator Ashcroft's floor statement. I want to make one point very clear: Senator Ashcroft did not accuse Ronnie White of being pro-criminal, rather he said that ''Judge White's opinions have been, and, if confirmed, his opinions on the Federal bench will continue to be pro-criminal and activist, with a slant toward criminals and defendants against prosecutors and the culture in terms of maintaining order . . .'' This statement is in no way a smear of Ronnie White. It is a reasonable conclusion after reviewing Ronnie White's dissents in a number of cases, most notably the Johnson case in which, as the lone dissenter, Ronnie White would have let a confessed murderer go free for three reasons. First, Judge White's dissent concluded that, as noted above, the defendant had ineffective assistance of counsel—yet the case was so overwhelming that Clarence Darrow could not have saved the defendant. Second, White's dissent displayed a pro-criminal bent in stating that the defendant's ''previously law-abiding life'' could warrant reducing the sentence of this quadruple murderer to life imprisonment. Third, White's dissent demonstrated a willingness to disregard the law, specifically, as the definition of legal insanity. White wrote: ''While Mr. Johnson may not, as the jury found, have met the legal definition of insanity, whatever drove Mr. Johnson to go from being a law-abiding citizen to being a multiple killer was certainly something akin to madness.'' A judge must enforce the law, not make new law by the seat of his pants.

As I stated above—and it merits repeating because Senator Ashcroft's critics have distorted his record—Senator Ashcroft supported 218 out of 230 Clinton judicial nominees. Put another way, Senator Ashcroft supported more than 94 percent of President Clinton's nominees, many of whom were women and minorities. Indeed, Senator Ashcroft supported 26 of the 27 African-American judges nominated by President Clinton and considered by the Senate. This is hardly a record of obstruction.

Like many people who watched the recent confirmation hearings of John Ashcroft for U.S. Attorney General, I too failed to recognize the man as characterized by his opponents. I've known John Ashcroft for six years in the Senate.

As I stated at the beginning of my remarks, Senator John Ashcroft is a man who knows the law. He was educated at Yale and the prestigious University of Chicago law school. While in the U.S.

Senate, he served on the Senate Judiciary Committee and chaired its Subcommittee on the Constitution. Furthermore, Senator Ashcroft is the most experienced candidate for U.S. Attorney General in American history. He served as Missouri's attorney general, its governor, and one of its U.S. senators.

During his career, Senator Ashcroft has compiled an outstanding record of protecting the rights of all people. He will continue to do so as the United States Attorney General. I strongly support his nomination and encourage all my colleagues to do so as well.

Mr. TORRICELLI. Mr. President, I have always believed that Presidents are entitled to a degree of deference in their cabinet nominees. And so, while this made it difficult I have nonetheless informed the administration that I cannot support Senator John Ashcroft's nomination to be attorney general.

Senator Ashcroft has been a dedicated public servant and I say that even though we have not found common ground on the issues. The range of issues we have disagreed on has been broad and they have centered on some of the most important laws of our land. No person should be forced to choose between their fundamental beliefs and values and enforcing our Nation's laws. For those who cherish civil rights laws, the freedom of choice and handgun control the stakes are simply too high to expect a cabinet secretary to choose between passionately held beliefs and enforcing not only the letter but the spirit of the law.

I also have specific concerns about New Jersey. It is not enough just to be opposed to racial profiling. The scars this issue has left on my state are too deep and require the strongest possible commitment if we are ever to heal. Further, it will take a concerted effort to enforce a range of civil rights laws from hate crimes to tolerance. It requires the will of the Attorney General, the full force of that office.

I said some very positive things about John Ashcroft at the time he was nominated. I continue to hope that it is possible to disagree and to disagree strongly without demonizing. I also hope he will always reflect on the concerns raised during the confirmation process.

Mr. SPECTER. Mr. President, I have sought recognition to voice my support for the nomination of John Ashcroft, of Missouri, to be U.S. Attorney General.

I think it is important to focus on the standard for a Cabinet nomination, which is fundamentally different from a judicial appointment, which is a lifetime appointment, and focus on the latitude which is customarily accorded the President of the United States in making a selection on a Cabinet nominee.

I do support former Senator Ashcroft for attorney general. And I do so, in substantial measure, because of the record he has compiled as an elected official in Missouri and because of my personal knowledge of him. He was twice elected attorney general of Missouri, he was twice elected governor of Missouri, he was elected Senator of Missouri. And Missouri is a moderate state, I think very much like my own state, Pennsylvania: two big cities, a lot of farmland. The characteristics of the electorate in Missouri, who have elected him five times to major offices, I think, speaks well of Senator Ashcroft in rejecting the notion that he is an extremist.

The John Ashcroft whom I have known for six years in the United States Senate is not an extremist. He sat a couple of seats down from me on the Judiciary Committee. Although we did not agree on many items, I always felt he was exercising his honest judgement.

He was a candidate for President, and it may be that in the course of that candidacy, expressed some views, as candidates sometimes do, which try to appeal to a constituency. But from what I have seen, on this committee and in the Senate, he is not an extremist.

He and I had a very sharp disagreement on a judicial nominee, Philadelphia Common Please Judge Massiah-Jackson. And she was, in effect, rejected by the committee, and withdrew her nomination. She was challenged as being soft on crime because of her record on sentences. At the end of a very long, difficult and contentious proceeding, including a hearing before the Judiciary Committee, as I say, she did withdraw. But at the end of the process, it was my view that John Ashcroft had expressed his own judgement about it which differed from mine. I bring in the Judge Massiah-Jackson case because of some similarities which it has to the case involving Missouri Supreme Court Justice White.

I said in the hearing that I thought that we did not accord Judge White the kind of consideration that should have been accorded, because our practices are to rely principally on staff, the ABA recommendation, the FBI investigation, without individual Senators paying as much attention to the district court nominees as we might. I intend on proposing a rule change that in the event someone is going to speak adversely about a nominee, that there be an opportunity for the nominee to respond, and the committee should focus specifically on any charges which are brought.

But I do think that, at the conclusion, Senator Ashcroft expressed his own honest views. I think it is important to note that when Judge White appeared before the committee, he did not ask that Senator Ashcroft be rejected, he raised the question as to whether Senator Ashcroft had the qualities to be an attorney general and left it up to the committee to decide.

Senator Ashcroft made a number of important commitments to the committee. We questioned him at great length on the difference between a legislator and a member of the executive branch who enforces the law. He said categorically that he would not choose to change Roe v. Wade but would be bound to enforce the law as it stood. He spoke emphatically about his commitment to enforce access to abortion clinics. And it was worth noting that, while in the Senate, on a vote on whether someone who had a judgment against them for damaging an abortion clinic and there was one case where there was an enormous judgment in excess of $100 million that the individuals' debt ought not to be dischargeable in bankruptcy, which I think is an indication as to his sentiments on that important subject.

Senator Ashcroft also made very firm commitments on recognizing the distinction between church and state and committed that, to the extent he was involved, there would be no litmus test on the selection of Supreme Court nominees.

There were challenges made to what Senator Ashcroft had done as attorney general on the segregation cases. Former Senator Danforth appeared during the nomination hearing and spoke about his evaluation of John Ashcroft being a vigorous advocate.

There was a question raised as to whether as state attorney general of Missouri Senator Ashcroft used the litigation process inappropriately. He was not held in contempt. He was not sanctioned under the federal rules, which he could have been. So on the basis of that issue and the other objections which have been raised, it seems to me that this is a nomination and a nominee where we ought to accord the traditional latitude to the President of the United States. I intend to vote for Senator Ashcroft's nomination to be Attorney General of the United States.

Mrs. BOXER. Mr. President, I would like to respond to a letter my colleague Senator SESSIONS inserted into the RECORD last evening from the editor of Southern Partisan magazine. In that letter, the editor claims that his magazine did not sell a t-shirt celebrating the assassination of President Abraham Lincoln. In my floor remarks yesterday, I stated that the magazine did in fact sell this offensive shirt, and showed my colleagues a reproduction of the actual shirt.

In particular, the editor stated that this ''tasteless item has never been advertised or sold on the pages of our magazine.'' The editor goes on to say that a part-time staff member complied a catalog of southern items, including the offensive Lincoln t-shirt, and that the brochure advertising those items were mailed ''without careful review by our editors.''

I would like to insert into the RECORD a copy of a 1995 letter from Southern Partisan, which is on the Southern Partisan magazine editor-in-chief's letterhead, which clearly indicates that the magazine did in fact sell this offensive shirt. This letter states

in relevant part: ''Due to the surprising demand for *our* anti-Lincoln T-shirt, our stock has been reduced to odd sizes. If the enclosed shirt will not suffice, we will be glad to refund your money or immediately ship you another equally militant shirt from our catalog [emphasis added].''

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

SOUTHERN PARTISAN,
Columbia, SC, December 3, 1995.

DEAR FRIEND: Due to a surprising demand for our anti-Lincoln T-shirt, our stock has been reduced to odd sizes. If the enclosed shirt will not suffice, we will be glad to refund your money or immediately ship you another equally militant shirt from our catalog.

Thank you,
SOUTHERN PARTISAN GENERAL STORE.

Mr. MCCONNELL. Mr. President, America is indeed fortunate to have a distinguished public servant of the caliber of John Ashcroft who is willing to serve his country again, this time as Attorney General of the United States. John is certainly the most qualified Attorney General nominee of this century and perhaps in the Republic's history. John has impressive academic credentials and a unique blend of legal, executive, and legislative experience. I am confident that his qualifications, combined with his keen sense of duty and unshakeable integrity, will enable Senator Ashcroft to be one of the finest Attorneys General in the nation's history and to restore luster to a tarnished agency.

John is an honors graduate of Yale University. He received his law degree from the University of Chicago, one of the country's outstanding law schools. After graduating from law school, John returned home to Missouri where he practiced law and joined the faculty of what is now Southwest Missouri State University, teaching business law for five years. Following that, our colleague, then-Missouri Governor KIT BOND, appointed John to serve the citizens of Missouri as State Auditor.

John continued his legal career as an assistant Attorney General on the staff of our former colleague, then-Missouri Attorney General John Danforth. In this capacity, John Ashcroft gained invaluable first-hand knowledge of the day-to-day operation of an Attorney General's Department. This knowledge would serve him well when he became Missouri's Attorney General in 1976. John, in fact, served two terms as Missouri's highest law enforcement officer, and as a result of his eight year tenure in that office, obtained the managerial and executive experience needed to effectively run an Attorney General's Office. Under John's leadership, the Missouri Attorney General's Office earned a reputation for strictly enforcing the law, including laws with which Attorney General Ashcroft disagreed. John Ashcroft understood well his role as Missouri's Attorney General; he was acutely aware that Missourians twice-elected him to enforce the laws, and as his confirmation hearing before the Judiciary Committee clearly showed, John assiduously did so.

Because of his success as Attorney General, Missourians elected John their Governor in 1984 and again in 1988. To illustrate the utter ridiculousness of one of the most scurrilous charges leveled at John—that of being ''racially insensitive,'' as some are euphemistically saying—it must be noted that as Governor, John repeatedly reached out to black Americans. For example, he appointed the first black woman to the Western Missouri Court of Appeals; he established the state's first and only historic site honoring a black American, composer Scott Joplin; he led the fight to save Lincoln College, founded by black soldiers; and last month Missourians celebrated the birthday of Dr. Martin Luther King, Jr. because John Ashcroft signed that proposed holiday law. John also helped enact Missouri's first hate crimes legislation. In short, if John Ashcroft is ''racially insensitive,'' he certainly has a strange way of showing it.

After completing his second term as Governor, John began a career of national public service as Missouri's junior Senator in the United States Senate. As a member of this body, John broadened his legal experience by serving on the Judiciary Committee and by chairing its Subcommittee on the Constitution. He also continued to fight for the rights of all Americans, and was dedicated to the principle of equal treatment under the law. For example, John sponsored legislation providing equal protection for victims of crime, and he convened the first hearing on racial profiling, in which he stated for the record that racial profiling is unconstitutional. And as he did as Missouri Governor, John continued to support black judicial nominees, voting for 26 of 27 African-American nominees to the federal bench.

As impressive as John's qualifications are, what may be most impressive about him is his honor and integrity. I had the opportunity to witness first-hand a test of his character in my capacity as Chairman of the National Republican Senatorial Committee and Chairman of the Committee on Rules and Administration, which would have had jurisdiction over an election contest. As we all know, John lost a heartbreakingly close reelection bid last fall under unorthodox, and some would say, unlawful circumstances. After the election, my office was flooded with phone calls and petitions urging John to challenge the election, and lawyers lined-up to offer their services. Some argued that John should bring a constitutional challenge on the ground that it was patently unconstitutional to elect a deceased person to the United States Senate. Others wanted him to bring an election contest because of improprieties in the voting itself, such as the fact that heavily-Democrat precincts remained open after hours.

Either of these challenges may very well have proved successful, and John might still be a member of this body. But at a minimum, a challenge would have put Missourians—and the entire Senate—through a divisive ordeal, and it might well have left the good people of Missouri without full representation in the United States Senate. Always the public servant, this is something that John Ashcroft would not do. As particularly painful as this loss was, John never once considered challenging the election; he would not put his fellow Missourians through what the nation had to endure in Florida for thirty-five days. Moreover, he made it abundantly clear, both in public and in private, that he did not want others to do so either. Rather than cling to power in the hope of an eventual victory, John graciously conceded the election and wished our new colleague well.

This selfless action was that of a statesman, and it reminds me of the famous words of another statesman, Henry Clay, who said: ''I had rather be right than be President.'' John Ashcroft's response to this truly unique and difficult loss in November was essentially: ''I had rather be right than be Senator.'' And it is because of principled actions such as this that John is one of the most respected former members of this body. And because Democratic members know of John's character and integrity, they speak with confidence about the outstanding job he would do as Attorney General. For example, our former colleague, Senator Moynihan, stated that John ''will be a superb Attorney General.'' And our current colleague, Senator TORRICELLI, who knew of John's skill and character from their service together on the Judiciary Committee, stated that ''While I have obvious philosophical differences with John, his ability and integrity simply can't be questioned.''

Now despite John's experience and dedication to duty, I have heard a lot of people say that he is unfit to be Attorney General because of: (1) his strong and abiding faith in God; (2) his firm belief in law and order; and (3) his commitment to the Constitution, even when that commitment is at odds with those unbiased ''legal scholars'' on the editorial board of the New York Times. Far from disqualifying him from public service, however, these qualities only reinforce my belief that he will ably serve as the nation's chief law enforcement officer. The Senate would serve the nation by confirming him as Attorney General, and I urge it to do so.

Ms. SNOWE. Mr. President, I rise to support the confirmation of President Bush's nominee for Attorney General of the United States, former Senator John Ashcroft.

After serving in this body with John Ashcroft for the last six years, I know him as a man of integrity and compassion. That is not to say we always agree—we have sparred passionately on

issues—not the least of which was abortion rights. Clearly, though, John is a well-qualified nominee, as evidenced by the fact that of the 67 persons who have served as United States Attorney General in our history, only John Ashcroft has served as state attorney general, governor, and U.S. Senator serving on the Judiciary Committee.

In fact, John Ashcroft was State Attorney General and Governor for two terms each. He was the head of the National Association of Attorneys General and head of the National Governors' Association. In these roles, John has a solid record of working with and protecting the rights of all people.

That John and I hold differing views is certainly not unusual in this body of one hundred individuals—all with strongly held beliefs, all with disparate backgrounds, and all representing different constituencies with distinct concerns and varying priorities. I respected his right to hold his beliefs, just as he has always respected my right to the beliefs that I have often expressed in this very chamber. That is the nature of our representative democracy, and certainly the nature of the Senate as the embodiment of the union of states.

Likewise, President Bush, as the duly-elected Chief Executive of the United States, is accorded the privilege of nominating those men and women he deems most fit to administer the policies and duties with which he has been entrusted by the people of this Nation.

I did not agree with all of the personal viewpoints of President Clinton's various nominees—far from it. Instead, I attempted to judge the fitness of each nominee based on their individual record, experience, testimony, and integrity. Recognizing that President Clinton's nominees would not surprisingly hold different beliefs than my own in some instances, I asked myself whether or not those beliefs would, in and of themselves, preclude the nominee from executing his or her duties to the extent that they would be unfit to serve.

That is the same question I ask myself concerning the nomination of Senator Ashcroft, keeping in mind that I do not believe that a nominee's ideological philosophy should be a determining factor in their ability to serve. As the Portland Press Herald noted in their January 17 editorial ''Senators have the power of ''advice and consent'' over such nominees, and they have the power to make judgments based on whatever criteria they choose. Still, failing to pass an ideological litmus test is not a sufficient reason to decline to nominate someone to an appointive post, barring hard evidence of unsuitability or criminal misconduct. . .''

And what about the power of ''advice and consent'' given to the Senate under Article II, Section 2 of the Constitution? Alexander Hamilton in summing up this power noted ''To what purpose then require the co-operation of the Senate? I answer, that the necessity of their concurrence would have a powerful, though, in general, a silent operation. It would be an excellent check upon a spirit of favoritism in the President, and would tend greatly to prevent the appointment of unfit characters from State prejudice, from family connection, from personal attachment, or from a view to popularity.''

And if you review history you will find that this ''check'' as it were has been used judiciously. The fact is that since 1789—212 years—only 19 cabinet nominees have failed to be confirmed. Clearly the Senate must have differed with the President on his nominees more than 19 times over the past 212 years, yet with very few exceptions has deferred to the President, who will ultimately be held responsible for his choice.

In short, our use of the ''advice and consent'' power must achieve a careful balance between our responsibility to check presidential abuse at one end of the scale, and a respect for the president's constitutional prerogative on the other. It is a question of degrees and a matter of judgement left to us to weigh with due diligence and care.

In the case of John Ashcroft's nomination to be Attorney General, I would argue that John Ashcroft deserves to be taken at his word with regard to what he has said at his confirmation hearings. He has said, clearly and unequivocally, that he will uphold the laws of the United States of America.

During the confirmation hearings, John Ashcroft was characteristically straightforward when he said, ''I understand that being attorney general means enforcing the laws as they are written, not enforcing my personal preferences. It means advancing the national interest, not advocating my personal interest.''

During a private meeting in my office, John echoed that pledge and personally assured me that he would carry out this and other laws on behalf of every American. That includes Roe v. Wade. That includes ensuring access to abortion clinics. And I take John Ashcroft at his word.

He also stated during the hearings that, ''The attorney general must recognize this: The language of justice is not the reality of justice for all Americans . . . No American should have the door to employment or educational opportunity slammed shut because of gender or race. No American should fear being threatened or coerced in seeking constitutionally protected health services.'' I commend him for this sentiment and, again, I take John Ashcroft at his word.

Importantly, John has carried himself with distinction in carrying out the laws in other elected positions, notably during his terms as governor and Attorney General of Missouri. As he told the Judiciary Committee, ''I take pride in my record of having vigorously enforced the civil rights laws as attorney general and governor,'' and I take John Ashcroft at his word.

Moreover, not only John's words but his deeds support his strong commitment to civil rights. As Governor, John signed Missouri's first hate crimes statute and legislation creating the Martin Luther King Holiday. He established Missouri's first and only historic site honoring an African-American, and led the fight to save an independent Lincoln University, founded by African-American soldiers. Last year, he convened the only Senate hearing on the subject of racial profiling, and opened the hearing by unequivocally condemning racial profiling, calling it ''an unconstitutional practice.''

As Missouri Attorney General, John Ashcroft enforced laws that differed from his own beliefs in a number of areas, including abortion and, more specifically, the confidentiality of hospital records on the number of abortions performed; and church and state issues, such as the availability of funds for private and religious schools and the distribution of religious materials in public schools.

As Governor, John was presented on nine occasions with three-candidate panels for judicial appointments that contained one or more minority candidates. As he told the Committee in his nomination hearing, ''I took special care to expand racial and gender diversity in Missouri's courts,'' and the facts bear that out.

In every instance, he either appointed a minority to the post or appointed the minority candidates on the panel to judicial positions at a later date. He appointed more African-American judges to the bench than any governor in Missouri history.

He appointed the first African-American on the Western District Court of Appeals. He appointed the first African-American woman to the St. Louis County Circuit Court.

He appointed the first two women to the Missouri Courts of Appeals. And he appointed the first woman to the Missouri Supreme Court—the only woman ever to have been appointed to that court.

Similarly, in the Senate, John supported every single African American judicial nominee confirmed by the Senate—26 separate nominations in all. But despite this overwhelming record of supporting minority judicial candidates, he has been attacked for opposing the nomination of one African American Judge, Ronnie White—a nominee who was opposed by 54 members of the Senate, including me.

Judge White's nomination was rejected by the Senate not because of his race, but because of his opinions in some death penalty cases. It bears noting that not only was Judge White vigorously opposed by the National Sheriffs' Association, the Missouri Federation of Police Chiefs, and numerous other Missouri and national law enforcement groups, but he also stood as

the lone dissenter in a death penalty case involving the brutal slaying of three law enforcement officers in Missouri and the wife of a sheriff who was killed after she was shot five times, in the family's own home, as she was holding a church function.

It is critical to note that in 1998, using similar criteria, I opposed the nomination of Judge Ann Aiken to the federal bench because of her decision to give probation instead of jail time to a man who raped a five-year-old child.

And what has Judge White said about John Ashcroft's motivations? He has said, and I quote, ''. . . let me say, I don't think Senator Ashcroft is a racist, and I wouldn't attempt to comment on what's in his mind or what's in his heart.''

Finally, I want to emphasize that there were a number of critical policy areas on which Senator Ashcroft and I did agree during our tenure together in the Senate. They deserve mention considering the criticism that has been leveled against this nominee, and the relevance of the issues to the post of Attorney General.

John co-sponsored the benchmark Violence Against Women Act, and helped author the provisions to prevent Internet stalking included in the legislation. He supported minimum hospital stays for women who give birth, and a measure to permit breast and cervical cancer coverage by Medicaid for low-income women.

He supported a provision urging that the ''Attorney General should fully enforce the law and protect persons seeking to provide or obtain, or assist in providing or obtaining, reproductive health services from violent attack,'' and voted to make civil judgments for those who commit violent acts at abortion clinics non-dischargeable in bankruptcy—an amendment that I cosponsored.

This is the John Ashcroft I know—a man of ability, remarkable experience in public service, proven integrity, and unimpeachable professionalism. As Attorney General, he will be charged not with writing new laws—as he ably did as a Senator—or interpreting laws—as a judge would do. Instead, he will be given responsibility as our nation's top law enforcement official for executing the laws of the United States on behalf of President Bush and the American people. I am confident he will enforce the laws to protect all Americans equally, regardless of his personal views, and I will vote to confirm John Ashcroft as Attorney General of the United States.

Mr. FEINGOLD. Mr. President, as my colleagues know, I shall vote to confirm Senator Ashcroft. I discussed the reasons for my doing so in my statement before the Judiciary Committee. At that meeting, I said:

My colleagues, when we vote today, I'm going to do what I sincerely believe to be the right thing to do: vote for confirmation of John Ashcroft as Attorney General of the United States. For many of my colleagues, friends, supporters, and constituents, this is not easy to understand. And some see it as terribly wrong. After all, my voting record and that of John Ashcroft could hardly be more different, and there is no question that the opposition has raised significant and serious concerns about the appropriateness of this nomination.

Let me begin by noting a few positive aspects of former Senator John Ashcroft's positions and responses to questions at his hearing on two issues I care deeply about.

On racial profiling, as I said at the outset of the hearing on Sen. Ashcroft's nomination, during the last Congress I found him more receptive to my concerns about the issue than virtually anyone on the Republican side of the aisle. He and his staff not only permitted but assisted in a significant and powerful hearing on racial profiling in the Constitution Subcommittee. Although he did not ultimately cosponsor our traffic stop statistics bill, he made constructive suggestions about the bill, and his interest in addressing this terrible problem I believe was sincere.

And that sincerity was underlined in recent testimony before this Committee. He stated that he believes racial profiling is an unconstitutional practice and that he will make it a priority of the civil rights division of the Department to eradicate it. I believe him and I look forward to working with him on this if he is confirmed.

I have also expressed great concern that whoever assumes the role of Attorney General of the United States needs to understand and appreciate a need for fairness in the administration of the severest punishment our Federal government can mete out, the death penalty. I understand that both President Bush and Senator Ashcroft support the use of capital punishment. But I was relatively pleased with Senator Ashcroft's responses to my questions, both at the hearing and in written form, concerning the federal death penalty system. I was particularly pleased to hear his commitment to continuing the Justice Department review of racial and regional disparities in the federal system, a review that was ordered by President Clinton and is only in its initial stages. I plan to hold him to his pledge and urge him carefully to consider the results of this review and address the disparities before proceeding with any federal executions.

Having noted at least those areas where I'm hopeful about working together with John Ashcroft, this process has, nevertheless, brought forth extremely serious information that could lead any reasonable person to conclude that this nomination should not go forward.

The interview with Southern Partisan and his acceptance of an honorary degree at Bob Jones University raise significant questions about his sensitivity to the concerns of the African American community in this country. Even worse, his failure to fully disavow these actions is troubling. It seemed almost as if he was playing it safe, trying not to antagonize certain conservative constituencies rather than admitting his mistakes and recognizing the need to take concrete steps to disavow the racist attitudes that both of those institutions represent to many Americans. He will need to do much more if he is confirmed to reassure African-Americans that he will faithfully enforce and apply the civil rights laws of this country.

On another issue, Senator Ashcroft and the Republican majority's treatment of Judge Ronnie White was just plain unfair, and that is why I joined Senator Durbin in apologizing to him when he appeared before the Committee. Senator Ashcroft led opposition to Judge White, misleading our colleagues as to his record and attacking him in harsh and unfair language without giving him an opportunity to respond. There was no excuse for this behavior, and it represents for me an extremely sorry chapter in Senator Ashcroft's public record. Our Republican colleagues on this Committee and in the Senate share the responsibility for what happened. They should not have followed their colleague and allowed this to become a partisan issue on the floor of the Senate.

I agree with David Broder, who in a column in which he stated a number of reasons for supporting John Ashcroft for Attorney General said that in the end, the Ronnie White episode could alone justify voting against him. He said that Ronnie White deserves more than an apology, he deserves an appointment to the federal bench. I agree and I hope that Senator Ashcroft and President Bush will give this idea serious consideration.

And they need to go farther. The White nomination debacle raised the issue of race on the Senate floor in an unprecedented and almost tragic manner. The President and his advisors need to take major steps to right that wrong, and they can start by urging the Senate promptly to approve the nomination of Judge Roger Gregory to the Fourth Circuit Court of Appeals. I would note that Judge Gregory has received the endorsement of his home state Senators, Senators Warner and Allen, both of whom come from the President's party.

Another troubling area is Senator Ashcroft's handling of a St. Louis desegregation case during his time as Attorney General of Missouri. I was impressed with the strong testimony of respected civil rights lawyer Bill Taylor. Mr. Taylor's testimony and the entire record of this case make it clear that at best Senator Ashcroft did not ''get'' the role of the courts in the case and the urgency of resolving the issue in the best interests of the children in the city. At worst, he exploited the case for political purposes, which is very troubling indeed.

Then there is the case of James Hormel, our current ambassador to Luxembourg, whom Senator Ashcroft strongly opposed when his nomination was under consideration by the Senate. This was an extreme example of a pattern of unwarranted opposition to nominees pursued by Senator Ashcroft. I am frankly mystified by the notion that in the 21st century a nomination of a distinguished American would be blocked because of his sexual orientation. This is another sorry chapter in Senator Ashcroft's record, and frankly, his responses to written questions from members of this Committee about his position on this nomination were unsatisfactory and raise even more questions about his testimony than they answer. Ambassador Hormel is right to be outraged by those answers and the insinuations they contain.

On a related topic, we have the accusations by former Wisconsin state Senator Paul Offner that Sen. Ashcroft questioned him about his sexual orientation in a job interview in 1985. I have worked with both of these people, and based on information I've seen, I find it hard to disbelieve either one. But the Offner account does bother me and while I will vote for Senator Ashcroft in committee today, I reserve the right to review any further information in this area that may come forward prior to the final confirmation vote on the floor. After all, Senator Ashcroft in sworn testimony told me that he had never used such an approach in hiring.

In the end, however, this record has to be put in the context of the standard that I believe should be used when voting on the confirmation of a cabinet position. And, by the way, I do find somewhat persuasive the argument that the position of Attorney General

is particularly significant, although it does not rise to the level of a high lifetime judicial appointment.

As a matter of practice, the Senate has, for the most part, avoided rejecting the President's Cabinet nominations because of their ideology alone. The Senate may examine, and has examined, whether the extremity of nominees' views might prevent them from carrying out the duties of the office they seek to occupy. But the Senate has nearly uniformly sought to avoid disapproving nominations because of their philosophy alone. I believe that we should not begin to do so now.

As my colleagues know, in the practices and precedents of the Senate, the Senate considers and approves the overwhelming majority of nominations as a matter of routine. Over the history of the Senate, the Senate has considered and approved literally millions of nominations.

The Senate's voting to reject a nominee has been an exceedingly rare event. Of the 1.7 million nominees received by the Senate in the last 30 years, the Senate has voted to reject just 4, or one in every 425,000. Of course, Presidents often withdraw without a vote the nominations of those who likely face defeat.

The Senate's voting to reject a nominee to the Cabinet has been an exceedingly rare event. Over the entire history of the Senate, the Senate has voted to reject only 9 nominations to the President's Cabinet. The Senate rejected six in the 19th Century, and three in the 20th Century.

Four of the nine Cabinet nominees rejected were during the Presidency of President Tyler alone. Several other rejections may be said to have flowed from larger battles between the Senate and the President, as when the Senate rejected President Jackson's nominee to be Secretary of the Treasury in the wake of the dispute over the Bank of the United States. Similarly, bad feelings after the impeachment of President Andrew Johnson led to the Senate's rejection of President Johnson nominations of his counsel in the impeachment trial to be Attorney General.

In the 20th Century, the Senate rejected half as many Cabinet nominees as it did in the 19th Century. In the wake of the Teapot Dome scandal, the Senate voted down President Coolidge's nomination of Charles Warren because of his ties to trusts. Most recently in 1989, the Senate rejected the nomination of Senator John Tower, an event which many on this Committee will recall from their own memory.

This examination of the history demonstrates that it has been a nearly continuous custom of the Senate to confirm a President's nominees to the Cabinet in all but the very rarest of circumstances. These practices and precedents thus support the principle that the Senate owes the President substantial deference in the selection of the Cabinet.

I should also note, as some members of the committee have done that all of President Clinton's cabinet appointments were confirmed overwhelmingly, and usually unanimously, despite the fact that many Republicans strongly disagreed with their views. This included the view of Attorney General Janet Reno in opposition to the death penalty, a view I strongly share with her but which has enlisted the support of few of my colleagues.

Now, a number of opponents of this nomination for whom I have very high regard have sought to go beyond the traditional standards for cabinet nominations. I think the most interesting approach that the opponents have laid out, especially in light of the serious problems with Senator Ashcroft's record that I have already identified, is the question of whether Senator Ashcroft will actually enforce the law. I think my colleague Senator Schumer set up the question well when he said words to this effect: ''Given Senator Ashcroft's entire record of passionate advocacy for very conservative causes: Can he switch it off?'' I think this is a useful standard but it must be applied with caution. All of us have observed many talented people taking very different roles in their careers, sometimes having to oppose either people or groups for whom they used to advocate.

Now in my own career, I've certainly been called unreasonable, unyielding and too persistent on occasion. But I remember being a defense attorney for large corporations at a law firm and then subsequently when I went to the Wisconsin State Senate, voting against those interests every time. I went into the State Senate representing a largely rural district and I remember constantly speaking of the need for rural property tax relief and not letting the City of Milwaukee run off with the entire budget. Yet, when I became a United States Senator, I understood my role to have changed and that I needed to advocate zealously for the very real needs for the people of our largest city.

So, it seems to me that I've been asked to switch it off on several occasions. I feel I have done so and that this is fairly common in the careers of those public men and women.

I think we were all struck by the strength of John Ashcroft's commitments and answers to our tough questions which were given under oath. His specific commitments to enforce the law in several areas were certainly not tepid. This was especially true with regard to his responses on choice and abortion-related matters—an area where, as a policy and constitutional matter I disagree with him virtually completely. Given Senator Ashcroft's strident record in this area it is completely understandable to me that critics would regard this as a ''confirmation conversion'' and that some would even see this as cynical with carefully chosen words with regard to Roe v. Wade, leaving the door open for a very different reality in the new Attorney General's office. I, for one, will not stand by and allow a departure from the clear impression that Senator Ashcroft offered as an assurance. In fact, one area I will closely scrutinize is his choices for top level positions in the Department of Justice. He will have direct responsibility for carrying out the promises he made to this Committee and the country.

But I do take some umbrage at the notion that giving John Ashcroft's sworn testimony the benefit of the doubt is somehow because of Senate collegiality. No, it is because it is sworn testimony.

But I do understand the very strong skepticism on this point in light of the incidents I've already reviewed especially as they relate to the blocking of nominations, a process in which John Ashcroft too often participated. I cannot question anyone for opposing this nomination, anyone for coming to an opposite conclusion of this record. It simply depends on one's view of the cabinet nomination process. It is a judgement call. I feel obligated under the traditional understanding of how cabinet appointments are handled to not put the worst possible interpretation on these facts. And I specifically cannot justify constructing the worst case scenario solely because Senator Ashcroft seemed to do the same for a number of very worthy nominees. It is certainly tempting to do so, but I am afraid it looks too much like political ''payback,'' a lesson that would not be lost in future cabinet confirmation considerations, including those involving the choices of a Democratic President. I don't want to be a part of taking the United States Senate and this country further down the road that John Ashcroft and others in his party paved during the Clinton years.

Having said that, I want to hasten to add that I'm not at all sure that this kind of deference be given anymore on lifetime federal judicial appointments given what appears to be an open assault in recent years by the U.S. Senate on the federal judiciary. As I said in my opening statement at the confirmation hearing, although Democrats are being asked to follow the political golden rule on this nomination, I certainly agree that the line must be drawn at some point concerning the politicization of appointments. My judgment is that this is not the place—not this nomination or this office, as terribly important as it is.

And yes, I firmly believe that as a progressive, this is about our future credibility and ability to move our agenda in a future administration that better reflects on voting records and beliefs, which in most cases are just the opposite of a John Ashcroft's.

I know that some see this as futile or naive in light of the unbending ''other side.'' They may be right. But I believe the American people desperately want us to conduct ourselves, where possible, in a bipartisan manner: with civility, with give and take, and act as if those terms have real meaning and are not just empty rhetoric.

So when I vote for John Ashcroft in committee, I am reaching out to the new Administration and to my Republican colleagues and especially those on the opposite side of this committee. I believe we share mutual respect. So I am extending to you at the beginning of this new Republican Administration an olive branch, but it is not a white flag I assure you. This is about the Department of Justice and it is justice I want to see for the wrong done to Judge Ronnie White. And it is justice I want to see done in the 4th Circuit Court of Appeals where the largest African American population lives and has never had an African American judge until the recess appointment of Roger Gregory. It is justice I want for numerous other circuit court nominees who languished in this committee for years and never even received a hearing. And it is justice I want for the future James Hormels and Bill Lann Lees who were most assuredly treated unfairly. And it is justice I want for the the victims of racial profiling in America. And I will press this Administration, the Attorney General, and this committee to prevent it from happening to others in the future.

So I am genuinely appealing to you to show in concrete ways in the near future that you are concerned about the obviously heartfelt and legitimate feelings of many Americans that the Senate's role in the nominations process has been abused and overly politicized. There are real fault lines emerging in our culture and in our political system and repairs must be made. And some who have been harmed can and must be made whole.

In fact, one of the most eloquent statements to this effect came just this month in President George W. Bush's Inaugural Address: ''Sometimes our differences run so deep it seems we share a continent, but not a country.'' I think he's right and I think this committee is the place to begin to repair the breach. That means for me the very difficult decision to vote to confirm John Ashcroft, but it also means immediate concrete efforts by the President and his party to mend the wounds that led to such fierce opposition to the Ashcroft nomination. It, of course, also means that the new Attorney General must vigorously enforce the law and be the Attorney General of all the people, regardless of race, religion, gender or sexual

orientation. If he does that, he will earn the support of the American people. If he does not, I will be the first to call him on it and demand that he be held accountable.

That was my statement in the Judiciary Committee.

I rise today to speak more generally on the Senate's role of advice and consent in the President's nomination of individuals to the Cabinet. I rise also to speak a bit about the appointment process in general, apart from the discussion of any particular nomination. This analysis governs my consideration of both Senator Ashcroft's and Ms. Norton's nominations.

John Adams wrote that we seek ''[a] government of laws, and not of men.'' He and other Founders sought a government based on principles, not on personalities. If we, as Senators, wish to serve that end in the nomination process, we must measure Cabinet nominations according to principle, with a look at the past and a view to the future.

The first principle that I think should govern Cabinet nominations is what one might call the political Golden Rule. We, as Democrats, should, if at all possible, do unto the Republicans as we would have the Republicans do unto us. A Democratic President ought to be able to appoint to the Cabinet principled people of strong progressive ideology. And a Republican President ought to be able to appoint to the Cabinet principled people of strong conservative ideology.

Now, some of our Republican colleagues have certainly failed too often in recent years to follow that Golden Rule, and I understand the desire to repay them in kind. To some degree, I share that desire. But I am determined to resist it for the good of the country, the health of the nomination process, and ultimately, to advance the prospects of future nominees who share the unabashedly progressive convictions that I hold dear.

This principle means that, except in the rarest of cases, voting records and conservative ideology alone should not be a sufficient basis to reject at least a Cabinet nominee. I say this as a progressive Democrat from Wisconsin who hopes that future Presidents may appoint the William O. Douglasses and Ramsey Clarks of their times, and that future Senates will not reject them for Cabinet positions on the basis of their ideology alone.

It should not be a requirement for a Cabinet position that the nominee travel solely in the middle of the road. There will come great leaders on the left and on the right.

If we seek the great minds of our times, they may on occasion blow hot or cold. We should not require all the leaders of our country to run a tepid lukewarm.

Now, whether nominating a staunch conservative is good politics or, more importantly, whether it is wise, in light of a promise to unify the nation after a very close election, is an important issue for a sustained national debate. But that question is not at the core of our responsibility in this body to advise and consent on Cabinet nominations.

Alexander Hamilton wrote of the dangers of partisanship in the nomination process in Federalist number 76. He cited the partisanship of legislatures as one of the reasons why the Constitution did well to vest the power to nominate in the President, rather than in the Congress. Considering what would happen if the Constitution had given the Congress the power to nominate, Hamilton wrote:

> The choice which may at any time happen to be made under such circumstances, will of course be the result either of a victory gained by one party over the other, or of a compromise between the parties. In either case, the intrinsic merit of the candidate will be too often out of sight. In the first, the qualifications best adapted to uniting the suffrages of the party, will be more considered than those which fit the person for the station. In the last, the coalition will commonly turn upon some interested equivalent: ''Give us the man we wish for this office, and you shall have the one you wish for that.'' This will be the usual condition of the bargain. And it will rarely happen that the advancement of the public service will be the primary object either of party victories or of party negotiations.

So Hamilton wrote in Federalist 76. Thus we honor Hamilton's cautionary warning, and we advance the public service, by avoiding partisanship in the confirmation process.

As a matter of practice, the Senate has, for the most part, limited its consideration of the President's Cabinet nominees to an inquiry into the nominees' fitness for office. The Senate must examine, and has examined, the qualifications of nominees. William Blackstone wrote in his Commentaries on the Laws of England, a work well known among the Founders, that ''[a]ll offices . . . carry in the eye of the law an honour along with them; because they imply a superiority of . . . abilities, being supposed to be always filled with those that are most able to execute them.'' The Senate has thus nearly uniformly sought to test the ability of nominees to execute the office that they seek to occupy.

But as a matter of practice, the Senate has, for the most part, avoided rejecting the President's Cabinet nominations because of their ideology alone. The Senate may examine, and has examined, whether the extremity of nominees' views might prevent them from carrying out the duties of the office they seek to occupy. But the Senate has nearly uniformly sought to avoid disapproving nominations because of their philosophy alone. I believe that we should not begin to do so now.

Mr. President, the second principle that I think should govern nominations is that the Senate owes the President substantial deference in the selection of the Cabinet. The Constitution vests the appointment power primarily in the President. This choice of the Founders, in turn, flows from the Constitution's imposing on the President the duty faithfully to execute the laws of our Nation.

Article 2, section 1 of the Constitution begins: ''The executive power shall be vested in a President of the United States of America.'' That section ends by requiring the President-elect to take the oath ''that I will faithfully execute the office of President of the United States, and will to the best of my ability, preserve, protect and defend the Constitution of the United States.'' And article 2, section 3 provides that the President ''shall take care that the laws be faithfully executed.''

To carry out that duty, the President needs policy-makers in the executive branch, particularly in the Cabinet and subcabinet, who will support the President's program, as well as carry out the law. The Supreme Court in Myers v. United States explained:

> Our conclusion . . . is that Article II grants to the President the executive power of the Government, i.e., the general administrative control of those executing the laws, including the power of appointment and removal of executive officers—a conclusion confirmed by his obligation to take care that the laws be faithfully executed; . . . and . . . that to hold otherwise would make it impossible for the President, in case of political or other differences with the Senate or Congress, to take care that the laws be faithfully executed.

Thus article 2, section 2 of the Constitution confers the appointment power in the following language:

> The President . . . shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law: but the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of departments.

Let me begin my discussion of this language with an analysis of its history.

With this language, the Constitutional Convention made a change from the Articles of Confederation. Article 9 of the Articles of Confederation vested appointment powers in the Congress or a committee of Congress. That article provides, in relevant part:

> The United States in Congress assembled, shall have the sole and exclusive right and power of . . . appointing courts for the trial of piracies and felonies committed on the high seas. . . .
>
> The United States in Congress assembled shall also have the sole and exclusive right and power of . . . appointing all officers of the land forces, in the service of the United States, excepting regimental officers—appointing all the officers of the naval forces, and commissioning all officers whatever in the service of the United States. . . .
>
> The United States in Congress assembled shall have authority . . . to appoint such other . . . civil officers as may be necessary for managing the general affairs of the United States under their direction. . . .

And finally:

The United States in Congress assembled shall never . . . appoint a commander in chief of the army or navy, unless nine States assent to the same. . . .

Recall that one of the prime reasons for the Constitutional Convention that wrote our current Constitution was that the Articles of Confederation provided a government that proved less than workable. The Founders thus sought consciously to depart from this legislative government in favor of a stronger executive.

When the Constitutional Convention began to debate the Constitution, its working draft initially provided for the Congress to choose the national judiciary. Many of the Framers found fault with this proposal. Pennsylvania's James Wilson argued that appointment by a group with numerous members would necessarily lead to ''[i]ntrigue, partiality, and concealment.'' He argued: ''A principal reason for unity in the Executive was that officers might be appointed by a single, responsible person.''

Virginia's James Madison agreed, saying, ''Besides the danger of intrigue and partiality, many of the members were not judges of the requisite qualifications. The Legislative talents . . . were very different from those of a Judge. . . .''

Massachusetts's Nathaniel Gorham, who in the Convention was an early proponent of the structure finally adopted in the Constitution, also emphasized the value of focusing responsibility on the President. Madison's notes report him saying:

The Executive would certainly be more answerable for a good appointment, as the whole blame of a bad one would fall on him alone. . . . [N]ot . . . that he would be answerable under any other penalty than that of public censure, which with honorable minds was a sufficient one.

Pennsylvania's Gouverneur Morris argued that the President would need to deal with every part of the United States, and would thus be best informed about the character of potential nominees. Madison's notes report:

Mr. Gouverneur Morris argued against the appointment of officers by the Senate. He considered the body as too numerous for the purpose; as subject to cabal; and as devoid of responsibility.—If Judges are to be tried by the Senate . . . it was particularly wrong to let the Senate have the filling of vacancies which its own decrees were to create.

Gouverneur Morris later summed up: ''[A]s the President was to nominate, there would be responsibility, and as the Senate was to concur, there would be security.''

When they reported home to their Governor, Connecticut's Roger Sherman and Oliver Ellsworth cited the protection of the rights of smaller states, writing: ''The equal representation of the States in the Senate and the voice of that branch in the appointment to offices will secure the rights of the lesser as well as of the greater States.'' The Supreme Court in Myers v. United States cited this as a major purpose for the creation of the Senate's power of advice and consent, saying:

The history of the clause by which the Senate was given a check upon the President's power of appointment makes it clear that it was not prompted by any desire to limit removals. . . . [T]he important purpose of those who brought about the restriction was to lodge in the Senate, where the small States had equal representation with the larger States, power to prevent the President from making too many appointments from the larger States.

After the Convention settled on the language now in the Constitution, proponents and opponents of executive power alike agreed that the President received the paramount role.

New York's Alexander Hamilton, who wanted a strong Presidency, wrote in Federalist number 76:

[I]t is easy to show, that every advantage to be expected . . . would, in substance, be derived from the power of nomination . . . . In the act of nomination, his judgment alone would be exercised; and as it would be his sole duty to point out the man who, with the approbation of the Senate, should fill an office, his responsibility would be as complete as if he were to make the final appointment. There can, in this view, be no difference between nominating and appointing.

Similarly, Maryland's Luther Martin, who feared too strong a Presidency, wrote in the Genuine Information:

To that part of this article . . . which gives the President a right to nominate, and with the consent of the Senate to appoint all the officers, civil and military, of the United States, there were considerable opposition—it was said that the person who nominates, will always in reality appoint . . . .

In the ratification debates, insofar as they addressed the nomination process, Hamilton's two Federalist Papers, numbers 76 and 77, stand most prominently. In Federalist number 76, Hamilton picked up the theme of the value of focusing responsibility on the President, writing:

The sole and undivided responsibility of one man will naturally beget a livelier sense of duty and a more exact regard to reputation. He will, on this account, feel himself under stronger obligations, and more interested to investigate with care the qualities requisite to the stations to be filled, and to prefer with impartiality the persons who may have the fairest pretensions to them. He will have fewer personal attachments to gratify, than a body of men who may each be supposed to have an equal number; and will be so much the less liable to be misled by the sentiments of friendship and of affection. A single well-directed man, by a single understanding, cannot be distracted and warped by that diversity of views, feelings, and interests, which frequently distract and warp the resolutions of a collective body.

Hamilton also wrote of responsibility in Federalist number 77, where he wrote:

The blame of a bad nomination would fall upon the President singly and absolutely. The censure of rejecting a good one would lie entirely at the door of the Senate; aggravated by the consideration of their having counteracted the good intentions of the Executive. If an ill appointment should be made, the Executive for nominating, and the Senate for approving, would participate, though in different degrees, in the opprobrium and disgrace.

In the discussion among the Founders that touches most closely on the Senate's role in the nomination process, Hamilton wrote that he expected the Senate to reject nominees rather infrequently, but that the potential of such rejections would provide a useful check. Hamilton wrote:

But might not his nomination be overruled? I grant it might, yet this could only be to make place for another nomination by himself. The person ultimately appointed must be the object of his preference, though perhaps not in the first degree. It is also not very probable that his nomination would often be overruled. The Senate could not be tempted, by the preference they might feel to another, to reject the one proposed; because they could not assure themselves, that the person they might wish would be brought forward by a second or by any subsequent nomination. They could not even be certain, that a future nomination would present a candidate in any degree more acceptable to them; and as their dissent might cast a kind of stigma upon the individual rejected, and might have the appearance of a reflection upon the judgment of the chief magistrate, it is not likely that their sanction would often be refused, where there were not special and strong reasons for the refusal.

Hamilton concluded:

To what purpose then require the co-operation of the Senate? I answer, that the necessity of their concurrence would have a powerful, though, in general, a silent operation. It would be an excellent check upon a spirit of favoritism in the President, and would tend greatly to prevent the appointment of unfit characters from State prejudice, from family connection, from personal attachment, or from a view to popularity.

The first Congress, which included among its Members several of the Founders, had occasion to discuss the appointment power. Georgia's Abraham Baldwin, for one, had been a delegate to the Constitutional Convention, and then became a Congressman. In arguing against extending the Senate's advice and consent power to removals from office, he said:

I am well authorized to say that the mingling of the powers of the President and Senate was strongly opposed in the Convention which had the honor to submit to the consideration of the United States and the different States the present system for the government of the Union. Some gentlemen opposed it to the last, and finally it was the principal ground on which they refused to give it their signature and assent. One gentleman called it a monstrous and unnatural connection and did not hesitate to affirm it would bring on convulsions in the government. This objection was not confined to the walls of the Convention; it has been subject of newspaper declamation and perhaps justly so. Ought we not, therefore, to be careful not to extend this unchaste connection any further?

Similarly, James Madison became a Congressman in the first Congress, where he said:

Perhaps there was no argument urged with more success or more plausibly grounded against the Constitution under which we are now deliberating than that founded on the mingling of the executive and legislative branches of the Government in one body. It has been objected that the Senate have too much of the executive power even, by having control over the President in the appointment to office. Now shall we extend this connexion between the legislative and executive departments which will strengthen the

objection and diminish the responsibility we have in the head of the Executive?

The Supreme Court in Myers v. United States concluded from this history that it should read narrowly the Senate's power of advice and consent, saying: ''Our conclusion . . . is . . . that the provisions of the second section of Article II, which blend action by the legislative branch, or by part of it, in the work of the executive, are limitations to be strictly construed and not to be extended by implication . . . .''

Let me turn now briefly to the history of the process of advice and consent in the Senate. Many of my Colleagues will have read the excellent discussion of that history in volume 2, chapter 2, of Senator BYRD's history of the Senate. For those who have not, I recommend it.

As my Colleagues know, in the practices and precedents of the Senate, the Senate considers and approves the overwhelming majority of nominations as a matter of routine. Over the history of the Senate, the Senate has considered and approved literally millions of nominations.

The Senate Executive Journal began totaling the number of nominations received and confirmed beginning in 1929. From then until now, the Senate has received more than 2.9 million nominations and confirmed more than 2.8 million. Over that period, the Senate has confirmed 97.9 percent of the nominations that it received. Among those not confirmed, many simply remained unconfirmed at the end of a Congress.

The Senate's voting to reject a nominee has been an exceedingly rare event. Of the 1.7 million nominees received by the Senate in the last 30 years, the Senate has voted to reject just 4, or one in every 425,000. Of course, Presidents often withdraw without a vote the nominations of those who likely face defeat.

The Senate's voting to reject a nominee to the Cabinet has been an even more exceedingly rare event. Over the entire history of the Senate, the Senate has voted to reject only 9 nominations to the President's Cabinet. The Senate rejected 6 in the 19th Century, and 3 in the 20th Century.

Four of the 9 Cabinet nominees rejected were during the Presidency of President Tyler alone. Several other rejections may be said to have flowed from larger battles between the Senate and the President, as when the Senate rejected President Jackson's nominee to be Secretary of the Treasury in the wake of the dispute over the Bank of the United States. Similarly, bad feelings after the impeachment of President Andrew Johnson led to the Senate's rejection of President Johnson's nomination of his counsel in the impeachment trial to be Attorney General.

In the 20th Century, the Senate rejected half as many Cabinet nominees as it did in the 19th Century. In the wake of the Teapot Dome scandal, the Senate voted down President Coolidge's nomination of Charles Warren because of his ties to trusts. The Senate voted down President Eisenhower's nomination of Lewis Strauss, some say because of Admiral Strauss's lack of tack. Most recently, in 1989, the Senate rejected the nomination of Senator John Tower, an event which many in the Senate will recall from their own memory.

This examination of the history demonstrates that it has been a nearly continuous custom of the Senate to confirm a President's nominees to the Cabinet in all but the very rarest of circumstances. These practices and precedents thus support the principle that the Senate owes the President substantial deference in the selection of the Cabinet.

Bearing in mind this history and Hamilton's admonition that the Senate's ''dissent might cast a kind of stigma upon the individual rejected, and might have the appearance of a reflection upon the judgment of the chief magistrate,'' what then should be, in Hamilton's words, the ''special and strong reasons for the refusal'' that should prompt the Senate to reject a nominee to the Cabinet?

It is in the nature of the Constitution's grant of powers to the Senate that each Senator must make his or her own decision how to vote on nominees whom the Senate considers. It thus follows that each decision must to some extent be subjective. But we do injury to the reputation of the Senate when we cannot articulate our reasons for rejecting a nominee as the expression of rules that could have universal application.

It is the nature of justice that different persons of similar circumstances should receive similar treatment. Let us do justice when the Senate exercises its role of advice and consent.

Let us examine nominees to see that they have, in Blackstone's words, ''superiority of . . . abilities''; let us see that they are ''most able to execute'' the offices for which they are nominated.

Let us thoroughly investigate nominees' competence and experience. Let us question whether they have taken actions that would lead us to doubt their ability fully and fairly to execute their offices.

Let us explore nominees' integrity and ensure that they have the proper ethical bearing to administer the high trusts to which they are nominated.

And yes, let us guard against approving the nomination of an individual who stands so far at variance with the core values of this Nation—values of freedom, democracy, and equality—that we cannot realistically imagine the nominee's being able to carry out the duties of an office in our American government. That will necessarily be a subjective judgment, but plainly a legitimate one.

But let us conduct our investigation in matters such as these that involve the lives and reputations of other people—people almost uniformly highly regarded in the community—with civility. Let us take pains to avoid casting the kind of personal ''stigma'' that Hamilton feared. And let us, when we hold the honor and careers of people in our hands, do what we can to diffuse the bitter viciousness that has seized so much of official Washington.

I propose that we govern ourselves by principle, as a Democrat at the outset of a new Republican Presidency, in the hope that we may rise above that which has come before. For I cannot help but express my objection to the attitude and approach that the Republican majority in the Senate took toward the nominees of the Democratic President since the Republicans took control of the majority in 1994.

In some respects, the Republican majority seemed not even to accept the legitimacy of President Clinton's electoral victories in 1992 and 1996. Elections must have consequences.

Instead, it appeared to me that they unfairly blocked very legitimate, qualified appointees such as Bill Lann Lee, Ronnie White, and James Hormel.

I think this was wrong. But I propose that we Democrats not return the favor, escalating a never-ending harshening of our discourse. Rather, I propose that we treat this new Republican President the way that we would want a Republican majority to treat a Democratic President in the future.

It is not easy for me to tell those who fought so hard for President Clinton and then for Vice-President Gore that we should follow the Golden Rule, and that we should treat President Bush better than the Republican majority treated President Clinton. And should the new President abuse the Senate's deference, there may come a point when we have to draw a line and say, ''No more,'' given the Republican majority's refusal to accord a Democratic President the very deference that Republicans now seek.

I want to make clear the manner in which I have evaluated both of the controversial nominees before this body, the nominee we consider today, former Senator Ashcroft, and the nominee who was confirmed Tuesday, Ms. Norton. I am no more comfortable with these votes and appointments than anyone else of my personal ideological viewpoint.

I fully understand and have heard the pain expressed by my constituents who have strongly criticized these nominations and who devote their time and thought to building broader public support for an end to all forms of discrimination or for reproductive rights or for an environmentally sound energy policy or for wildlands protection. I must work hard every day on issues affecting the public interest and public welfare, and, in order to move a progressive agenda forward I must sit and listen and talk with those who deeply and profoundly disagree with me. These nominees and I do not agree on a number of issues. But the question that this

body faces, and that I face as a member of it, is broader than whether or not we are having a referendum on the ideological views expressed by these nominees.

I have reflected and given thought to the deeper historical and philosophical roots of the process of the Senate giving ''advice and consent'' to Cabinet nominees. In this history of the Senate's treatment of Cabinet nominations, deference is an important principle. Lack of that deference on nominees can result in a confirmation process that is undignified for the country, unlikely to produce outstanding public servants, and unable to advance the debate on matters of public policy.

I am attempting by these votes to assist in restoring the Senate's credibility and trust, and I will use the powers of my office to make certain these nominees live up to the views they have expressed to this body under oath.

And let me underscore that I have risen today to address nominations to the Cabinet, who will serve for a term of years, and whom we should consider under a far looser standard than that we should apply to judges and certainly justices, who will serve for life.

But I fear that in the process of giving its advice and consent with regard to nominations to the President's Cabinet, the Senate is positioning itself to head down a road to a dangerous place. Let us decide not to go down that road.

Let us not go down the road to where those who seek public office must all their life avoid any forceful public utterance.

Let us not go down the road to where young people—college students and graduate students—will fear to experiment with new ideas.

Let us not go down the road to where expression is squelched and thoughts are stifled.

Let us not go down the road to that arid place where public discourse is barren because no public leaders dare write articles declaring their views.

Let us not go down the road to where Senators fear to take a position, make a statement, or cosponsor a bill on a controversial issue, like the death penalty—one way or the other—just to avoid a confirmation fight.

Let us not go down the road to that frozen place where the Senate's nomination process imposes a deep chill over political discourse among all who would someday hold office.

And let us not go down a road to where in order to serve our Country, one must become like milk toast, like Pablum.

Rather, let us work together in this government, working with vigorous minds who may sometimes have vigorous opinions.

The American People expect this Senate and this government, divided as it is, to govern. We owe them no less than to try to do so.

Now is not too soon to start. I extend to President Bush the hand of cooperation as he begins his administration. I will cast my votes on nominations he proposes according to these principles, and hope that the President and the majority will return the favor, and work together with us in a truly bipartisan manner.

Mr. ROCKEFELLER. Mr. President, the United States Constitution expressly grants to the Senate the prerogative, responsibility, and duty to determine its ''advice and consent'' to the nominations of all Presidents. This is an important, even awesome mandate, and one no Senator takes lightly. While the Senate's constitutional role is plainly much more than a mere rubber stamp, the President also should be given wide latitude in the people he chooses to run our government with him.

Over the last several weeks, I have voted to approve all but one of President Bush's cabinet nominations. I have done so because, on the whole, I believe his nominees are an impressive, diverse, and well-qualified group who reflect the broad spectrum of America's philosophical and cultural backgrounds.

Of course, without exception, they appear to represent the views of the new President who nominated them. Beyond their fundamental ability to do the job, their views and ideologies have been of little consequence to my decisions. Instead, an important additional characteristic I have looked for, particularly at this time in our nation's history, is a proven ability to bring people together. I seek nominees who will welcome diverse points of view and ideas and who will lead in building consensus. In that vein, I have given my full support to 18 of the cabinet nominations sent to the Senate by President Bush this year.

The nominee before us today, however, is not one I can support.

The United States Attorney General has a particularly compelling and important role, as evidenced by this vigorous debate. The Attorney General is known as the President's legal advisor and the people's lawyer. He or she is charged with leading our nation in interpreting, enforcing, and upholding our laws. He must be a person who embodies balance and evenhandedness, so that all of our citizens feel fully and fairly represented by his actions. He must be able to contribute in a meaningful way to the great challenge of uniting our nation. That is my test for this nomination.

Former Senator John Ashcroft is a man that I have come to know here in the United States Senate. I have served with him on the Senate Commerce Committee and spent many hours observing and participating with him in debate. Throughout his service here, and earlier as Governor and Attorney General in the State of Missouri, he has shown a strong moral compass and passionately held views about what he wants for our country and its citizens.

As Senate colleagues, we have sometimes agreed, and more often disagreed on policy and legislation. In many cases, his legislative agenda was not one that I thought helped or protected West Virginia's working families, seniors and children. But, again, my test for Attorney General is not whether I share John Ashcroft's views on any particular issue or matter.

I have great respect for John Ashcroft as a person of deeply held religious beliefs, and his particular faith is of no consequence for me in this decision. In fact, I have been personally offended by a few who suggest that someone's religion might be a consideration in this or any other decision I make. I unequivocally reject that type of thinking and believe my own long record proves otherwise.

John Ashcroft has been honest in his convictions and his principles, and he has fashioned his public life working to advance his firmly held beliefs. He is a man of strong, unbending ideology—so unbending, in fact, that this is what makes him the wrong choice for Attorney General. I have plainly seen in John Ashcroft a basic inability to compromise or to reach out to those with opposing or different points of view.

The problem is not John Ashcroft's ideology. It is the fact that he never seems able to look beyond that ideology to respect and encompass others' equally strong beliefs and convictions. There is nothing in his long history of public service to suggest he can rise to the challenge of being a uniter, someone who can compromise when necessary to bring us all together.

Furthermore, I have heard John Ashcroft's promise to uphold and enforce our laws, and I take him at his word. But the question of his nomination and the role of Attorney General are not that simple. If they were, then every person nominated to a position charged with upholding the law would be approved—every judge, every U.S. Attorney, every Cabinet Secretary. Reasonable people have honest disagreements about what the law says and how to apply it in different situations. The law is not always precise, and the path to justice is not always clearly marked.

The Attorney General instead has a great deal of discretion, and he must bring to that discretion his own standards, experiences and beliefs. Deciding which cases to defend and which to prosecute, which judges and proposed changes in the law to support and which to oppose, where to dedicate limited resources and where to cut back all are tasks that call for objectivity, balance, and leadership.

Mr. President, after carefully reviewing all of the facts and circumstances, and after lengthy personal reflection, I am not convinced that John Ashcroft can do the job of Attorney General without returning to his life-long rejection of moderation and conciliation.

John Ashcroft proudly judges issues and people on the basis of his own strong ideology. Time and again I have seen John Ashcroft show hostility and

insensitivity toward those who disagree with him or who hold ideals and values that differ from his. He has never hesitated to use his views as a test to judge others. This uncompromising approach is not what I think our country wants and expects from its leaders.

I do not stand in judgment of my former Senate colleague, but I must reject his nomination for Attorney General.

Mr. INOUYE. Mr. President, I had every intention to once again, as I have done in the past, support the President's choice of Cabinet members. The President was elected, he selected his team, and his choices should be respected. In the case of former Senator John Ashcroft's nomination as the U.S. Attorney General, the President's choice will be respected by a majority vote of the Senate. However, if I supported the nomination of Senator Ashcroft, my vote may be misunderstood not only by my supporters and constituents, but by many others.

It should also be noted that the Constitution reserves to the Senate the power of advice and consent as to the President's nominations. I hope that my opposition, together with the opposition of several of my colleagues, will advise the President of our concerns as to his nomination of Senator Ashcroft.

As a person, my experience in serving with Senator Ashcroft has been a positive one, but I have found myself on most occasions casting my vote in disagreement with Senator Ashcroft. For example, he is for the death penalty; I am against the death penalty. He supports doing away with abortion; I am for freedom of choice. I have also examined Senator Ashcroft's record away from Capitol Hill, and I have found that his actions have been consistent with the views he held when we were colleagues on the floor of the Senate.

Senator Ashcroft's actions in the area of civil rights raise questions as to his commitment to preserving the civil rights of all Americans. As the Governor of Missouri, Senator Ashcroft vetoed bills designed to ensure the equal treatment of African American voters. As the Attorney General of Missouri, Senator Ashcroft actively obstructed the voluntary desegregation plan for the City of St. Louis.

Similarly, Senator Ashcroft's record on reproductive rights causes me some concern. Throughout his political life, Senator Ashcroft has believed that there is no constitutional right to abortion, and has worked to overturn Roe v. Wade by State and Federal legislation and by constitutional amendment. Senator Ashcroft's persistent efforts to limit reproductive rights as Missouri's attorney general and Governor, and as a U.S. Senator suggest the policies he might endorse as the U.S. Attorney General.

I realize that I may be in the minority in my opposition to the death penalty, but I have been against execution as a criminal punishment since the start of my political career. For example, I coauthored the measure in the Territorial Legislature of Hawaii that abolished capital punishment, and from that time forward, no convicted criminal in Hawaii has been put to death. Senator Ashcroft does not share my views on this subject. Indeed, as Governor of Missouri, Senator Ashcroft took the position that the death penalty was appropriate for teenagers, and denied that there is any racial disparity in the application of the death penalty. I do not share these beliefs, and I think that Hawaii's experience with the death penalty points to opposite conclusions.

Knowing these and the many other aspects of Senator Ashcroft's record that have come to light in recent days, I have some difficulty seeing him as the next U.S. Attorney General—so much difficulty that I believe I must exercise my Senatorial right of advice and consent and cast my vote in opposition to the nomination to make sure the record is clear.

Mr. BYRD. Mr. President, I daresay that each of us has received an enormous amount of correspondence 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 he applied, as Senator, to the disposition of Presidential nominations.

We must begin by deliberating on the standard to be applied to confirmation decisions. The Constitution merely states that the President shall appoint public ministers with the ''advice and consent'' of the Senate. This is not a specific standard, nor even a mandate to review particular features of a 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 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 a deeply religious man, that solemn vow, I am sure, will not be taken lightly by him. 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.'' Further, 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, I have no cause to doubt Senator Ashcroft's word or his sincerity regarding his fealty to an oath he will swear before God Almighty. 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.

Mr. HATCH. Mr. President, as we prepare to close debate on the nomination of our former colleague, Senator John Ashcroft to be the Attorney General for the United States, I want to first thank a few people. First, let me thank Senator LEAHY, the Ranking Democrat Member on the Judiciary Committee. He faced a difficult task in organizing the hearing for this nomination and working for a fair process. I want to express my gratitude to him and commend his staff, including the Minority Chief Counsel, Bruce Cohen, Senator LEAHY's General Counsel, Beryl Howell, Mary DeOreo, Natalie Carter, and others.

I would also like to thank the other members of the committee for their diligence regarding this matter. In particular let me thank Senator KYL who has been a tremendous advocate in the effort supporting this nomination, and let me also mention Senator SESSIONS for his hard work in behalf of the nomination.

I also want to commend those Senators on the other side of the aisle, who despite intense pressure from and relentless lobbying by a number of left-wing groups have stood up for what they believed was right and announced their support for this nominee. I especially want to express to my colleague on the Judiciary Committee, Senator FEINGOLD, how much my respect for

him has grown watching him speak in support of and cast his vote for John Ashcroft. I know that he has been targeted by petitions and email campaigns orchestrated by People for the American Way and others to pressure him, but he has not buckled, and I congratulate him for his courage to take a principled stand.

I would also like to thank the Administration and Transition staff who worked on this matter. And let me also thank my Committee staff who worked literally around the clock to assist me and my colleagues in moving this nomination forward. I believe everyone on the committee staff has worked tirelessly, but let me especially recognize the Committee's Chief Counsel, Sharon Prost, the Committee's Staff Director, Makan Delrahim, our fine and able counsels, Shawn Bentley, Stephen Higgins, Ed Haden, Rhett DeHart, Gary Malphrus, Rita Lari, Lee Otis, Neomi Rao, Rene Augustine, Pat O'Brien, Larry Block, Alex Dahl, Jeff Taylor, Leah Belaire, and John Kennedy, and our valued staff members, Amy Haywood, Kent Cook, Jessica Caseman, Swen Prior, and Jared Garner, and of course our most able press staff, who kept us informed of the smear campaigns, Jeanne Lopatto and Margarita Tapia. They all worked together as a team with numerous others, including Senator GRAMM's staff, Senator BOND's staff, as well as the able staff of the Senate Leadership, particularly Dave Hoppe and Robert Wilkie of Senator LOTT's staff and Stewart Verdery of Senator NICKLES' staff.

Now let me turn to the nomination itself. Mr. President, I believe we are about to confirm one of the most qualified candidates for the office of Attorney General that we have ever had. John Ashcroft has superb credentials, and he is well-prepared to be Attorney General. In addition to graduating from one of our finest law schools, here is a man who has almost 30 years of public service to this country—eight years as attorney general of his state of Missouri, during which time he was elected by his peers, the 50 state attorneys general, Democrats and Republicans, to become the president of the National Association of Attorneys General. Then he was twice elected governor of Missouri, and again elected by his peers, the 50 state governors, to head the National Governors Association. And then he was elected by Missourians to serve with us here in the United States Senate, where we all came to respect him for his work ethic and his integrity.

As a matter of fact, I don't know of one Senator in the whole United States Senate who would disagree with the statement that this is an honorable man of integrity. When he says he'll do something, he'll do it. I don't know anybody, who, knowing his record and his life, who would conclude that John Ashcroft is anything but one of the finest people they've every met.

But during this process, I think that we have seen some attempts here to undermine a truly good man. Some things have been done throughout this process that were outside the bounds of policy debate, beyond what is decent and right. In the zeal to take a political stand against this nominee for whatever reason, I believe there have been numerous charges, innuendos, and distortions that were neither fair nor accurate. I have tried to help rebut these charges, but they ought not to have been made.

Despite these attacks, I do not believe this good man, this man of deep faith and conviction, will take offense or hold grudges. I believe he will do what he has promised to do. He will be inclusive, forthright, and he will follow the law. He will be an Attorney General for all the people and be an Attorney General of whom we can all be proud. I know he will because I know John Ashcroft, as most of us do. I know he is well-prepared. And I know when he promises to discharge his duties faithfully, to uphold the law and Constitution, enlisting the help and witness of God to do so, he means it, and he will do it.

I look forward to working with him to help make our nation safer, more just, and more in line with our founding principles, embodied in our Constitution. His job is largely about making our nation more safe and free. I am glad we will have an Attorney General who will work toward that goal.

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. LOTT. 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. LOTT. Mr. President, parliamentary inquiry: Have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not been ordered.

Mr. LOTT. I ask for the yeas and nays on this vote after my closing remarks.

The PRESIDING OFFICER (Mr. FITZGERALD). Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. LOTT. One other inquiry: Has all time been used except for the time reserved for the majority leader?

The PRESIDING OFFICER. That is correct.

Mr. LOTT. Mr. President, I want to begin by assuring all of my colleagues that I will not use the entire 15 minutes, so we can begin the vote hopefully 5 or 10 minutes early. Senators need to be aware of that so they can come and begin the vote within the next 10 minutes.

Mr. President, this nomination has not been an easy one for the Senate Judiciary Committee or the Senate to deal with without some difficulty. You can argue about why that is. But we have come to it, and now we are ready to vote.

Only nine times in our history has the Senate defeated one of the President's nominees for his Cabinet and only once since 1959. When I was a new Senator in 1989, I observed what I thought was a terrible miscarriage of justice against former Senator John Tower. John Tower should have been Secretary of Defense. I was really disappointed in how he was savaged and how some of his colleagues in this body treated him.

Only one time in 40 years have we not confirmed the President's nomination for a Cabinet position, and that, I am convinced, was a terrible mistake.

Today we will confirm former Senator John Ashcroft to be Attorney General. That is as it should be.

I have been disappointed by this nomination's process through the Judiciary Committee, and to a degree here, although less so on the floor of the Senate. I thought the rhetoric got too hot. It did get into the range of being unfair. But I don't think we should let that permanently alter the atmosphere we have tried to set in the Senate.

I have tried to get through some items that would allow us to move forward in a positive vein.

I think congratulations also would be in order, and certainly a word of appreciation for the leadership on the Democratic side of the aisle. Senator DASCHLE has tried to help get us through this nomination. He made it clear that he would not participate in a filibuster. I do not recall in the 30-something years I have been watching the Senate very closely a Cabinet nomination being filibustered. It would be a terrible precedent. He spoke out, saying he wouldn't do it, that he wouldn't support it. To those who said we shouldn't have a filibuster, I say thank you for that.

There will be those who will speak out about what this vote means, if it is not 60 votes, or if it is 69 over 61, or whatever it may be. I think that will be a futile waste of time. I don't think we should read anything into it. This nominee is going to be confirmed, and he should be. The President of the United States, George W. Bush, is entitled to have his selection to be Attorney General.

I want to say also that I know John Ashcroft. I know him as a man. I knew him as a Senator. I knew him as a close personal friend, and I knew him as a member of the Singing Senators as we sang all across this country together. I have been in his home. I know his wife. I know his children. I know his constituents. I have been all over Missouri. He has been in my home. He knows my friends, and we have been together in many instances. I don't know this person who has been described in some of the debate; some of these allegations about things he did, or didn't do, or whether or not he is a man of his word. I do not know that person. I

know John Ashcroft. I know the man who served in this Chamber. I know his abilities, his education, and his qualifications. I don't think there has ever been a more qualified person by background, education, and experience to be Attorney General than John Ashcroft.

I remember 8 years ago, when I voted to confirm the previous Attorney General, thinking that this nominee was not qualified, and I think she proved it. But I voted for her because I thought President Clinton was entitled to his nominee at that point.

So we have a man who is qualified. But it is more than that. John Ashcroft is a good man of high veracity and who will keep his word.

Senator BYRD said yesterday, I believe, in his speech that he has made a commitment he is going to uphold the law. What more should we want: A pound of flesh?

I realize this is all about other things. That is OK. But it is unfair to this man.

Maybe the ravens will be heard never more. But forevermore you can quote me on this and remind me on this. John Ashcroft will go on to be one of the best Attorneys General we have ever had. He will be conscientious. He will show capability. He will be sensitive. He will be honest. He will enforce the laws—some laws that have been ignored the last 8 years—and maybe there are some people who are a little nervous about that. But, as we say in all kinds of different circles in America, I am here to vouch for their man. I vouch for John Ashcroft. I will stand by him. And you mark my words, he will go on to be a great and valuable Attorney General.

So let's move on. Let's work together, as I know we can do.

I accept the olive branch extended by Senator RUSS FEINGOLD. That is what he said. I extend the olive branch to show a willingness to work together and reach across the aisle and across all the other things that could divide us. He showed courage. I will not forget it. In fact, I think I maybe didn't forget it in advance because we have already worked out an agreement on how we are going to bring up a bill about which he cares a lot.

But that was an important statement on his part. I accept it. We accept it. That is the way we should proceed.

This new President has changed the tone in this city. Absolutely, people are astounded by his willingness to reach out and to listen and to be heard. He is meeting with everybody. He has even seen motion pictures with them. So he is doing his part. Let us make sure the Senate does its part.

Vote for John Ashcroft. You won't regret it. Then let's move on to important legislation. Let's argue about ideas. Let's argue about how to make education better. Let's argue about how to give tax relief—''return to sender,'' as the Senator from Georgia said. That is what the people want us to talk about. They want to get this vicious and partisan stuff behind us and deal with real issues. I don't think insurmountable damage has been done. I believe we can build on the other things we have done in the last month.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The question is, Does the Senate advise and consent to the nomination of John Ashcroft of Missouri to be Attorney General of the United States? The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 58, nays 42, as follows:

[Rollcall Vote No. 8 Ex.]

YEAS—58

Allard	Ensign	Miller
Allen	Enzi	Murkowski
Bennett	Feingold	Nelson (NE)
Bond	Fitzgerald	Nickles
Breaux	Frist	Roberts
Brownback	Gramm	Santorum
Bunning	Grassley	Sessions
Burns	Gregg	Shelby
Byrd	Hagel	Smith (NH)
Campbell	Hatch	Smith (OR)
Chafee	Helms	Snowe
Cochran	Hutchinson	Specter
Collins	Hutchison	Stevens
Conrad	Inhofe	Thomas
Craig	Jeffords	Thompson
Crapo	Kyl	Thurmond
DeWine	Lott	Voinovich
Dodd	Lugar	Warner
Domenici	McCain	
Dorgan	McConnell	

NAYS—42

Akaka	Durbin	Lieberman
Baucus	Edwards	Lincoln
Bayh	Feinstein	Mikulski
Biden	Graham	Murray
Bingaman	Harkin	Nelson (FL)
Boxer	Hollings	Reed
Cantwell	Inouye	Reid
Carnahan	Johnson	Rockefeller
Carper	Kennedy	Sarbanes
Cleland	Kerry	Schumer
Clinton	Kohl	Stabenow
Corzine	Landrieu	Torricelli
Daschle	Leahy	Wellstone
Dayton	Levin	Wyden

The nomination was confirmed.

The PRESIDING OFFICER. In my capacity as a Senator from the State of Illinois, I ask unanimous consent that the motion to reconsider be laid upon the table and the President be immediately notified that the Senate has given consent to this nomination, and the Senate then resume legislative session.

Without objection, it is so ordered.

LEGISLATIVE SESSION

MORNING BUSINESS

The PRESIDING OFFICER. In my capacity as a Senator from the State of Illinois, I now ask consent that the Senate be in a period for morning business.

Without objection, it is so ordered.

COMMITTEE ON APPROPRIATIONS RULES—107TH CONGRESS

Mr. STEVENS. Mr. President, the Senate Appropriations Committee has adopted rules governing its procedures for the 107th Congress. Pursuant to Rule XXVI, paragraph 2, of the Standing Rules of the Senate, on behalf of myself and Senator BYRD I ask unanimous consent that a copy of the Committee rules be printed in the RECORD.

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

SENATE APPROPRIATIONS COMMITTEE RULES
107TH CONGRESS

I. Meetings

The Committee will meet at the call of the Chairman.

II. Quorums

1. Reporting a bill. A majority of the members must be present for the reporting of a bill.

2. Other business. For the purpose of transacting business other than reporting a bill or taking testimony, one-third of the members of the Committee shall constitute a quorum.

3. Taking testimony. For the purpose of taking testimony, other than sworn testimony, by the Committee or any subcommittee, one member of the Committee or subcommittee shall constitute a quorum. For the purpose of taking sworn testimony by the Committee, three members shall constitute a quorum, and for the taking of sworn testimony by any subcommittee, one member shall constitute a quorum.

III. Proxies

Except for the reporting of a bill, votes may be cast by proxy when any member so requests.

IV. Attendance of staff members at closed sessions

Attendance of Staff Members at closed sessions of the Committee shall be limited to those members of the Committee Staff that have a responsibility associated with the matter being considered at such meeting. This rule may be waived by unanimous consent.

V. Broadcasting and photographing of Committee hearing

The Committee or any of its subcommittees may permit the photographing and broadcast of open hearings by television and/or radio. However, if any member of a subcommittee objects to the photographing or broadcasting of an open hearing, the question shall be referred to the Full Committee for its decision.

VI. Availability of subcommittee reports

To the extent possible, when the bill and report of any subcommittee are available, they shall be furnished to each member of the Committee thirty-six hours prior to the Committee's consideration of said bill and report.

VII. Amendments and report language

To the extent possible, amendments and report language intended to be proposed by Senators at Full Committee markups shall be provided in writing to the Chairman and Ranking Minority Member and the appropriate Subcommittee Chairman and Ranking Minority Member twenty-four hours prior to such markups.

VIII. Points of order

Any member of the Committee who is floor manager of an appropriation bill, is hereby authorized to make points of order against any amendment offered in violation of the Senate Rules on the floor of the Senate to such appropriation bill.

FALSE CLAIMS ACT

Mr. GRASSLEY. Mr. President, today I want to speak about an important issue for the taxpayers of this

country. The government's strongest and most effective tool against fraud is called the False Claims Act. In recent years, the False Claims Act has been under attack from industries targeted by the government's anti-fraud efforts. Since 1986, when Congress passed amendments that I sponsored to toughen the law than $4 billion has been recovered through the False Claims Act. Hundreds of billions more in fraud have been saved through the deterrent effect that this law has upon those who would betray the public's interest.

In addition to the recovery of money and the deterrent effect of this law, the False Claims Act is important for another, perhaps, more important reason. The fact is that the False Claims Act is being used, day after day, by prosecutors to maintain the integrity of countless federal programs funded by American taxpayers. For example, the False Claims Act is being used in the health care industry to ensure that nursing home residents receive quality care.

Included in the anti-fraud arsenal of the False Claims Act is a provision called qui tam. Qui tam is a concept that dates back to feudal times. It allows private citizens who know of fraud against the taxpayers to bring a lawsuit against the perpetrators. In other words, the citizen acts as a partner with the government. As an incentive, the citizen shares in any monetary recovery to the U.S. Treasury. Over the decades, the False Claims Act, and especially the qui tam provisions, proved to be effective, both in catching and deterring fraud.

In considering the nomination of my former colleague, Senator John Ashcroft, for the position of Attorney General of the United States, I asked about his support for False Claims Act and the qui tam provisions. Senator Ashcroft's January 31, 2001 letter assures me that he will not support efforts to weaken the Act, and will support efforts to strengthen it. This pledge of support will ensure that the Department of Justice plays the critical and necessary role of targeting government waste and abuse. Senator Ashcroft assures that he will support "vigorous enforcement of the law" and "will defend the constitutionality of the Act." I appreciate Senator Ashcroft's support for the False Claims Act. He is a man who is dedicated to enforcing the laws of this country and understands the importance of the False Claims Act.

All in all the history of the assault on the False Claims Act sends us on a long and winding road. The False Claims Act is, and will remain, a target of those industries and accept billions and billions of taxpayer dollars annually and balk at strict accountability. I ask only that we, as legislators, remember the historical and current assaults made upon the False Claims Act. I ask further that we agree to be strong despite the strength of an industry, simply because it is the 'right'' thing to do. Taxpayers deserve no less—and as legislators, we should deliver no less.

I ask unanimous consent that the January 31, 2001 letter I received from Senator Ashcroft be considered as read and printed in the RECORD.

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

JANUARY 31, 2001.

Hon. CHARLES GRASSLEY,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRASSLEY: Thank you for your letter of January 30, 2001, concerning the qui tam provisions of the False Claims Act. I believe that the False Claims Act and the qui tam provision in particular are vital tools in combating government fraud and abuse. I fully support vigorous enforcement of the law.

Tackling government fraud and abuse through the False Claims Act will be an important priority for the Justice Department. Indeed, I expect that the sustained efforts of the Justice Department will in some respects lessen the need for (but not the importance of) private attorneys general acting pursuant to the qui tam provisions of the Act. I can also assure you that I will defend the constitutionality of the Act, like all Acts of Congress, if it is challenged in the courts.

Finally, I assure you that I will not support efforts to weaken the Act, and indeed, will support efforts to strengthen the Act and ensure that the Justice Department plays a critical role in targeting government waste and abuse.

I look forward to working with you on these issues.

Sincerely,

JOHN ASHCROFT.

ADDITIONAL STATEMENTS

RETIREMENT OF HERSCHEL CUTLER

• Mrs. LINCOLN. Mr. President, I rise today to acknowledge the retirement of Dr. Herschel Cutler from the Institute of Scrap Recycling Industries, ISRI. Dr. Cutler, ISRI's former Executive Director, spent the last 33 years of his life teaching the Nation, including the Congress, about the environmental and economic benefits of recycling. In the course of his tenure, ISRI has become a highly respected trade association known for its dedication to both environmental protection and private sector entrepreneurialism. He had a wonderful knack for hiring extraordinary staff. And, by example, Herschel taught them to do their homework, acquire a deep understanding of their issues, keep their standards high, develop reasonable solutions to problems and, with regard to public policy, to never overreach.

Herschel Cutler is not an Arkansan. But, shortly after my first election to serve as a member of the other body, I met him over dinner through fellow Arkansans whose family recycling business was an ISRI member company. During that dinner Herschel gave me a succinct but thorough description of a serious dilemma facing the scrap recycling industry and its possible resolution. After listening to him discuss the concerns facing the many families in the recycling industry, including many Arkansas families, it was easy for me, a farmer's daughter, to identify with a key concern facing them. That is, certain government policies were, inadvertently, having the effect of causing many recycling families to wonder whether they should remain with their businesses.

That dinner was the beginning of a long and fruitful relationship between me, Dr. Cutler, and the entire scrap recycling industry. Herschel Cutler's earnest integrity convinced me that the recyclers' cause was worth fighting for. I began that fight in 1993. It ended in 1999, after I teamed up with Senators DASCHLE and LOTT, BAUCUS, and CHAFEE to amend the Superfund law to correct a mistake directed at recyclers that nobody had intended.

Dr. Herschel Cutler and I have been fast friends ever since. As he retires on January 31, 2001, I cannot thank him enough for his guidance and his counsel to me over the years since we first met. He is truly a modest man of great wisdom, integrity and intellect. Upon his retirement the Washington association community is much the poorer. And with his counsel absent from the daily give and take of public policy discussions in the Congress, so are all of his many friends in both houses.

Herschel, I wish you the best fishing, reading, writing, and teaching in your retirement. I'm sure your legions of friends would agree, your friendship has been a blessing to us all.•

TRIBUTE TO MAJOR GENERAL TIMOTHY P. MALISHENKO, USAF

• Mr. DEWINE. Mr. President, I rise today to pay tribute to Major General Timothy P. Malishenko, USAF, upon his retirement from the United States Air Force after more than 32 years of distinguished and dedicated service to our Nation.

A son of Ohio, Tim Malishenko grew up not far from my Greene County neighborhood, where his mom and dad were customers of my family's seed, grain, and lumber business. After graduating from Fairborn High School, he went on to The Ohio State University, where he earned a degree in business and honors as a distinguished ROTC graduate. This marked the beginning of what developed into an extraordinary Air Force career, in which Tim rose to the pinnacle of the complex and demanding world of Defense acquisition.

As a young officer, Tim Malishenko served in a variety of contracting and contract-administration assignments related to major programs, including the Polaris and Poseidon missiles and the F–15 Radar. His organizational and crisis-management skills came to the fore during the 1974 oil embargo, when, as a charter member of the Air Force Energy Management Division, he

worked tirelessly to mitigate the effects of the supply disruption and safeguard America's military readiness.

From there, Tim went on to work in classified space and satellite programs. He graduated from the Armed Forces Staff College, and, with family in tow, headed for Brunssum, The Netherlands, where he was chief of contracting and acquisition for the NATO Airborne Early Warning and Control Programme Management Agency. In the NATO assignment, Tim demonstrated remarkable tact and diplomacy in reconciling the diverse views and priorities of 13 countries.

Returning stateside in 1982, Tim again served in a variety of contracting and contract-administration positions, including high-level management assignments at Wright-Patterson Air Force Base, Ohio, and at Air Force headquarters in Washington, DC. Of particular note during this period was his extensive involvement in the research-and-development contracting for the advanced tactical fighter, integrated avionics, and high-speed integrated circuitry—programs that set the stage for the information technologies and advanced avionics we know today.

Four years ago, General Malishenko was named commander of the Defense Contract Management Command, an organization of more than 14,000 people responsible for the management of 375,000 contracts cumulatively valued at $100 billion. As commander, he was the standard bearer for a revolution in business affairs that led to the conversion of more than 300 business sectors to ISO 9000, to dramatic advances in paperless contracting, and to the design and introduction of the DoD standard procurement system.

The capstone of Tim's military career came on March 27, 2000, when he became the first director of the Defense Contract Management Agency (DCMA), the position he holds at the time of his retirement. In successfully spearheading the establishment of DCMA, Major General Malishenko brought to fruition a recommendation put forth in 1963 by Secretary of Defense Robert McNamara's Project 60, which called for the eventual creation of a separate Defense agency responsible for contract management.

Under the general's direction, DCMA has emerged as a Combat Support Agency—one that has markedly transformed contractor battlefield support, as fully evidenced by DCMA's role in facilitating optimal support to our troops in Bosnia and Kosovo. He also left an indelible mark on DoD's continuing Revolution in Business Affairs, ushering DoD into an era of paperless contracting and electronic business processes. The inception of DCMA is a living testimonial to Tim Malishenko's exemplary leadership, professionalism, and unbounded energy. It is indeed a magnificent example of what can happen when well-tempered foresight converges with present-day diligence.

Whether he was behind the desk in a major program office, on a contractor's plant floor, in a NATO council room, or ''in the door'' about to parachute into the open skies, Tim Malishenko served with valor, loyalty, and integrity. On the occasion of his retirement from the Air Force, I offer my congratulations and thanks to this esteemed son of the Buckeye state, and wish him and his wife, Jane, well in their future pursuits.●

IN RECOGNITION OF DEBRA L. FERLAND

● Mr. REED. Mr. President, I rise today to pay tribute to Ms. Debra Ferland, who is being installed as the president of the Women's Council of the National Association of Home Builders on February 11, 2001 in Atlanta, Georgia. I would like to thank her for her twenty-three years of work, and honor her for her achievements within the housing industry.

After graduating from the University of Massachusetts at Dartmouth, Debra began her long and admirable career by working for several prominent national property management firms, including Picerne Properties, First Realty Management, and Diversified Properties. She has been a Construction Manager at HUD approved rehabs, consulted for rent supplement and Section 8 programs, and is currently Director of Special Projects at the Ferland Corporation.

Debra has taken an active role in the industry on both a state and national level by assuming numerous leadership roles, including local Council President, Membership Chair, and National Convention Chairman. She has been appointed as a member of both the Labor Shortage Task Force and the National Association of Home Builders Capital Club, and is the Women's Council Life Director.

In addition to her tremendous career achievements, Debra has devoted herself to family, including her husband A. Austin Ferland, her daughter Nicole, and her extended family of Fred, Deborah, and four year old grandson, Ben. She is a chef and an avid golfer, and has displayed her commitment to her local community through Habitat for Humanity, the Lincoln School for Girls, and the Tomorrow Fund.

The citizens of Rhode Island are indeed fortunate for Debra's many contributions and for her ongoing commitment to creating housing opportunities both within our state and nationwide. I congratulate her on the leadership role which she is about to undertake and know that she will continue her good work for years to come.●

SALUTE TO ELUID L. MARTINEZ, COMMISSIONER OF THE BUREAU OF RECLAMATION

● Mr. DOMENICI. Mr. President, I wish to salute my fellow New Mexican, Eluid L. Martinez, who has just finished a remarkable five-year term as Commissioner of the U.S. Bureau of Reclamation. As the first Commissioner to serve in two different centuries, Mr. Martinez assumed control over the nation's second largest wholesale water supplier and hydroelectric producer in the country when he was appointed by the President in 1995.

A native of Cordova in Rio Arriba County, New Mexico, Commissioner Martinez was the first member of his family to receive a college degree. He holds an undergraduate degree in civil engineering from New Mexico State University and is a licensed Professional Engineer and Land Surveyor.

During his tenure Commissioner Martinez has been recognized by many Reclamation stakeholders for his even-handed approach in addressing western water and power issues. He received the Statesman of the Year award by the National Water Resources Association in November, 2000, for his diligence in helping solve the chronic water shortages in the western United States. He has been responsible for implementing the Bureau of Reclamation transition to a water resources agency with responsibilities for delivering project benefits while balancing the conflicting demands of Reclamation's constituencies.

Commissioner Martinez' professionalism and expertise in his field has gained him the respect of all members of Congress who have worked with him.

Commissioner Martinez has been a leader in privatizing Reclamation projects wherever possible, returning projects to the users who paid for them. He has been an important factor in implementing legislatively mandated environmental requirements, and trying to stretch a finite supply of water to an ever thirsty West. Commissioner Martinez has endeavored to create a more diverse workforce to ensure a future supply of capable individuals for the Federal government. In fact, preparing for the future is one of Commissioner Martinez's hallmarks of achievement.

Before entering Federal service, Eluid Martinez retired as the State Engineer for New Mexico. He has served as Secretary of the New Mexico Interstate Stream Commission, as the New Mexico Commissioner to six Interstate Compact Commissions, and as a member of the New Mexico Water Quality Commission. He has held executive positions in 12 regional and national water associations, but, as the parent of three children, took the time to run for and serve as President of the City of Santa Fe School Board.

Filling many positions over a 27 year career in the State Engineer's office, Eluid Martinez developed many skills that served him well as Commissioner of the Bureau of Reclamation. His service in New Mexico started with the State Highway Department in 1968 and subsequently in the State Engineer's Office included positions as Chief of the Hydrographic Survey Section, Acting

Chief of the Administrative Services Division, Acting Chief of the Water Use and Planning Section, Chief of the Technical Division, principal Hearing Examiner for the State Engineer, and ultimately State Engineer from 1990 to 1994.

I am proud to count as a friend such a hardworking fellow native of New Mexico, who has made the most of his opportunities. Eluid Martinez has performed a valuable service to the Nation and especially to the people of the West in both his state and Federal positions.

In addition to his extensive administrative abilities Mr. Martinez hails from a rich heritage of nine generations of woodcarvers, or santeros. He is the nephew of internationally famous Santero Woodcarver and sculptor George Lopez of Cordova.

Eluid himself is also a quite talented artist and I was very honored to have received several of his beautiful drawings. The fact that Eluid's sculptures, lithographs, and prints reside in the permanent collections of the Smithsonian Institution's American Art Museum, the Colorado Springs Fine Arts Center, the Denver Art Museum and other major collections adds to and broadens his legacy to the United States and his home state of New Mexico.

Eluid will be a tough act to follow and I hope that his successor will have an understanding of western water issues and will continue working to achieve a balance between New Mexico's many competing interests.

I know that as he leaves the demanding job of Commissioner, Eluid and his wife, Suzanne, are looking forward to spending more time in our beautiful home state of New Mexico.●

TRIBUTE TO THOMAS C. RYAN

● Mr. JEFFORDS. Mr. President, today I rise to pay tribute to a man of true courage, a man of boundless compassion, and a man of great character. Today, I rise to pay tribute to fellow Rutland, Vermont resident and friend to many, Tom Ryan.

Tom was born October 14, 1930, the son of Charles F. and Mary Ryan. He graduated from Mt. St. Joseph Academy in 1948, from Georgetown University, Magna Cum Laude, in 1952 and the Wharton School of Business MBA program in 1955.

Bound by a sense of duty and service to country, Tom courageously served as a captain in the U.S. Air Force during the Korean War, and later continued his service in the Reserves.

Tom was a skilled banker and a businessman, yet he was always more focused on people than on profit. In his eloquent eulogy, Stephen K. Ryan called his father, Tom a ''leader,'' and I can't think of a more dedicated community leader than Tom. He served on numerous boards, including: the Vermont Achievement Center; Vermont Children's Aid Society; Small Business Investment Corp.; Economic Development Council for Southwestern Vermont; Vermont Development Credit Corp.; Vermont Bankers Association; Rotary Club; Rutland Downtown Development Corp.; Rutland County Solid Waste; United Way; Paramount Theatre; Rutland West Neighborhood Housing; and College of St. Joseph. I worked together with Tom in the effort to restore the Paramount Theatre to its original grandeur, and I'm so glad he was able to witness the fruits of his labor and the recent revitalization of our historic downtown.

Stephen mentioned that Tom was ''proudest of the twelve years he served on the board of Rutland Hospital; bringing a better standard of care to the Rutland Region.'' As Chairman of the Senate Health Committee, I know that health care is one of the most important issues facing our country today, and I have enormous respect for those individuals working hard on the local level to improve the lives of patients and their families.

Stephen stated that Tom ''was involved in politics, but he was not political.'' He ran for lieutenant governor in 1982, state senate in 1990, and was appointed to the state transportation board in 1991. In every political endeavor, Tom was passionate but respectful, tough but civil.

My wife, Liz, knew Tom's lovely wife, Mary, through their mutual interest in quilting. Liz used to tell me how Tom was an avid gardener, constantly improving the landscape surrounding their house and tending to his gardens. He loved his gardens so much, in fact, that family and friends were known to give him rocks for his birthday!

But Liz and I both know that his greatest love was for Mary and their wonderful children, Stephen of Reston, Virginia, Kate Ryan Whittum of Intervale, New Hampshire, and Maura C. Ryan of Portland, Maine. He had his priorities in line and was always there for his loved ones.

The editorial in the Rutland Daily Herald on December 18th, stated, ''If any single word were appropriate for Tom Ryan, it would be 'kindness.'" For me, it would be hard to describe Tom in one word, for he exemplified so many qualities for so many people. You will be greatly missed, Tom, but your legacy will live on in our hearts, our minds and your work that we will strive to continue.●

A TRIBUTE TO BERNARD R. DICK

● Mr. JEFFORDS. Mr. President, I stand before you today to pay tribute to Bernard R. Dick, a distinguished citizen of my hometown, Rutland, Vermont, and a man who I have deeply respected and admired my entire life. I thought highly of Bernie's talent as a lawyer, respected immensely his service to his country, and admired his devotion to family and community.

I ask that The Rutland Daily Herald editorial from January 8, 2001, be included in the record as part of this tribute:

The death of Bernard R. Dick this past weekend marks the end of another distinguished and longtime Rutland legal career. Only recently came the deaths of two other local attorneys of note—Bartley J. Costello and Thomas Ryan.

Bernie Dick, born in 1909 to a Rutland family, was a whiz at baseball at Rutland High School, where he made his mark as varsity catcher. It was a role he remembered long after he reached adulthood, and for years he could be seen in the audience when the RHS baseball team played home games.

His education was quite varied. After graduating from Rutland High he went to the University of Alabama. After college graduation in 1931 he studied law at New York University. He was admitted to the bar in Vermont in 1937.

As with many young men of his time, Bernie Dick was swept up in the swirl of World War II. Eventually, after Pearl Harbor, he enlisted in the Army as a private in November 1942. Because of his law degree he was stationed in Hawaii, where by 1946 he had reached the rank of captain.

In Hawaii he became chief of the claims division of the central Pacific area, and for his work received the 'Army Commendation Ribbon.' The citation said, in part: 'He reviewed and made recommendations for the payment, disallowance or collection of almost 1,000 claims. So expert were his decisions that no claim reviewed by him and subsequently appealed has been reversed. He demonstrated a high degree of professional skill and efficiency.'

After his honorable discharge in 1946, Dick returned to Rutland and resumed his practice in the law firm of Bove, Billado and Dick. It was an active law firm in many fields, including politics. The senior partner, Peter A. Bove, was an active supporter of Gov. Ernest W. Gibson and U.S. Sen. George D. Aiken. Francis Billado ultimately went to the Legislature and was elected Vermont adjutant general, a post he held until his death.

In legal practice Dick was the one who kept to the daily grind, but the three partners shared ownership with some Castleton people to run a popular summer dance hall at Bomoseen and the Crystal Beach facility on Lake Bomoseen, among several enterprises.

In 1947 Dick was named judge of the Rutland Municipal Court, in line with the policy of Governor Gibson, himself a veteran, to name veterans to public posts. The municipal court system preceded the present system of district courts, and there was political guessing as to who would be named by the governor. His Army experience served him well, and Dick served four years.

After the departure of Bove and Billado to other jobs, Bernie Dick ran his own practice for a while, and in 1949 formed a new legal association with Donald A. Hackel and Richard A. Hull. It was the latest step in a long and varied Rutland legal career.

Bernie, you will be sorely missed by all those who knew you, and by an entire community who benefitted from your knowledge, hard work and many talents.●

A TRIBUTE TO BARTLEY J. COSTELLO

● Mr. JEFFORDS. I rise today to pay tribute to a great Vermonter and a native son from my hometown of Rutland, Bartley J. Costello.

Bart will be remembered by all who knew him for his commitment to

church and family, dedication to community and country, and generosity to his fellow man. A lifelong resident of Rutland, he gave much of himself to our great city, through charities, community organizations and Christ the King Church.

Bart was educated at Holy Innocents Primary School, Mount St. Joseph Academy, the University of Vermont and Albany Law School. His first job was as a teacher at the Muddy Brook School in Williston. He returned to Rutland to work at Howe Scale Co. and served as the assistant Rutland City Treasurer before joining the U.S. Army Air Corps and serving his country in World War II. He reached the rank of Captain before being discharged at the end of the war and returning home to Rutland.

A lawyer in Rutland for forty years with the firm of Webber and Costello, later Webber, Costello and Chapman, Bart was a distinguished member of the Bar, deeply respected and admired by my father, Chief Justice of the Vermont Supreme Court.

Bart was an excellent trial lawyer and a match for the best. And he had a wonderful sense of humor. Bart loved to tell the story of a jury selection when an aunt of his on the panel remained silent when the opposing attorney asked if any of the jurors knew Mr. Costello. Later, after excusing his aunt for obvious reasons, Bart asked her why she had kept quiet. ''Well,'' she said, ''I felt you would need all the help you could get.''

I also knew him as an avid golfer and consummate sportsman. He and his lovely wife, Catherine, who survives him, were the perfect golfing couple, courteous and competitive, fun-loving and intense.

Bart, as well as Catherine, were blessed with four outstanding sons, Bartley III and Thomas, who are trial lawyers in Albany, NY and Brattleboro, Brian, an award winning school teacher in Rutland, and Barry, a Rear Admiral in the U.S. Navy, currently with the Pentagon staff.

He served his community on many boards and organizations. He was a past Grand Knight at the Knights of Columbus, President of Vermont State Holy Name Society, Rutland Chamber of Commerce, Rutland Country Club and Rutland Regional Medical Center. He was elected to and served on the board of directors of Marble Savings Bank and the Rutland City School Board.

The Rutland Daily Herald had high praise for Bart, stating that he, ''. . . left lasting marks for good on [his] native city.'' He was a man who loved life and was loved by all who knew him. We won't forget you, Bart.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Foreign Relations.

(The nominations received today are printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–552. A communication from the Secretary of Energy and the Secretary of Labor, transmitting jointly, a draft of a proposed legislation entitled ''Energy Employees Occupational Illness Compensation Amendment of 2001'' received on January 11, 2001; to the Committee on Health, Education, Labor, and Pensions.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. GRASSLEY (for himself, Mr. BREAUX, Mr. SMITH of Oregon, Mr. CLELAND, Mr. MURKOWSKI, Ms. LANDRIEU, Mr. CRAPO, Mr. BAYH, Mr. JEFFORDS, Mr. KYL, Mr. ROBERTS, Mr. HELMS, Mr. BUNNING, Mr. SANTORUM, Mr. CRAIG, Mr. STEVENS, Mr. FITZGERALD, Mr. BURNS, Mr. GREGG, and Mr. HATCH):

S. 234. A bill to amend the Internal Revenue Code of 1986 to repeal the excise tax on telephone and other communications services; to the Committee on Finance.

By Mr. McCAIN (for himself, Mrs. MURRAY, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. BINGAMAN, Mr. DOMENICI, Mr. BREAUX, Mr. BROWNBACK, and Mr. SMITH of Oregon):

S. 235. A bill to provide for enhanced safety, public awareness, and environmental protection in pipeline transportation, and for other purposes; read the first time.

By Mr. HUTCHINSON:

S. 236. A bill to amend the International Revenue Code of 1986 to expand the expense treatment for small businesses and to reduce the depreciation recovery period for restaurant buildings and franchise operations, and for other purposes; to the Committee on Finance.

By Mr. HUTCHINSON (for himself, Mr. COCHRAN, Mr. FRIST, Mr. INHOFE, Mr. LOTT, Mr. WARNER, and Mr. MURKOWSKI):

S. 237. A bill to amend the Internal Revenue Code of 1986 to repeal the 1993 income tax increase on Social Security benefits; to the Committee on Finance.

By Mr. WYDEN (for himself and Mr. SMITH of Oregon):

S. 238. A bill to authorize the Secretary of the Interior to conduct feasibility studies on water optimization in the Burnt River basin, Malheur River basin, Owyhee River basin, and Powder River Basin, Oregon; to the Committee on Energy and Natural Resources.

By Mr. HAGEL (for himself, Mr. DODD, Mr. ROBERTS, Mr. DORGAN, and Mr. LUGAR):

S. 239. A bill to improve access to the Cuban market for American agricultural producers, and for other purposes; to the Committee on Foreign Relations.

By Mr. FRIST:

S. 240. A bill to authorize studies on water supply management and development; to the Committee on Environment and Public Works.

By Mr. REID:

S. 241. A bill to direct the Federal Election Commission to set uniform national standards for Federal election procedures, change the Federal election day, and for other purposes; to the Committee on Rules and Administration.

By Mr. BINGAMAN (for himself, Mr. DOMENICI, and Mr. CRAPO):

S. 242. A bill to authorize funding for University Nuclear Science and Engineering Programs at the Department of Energy for fiscal years 2002 through 2006; to the Committee on Energy and Natural Resources.

By Mr. JOHNSON (for himself, Mr. BINGAMAN, Mr. DASCHLE , Mr. INOUYE, Mr. COCHRAN, Mr. BAUCUS, Mr. REID, Mr. AKAKA, and Mr. CAMPBELL):

S. 243. A bill to provide for the issuance of bonds to provide funding for the construction of schools of the Bureau of Indian Affairs of the Department of the Interior, and for other purposes; to the Committee on Indian Affairs.

By Mrs. FEINSTEIN (for herself, Mr. HELMS, Mr. BROWNBACK, Mr. LEAHY, Mr. REID, Mr. NELSON of Nebraska, Mrs. CLINTON, Mr. DODD, Mr. BAUCUS, Mrs. BOXER, Mr. BYRD, and Mr. CARPER):

S. 244. A bill to provide for United States policy toward Libya; to the Committee on Foreign Relations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. KERRY (for himself, Mr. LUGAR, Mr. LEVIN, Mr. REID, Mr. GRAHAM, and Mr. WELLSTONE):

S. Con. Res. 7. A concurrent resolution expressing the sense of Congress that the United States should establish an international education policy to enhance national security and significantly further United States foreign policy and global competitiveness; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRASSLEY (for himself, Mr. BREAUX, Mr. SMITH of Oregon, Mr. CLELAND, Mr. MURKOWSKI, Ms. LANDRIEU, Mr. CRAPO, Mr. BAYH, Mr. JEFFORDS, Mr. KYL, Mr. ROBERTS, Mr. HELMS, Mr. BUNNING, Mr. SANTORUM, Mr. CRAIG, Mr. STEVENS, Mr. FITZGERALD, Mr. BURNS, Mr. GREGG, and Mr. HATCH):

S. 234. A bill to amend the Internal Revenue Code of 1986 to repeal the excise tax on telephone and other communications services; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, I rise today, along with Senator BREAUX and others, to introduce a bill to repeal the

telephone excise tax—the Help Eliminate the Levy on Locution Act known as the HELLO Act. The telephone excise tax is a tax that is outdated, unfair, and complex for both consumers to understand and for the phone companies to administer. It cannot be justified on any tax policy grounds.

Mr. President, the federal government has had the American consumer on ''hold'' for too long when it comes to this tax. The telephone excise tax has been around for over 102 years. In fact, it was first imposed in 1898—just 22 years after the telephone itself was invented. So quickly was it imposed that it almost seems that Uncle Sam was there to collect it before Alexander Graham Bell could put down the receiver from the first call. In fact, the tax is so old that Bell himself would have paid it!

This tax on talking—as it is known—currently stands at 3 percent. Today, about 94 percent of all American families have telephone service. This means that virtually every family in the United States must tack an additional 3 percent on to their monthly phone bill. The federal tax applies to local phone service; it applies to long distance service; and it even applies in some cases to the extra amounts paid for state and local taxes. It is estimated that this tax costs the American public more than $5 billion per year.

The telephone excise tax is a classic story of a tax that has been severed from its original justifications, but lives on solely to collect money.

In truth, the Federal phone tax has had more legislative lives than a cat. When the tax was originally imposed, Teddy Roosevelt was leading the Rough Riders up San Juan Hill. At that time, it was billed as a luxury tax, as only a small portion of the American public even had telephones. The tax was repealed in the early 20th century, but then was reinstated at the beginning of World War I. It was repealed and reinstated a few more times until 1941, when it was made permanent to raise money for World War II. In the mid-60s, Congress scheduled the elimination of the phone tax, which had reached levels of 10 and 25 percent. But once again, the demands of war intervened, as the elimination of the tax was delayed to help pay for Vietnam. In 1973, the phone tax began to phase-out, but one year before it was about to be eliminated, it rose up yet again—this time justified by the rationale of deficit reduction—and has remained with us ever since.

This tax is a perfect example of why we must stop needlessly collecting the taxpayer's money—it does not pass any of the traditional criteria used for evaluating tax policy. First, this phone tax is outmoded. Once upon a time, it could have been argued that telephone service was a luxury item and that only the rich would be affected. As we all know, there is nothing further from the truth today.

Second, the federal phone tax is unfair. Because this tax is a flat 3 percent, it applies disproportionately to low and middle income people. For example, studies show that an American family making less than $50,000 per year spends at least 2 percent of its income on telephone service. A family earning less than $10,000 per year spendings over 9 percent of its income on telephone service. Imposing a tax on those families for a service that is a necessity in a modern society is simply not fair.

Third, the federal phone tax is complex. Once upon a time, phone service was simple—there was one company who provided it. It was an easy tax to administer. Now, however, phone service is intertwined with data services and Internet access, and it brings about a whole new set of complexities. For instance, a common way to provide high speed Internet access is through a digital subscriber line. This line allows a user to have simultaneous access to the Internet and to telephone communications. How should it be taxed? Should the tax be apportioned? Should the whole line be tax free? And what will we do when cable, wireless, and satellite companies provide voice and data communications over the same system? The burdensome complexity of today will only become more difficult tomorrow.

As these questions are answered, we run the risk of distorting the market by favoring certain technologies. There are already numerous exceptions and carve-outs to the phone tax. For instance, private communications services are exempt from the tax. That allows large, sophisticated companies to establish communications networks and avoid paying any federal phone tax. It goes without saying that American families do not have that same option.

Speaking of complexity, let me ask if anyone has taken a look at their most recent phone bill. It is a labyrinth of taxes and fees piled one on top of another. We may not be able to figure out what all the fees are for; but we do know that they add a big chunk to our phone bill. According to a recent study, the mean tax rate across the country on telecommunications is slightly over 18 percent. That is about a 6 percent rise in the last 10 years. I can't control the state and local taxes that have been imposed, but I can do my part with respect to the federal taxes. I seek to remove this burden from the citizens of my state—and all Americans across the country.

As members of Congress, we need to make sure that our tax policies do not stifle that economic expansion. We should not adhere to policies that are a relic from a different time. In today's economy, the arguments for repeal are even stronger.

Mr. President, it is time to end the federal phone tax. For too long while America has been listening to a dial tone, Washington has been hearing a dollar tone. This tax is outmoded. Why are we taxing a poor family's phone with a tax that was originally meant for luxury items. Mr. President, it is time we hung up the phone tax once and for all. I urge my colleagues to join me in supporting its repeal, and help all Americans to say ''Hello.''

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 234

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Help Eliminate the Levy on Locution (HELLO) Act.''.

SEC. 2. REPEAL OF EXCISE TAX ON TELEPHONE AND OTHER COMMUNICATIONS SERVICES.

(a) IN GENERAL.—Chapter 33 of the Internal Revenue Code of 1986 (relating to facilities and services) is amended by striking subchapter B.

(b) CONFORMING AMENDMENTS.—

(1) Section 4293 of such Code is amended by striking ''chapter 32 (other than the taxes imposed by sections 4064 and 4121) and subchapter B of chapter 33,'' and inserting ''and chapter 32 (other than the taxes imposed by sections 4064 and 4121),''.

(2)(A) Paragraph (1) of section 6302(e) of such Code is amended by striking ''section 4251 or''.

(B) Paragraph (2) of section 6302(e) of such Code is amended by striking ''imposed by—'' and all that follows through ''with respect to'' and inserting ''imposed by section 4261 or 4271 with respect to''.

(C) The subsection heading for section 6302(e) of such Code is amended by striking ''COMMUNICATIONS SERVICES AND''.

(3) Section 6415 of such Code is amended by striking ''4251, 4261, or 4271'' each place it appears and inserting ''4261 or 4271''.

(4) Paragraph (2) of section 7871(a) of such Code is amended by inserting ''or'' at the end of subparagraph (B), by striking subparagraph (C), and by redesignating subparagraph (D) as subparagraph (C).

(5) The table of subchapters for chapter 33 of such Code is amended by striking the item relating to subchapter B.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid pursuant to bills first rendered on or after 30 days after the date of the enactment of this Act.

By Mr. WYDEN (for himself and Mr. SMITH of Oregon):

S. 238. A bill to authorize the Secretary of the Interior to conduct feasibility studies on water optimization in the Burnt River basin. Malheur River basin, Owyhee River basin, and Powder River Basin, Oregon; to the Committee on Energy and Natural Resources.

Mr. WYDEN. Mr. President, I am introducing today legislation that will allow the Bureau of Reclamation to conduct a feasibility study on ways to improve water management in the Malheur, Owyhee, Powder and Burnt River basins in northeastern Oregon. An earlier study by the Bureau identified a number of problems on these four Snake River tributaries, including high water temperatures and degraded habitat.

These types of problems are not unique to these rivers; in fact, many

rivers in the Pacific Northwest are in a similar condition. However, Oregon has a unique approach to solving these problems through the work of Watershed Councils. In these Councils, local farmers, ranchers and other stakeholders sit down together with the resource agencies to develop action plans to solve local problems.

The Council members have the local knowledge of the land and waters, but they don't have technical expertise. The Bureau of Reclamation has the expertise to collect the kinds of water flow and water quality data that are needed to understand how the watershed works and how effective different solutions might be.

One class of possible solutions includes small-scale construction projects, such as upgrading of irrigation systems and creation of wetlands to act as pollutant filters. This legislation would allow the Bureau of Reclamation to partner with the Watershed Councils in determining how such small-scale construction projects might benefit both the environment and the local economy.

This bill authorizes a study; it does not authorize actual construction. It simply enables the Bureau to help find the most logical solution to resource management issues.

Last Congress, the Senate passed the same bill I am introducing today. However, the other body did not act on the legislation before the last Congress adjourned.

I look forward to prompt action to enact this bill in the current Congress. I welcome my colleague, Mr. SMITH, as an original cosponsor of this bill.

I ask unanimous consent that a copy of the bill be printed in the RECORD.

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

S. 238

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Burnt, Malheur, Owyhee, and Powder River Basin Water Optimization Feasibility Study Act of 2001''.

SEC. 2. STUDY.

The Secretary of the Interior may conduct feasibility studies on water optimization in the Burnt River basin, Malheur River basin, Owyhee River basin, and Powder River basin, Oregon.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

By Mr. HAGEL (for himself, Mr. DODD, Mr. ROBERTS, Mr. DORGAN, and Mr. LUGAR):

S. 239. A bill to improve access to the Cuban market for American agricultural producers, and for other purposes; to the Committee on Foreign Relations.

Mr. HAGEL. Mr. President, today I am introducing legislation to correct problems with a provision enacted last fall in the fiscal year 2001 agriculture appropriations bill. I am pleased to be joined as original cosponsors by my distinguished colleagues, Senators DODD, LUGAR, ROBERTS, and DORGAN.

The provision contained in the fiscal year 2001 agriculture appropriations bill was a revised version of legislation originally introduced last Congress by former Senator Ashcroft and me, together with Senators DODD, LUGAR, ROBERTS, and many others. The purpose of our bill was to lift all unilateral economic sanctions on the export of American food and medicine. Passage of this provision acknowledges what most Nebraska grain and livestock producers have always known—when the United States places unilateral sanctions on other nations, American producers are hurt, not the sanctioned nation.

As the world leader in the development of pharmaceuticals and medical devices, America plays a critical role in helping prolong and improve the quality of people's lives. Ensuring that these products and therapies are available to people all over the world not only benefits American businesses and workers, but also reinforces America's image as a country of both innovation and compassion.

The provision enacted in the fiscal year 2001 agriculture appropriations bill was changed, however, in the conference committee with the House of Representatives. The final legislation blocked—only for sales to Cuba—access to normal export financing in the U.S. private sector. Thus, while claiming to open up the Cuban market for the export of American agricultural and medical products, it placed restrictions making American exports uncompetitive. Finally, the provision codified new restrictions on the ability of Americans to travel to Cuba.

The Cuba Food and Medicine Access Act of 2001 would correct those mistakes by repealing the new travel restrictions and permitting normal credit and financing support for food and medicine exports to Cuba.

As we rewrite the farm bill we should begin by delivering on a promise we made last year to end unilateral sanctions on our own farmers, ranchers, and agricultural producers.

But this issue goes beyond increased commercial opportunity. The export of American food and medicine is also a humanitarian undertaking. Blocking exports in these commodities harm the health and nutrition of the people of the sanctioned nation. It does nothing to harm governments and government leaders with which we disagree. Until last year, food sales to Cuba were prohibited except to independent importers, which did not exist. And while medical sales to Cuba were theoretically possible, licensing procedures were so difficult and complicated that they had the effect of severely restricting such exports. Last year's bill went part of the way to clear away these impediments. We should now finish the job.

I ask that the text of the legislation be printed in the RECORD.

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

S. 239

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Cuba Food and Medicine Access Act of 2001''.

TITLE I

SEC. 10. LIMITATION ON PROHIBITIONS AND RESTRICTIONS ON TRADE WITH CUBA TO ALLOW FOR THE EXPORT OF FOOD AND MEDICINES TO CUBA.

Notwithstanding the Trade Sanctions Reform and Export Enhancement Act of 2000 (Title IX of H.R. 5426 of the One Hundred Sixth Congress, as enacted into law by Section 1(a) of Public Law 106–387, and as contained in the appendix of that Act) (except section 904 of such Act) or any other provision of law (except section 11 of this Act), the prohibition or restriction on trade or financial transactions with Cuba shall not apply with respect to the export of any agricultural commodities, medicines, or medical devices, or with respect to travel incident to the sale or delivery of agricultural commodities, medicines, or medical devices, to Cuba.

SEC. 11. LIMITATION ON EXCEPTION TO ALLOW FOR THE EXPORT OF FOOD AND MEDICINE TO CUBA.

Section 10 of this Act shall not apply—

(1) with respect to restrictions imposed under section 5 of the Export Administration Act of 1979 for goods containing parts or components on which export controls are in effect under that section; and

(2) with respect to section 203 of the International Emergency Economic Powers Act, to the extent the authorities under that section are exercised to deal with a threat to the national security of the United States by virtue of the technology incorporated in such goods.

SEC. 12. LIFTING CERTAIN PROHIBITIONS ON VESSELS ENTERING U.S. PORTS.

Sanctions pursuant to Section 1706(b) of Title XVII of PL 102–484 (Cuban Democracy Act of 1992) shall not apply with respect to vessels which have transported food or medicine to Cuba.

SEC. 13. STUDY AND REPORT RELATING TO EXPORT PROMOTION AND CREDIT PROGRAMS FOR CUBA.

Title IV of the Agricultural Trade act of 1978 (7 U.S.C. 5661 et seq.) is amended by adding at the end the following:

''SEC. 418. STUDY AND REPORT RELATING TO EXPORT PROMOTION AND CREDIT PROGRAMS FOR CUBA.

''(a) STUDY.—The Secretary shall carry out a study of existing United States agricultural export promotion and credit programs to determine how such programs can be carried out to promote the consumption of United States agricultural commodities in Cuba.

''(b) REPORT.—Not later than 90 days after the date of the enactment of this section, the Secretary shall prepare and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing—

''(1) the results of the study carried out under subsection (a); and

''(2) proposed legislation, if any, to improve the ability of the Secretary to utilize United States agricultural export promotion and credit programs with respect to the consumption of United States agricultural commodities in Cuba.''.

SEC. 14. REPORT TO CONGRESS.

Not later than 6 months after the date of the enactment of this Act, the President shall transmit to the Congress a report that sets forth—

(1) the extent (expressed in volume and dollar amounts) of sales to Cuba of agricultural commodities, medicines, and medical devices, since the date of the enactment of this Act;

(2) a description of the types and end users of the goods so exported; and

(3) whether there has been any indication that any medicines, or medical devices exported to Cuba since the date of the enactment of this Act—

(A) have been used for purposes of torture or other human rights abuses;

(B) were reexported; or

(C) were used in the production of any biotechnological product.

SEC 15. DEFINITIONS.

(1) AGRICULTURAL COMMODITY.—The term ''agricultural commodity''—

(A) has the meaning given the term in section 102 of the Agricultural Trade Act of 1978 (7 U.S.C. 5602); and

(B) includes fertilizer and organic fertilizer, except to the extent provided pursuant and organic fertilizer, except to the extent provided pursuant to Section 904 of the Trade Sanctions Reform and Export Enhancement Act of 2000 (Title IX of H.R. 5426 of the One Hundred Sixth Congress, as enacted into law by Section 1(a) of Public Law 106–387, and as contained in the appendix of that Act).

(2) MEDICAL DEVICE.—The term ''medical device'' has the meaning given the term ''device'' in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).

(3) MEDICINE.—The term ''medicine'' has the meaning given the term ''drug'' in section 201 the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 7321).

TITLE II

SEC. 20. REPEAL OF CODIFICATION OF TRAVEL RESTRICTIONS BY AMERICAN CITIZENS TO CUBA.

Section 910 of the Trade Sections Reform and Export Enhancement Act of 2000 (Title IX of H.R. 5426 of the One Hundred Sixth Congress, as enacted into law by Section 1(a) of Public Law 106–387, and as contained in the appendix of that Act) is hereby repealed.

Mr. ROBERTS. Mr. President, I rise today once again to introduce legislation to enhance trade provisions from Title Nine of the fiscal year 2001 agriculture appropriations bill.

The legislation that I join with my colleagues to introduce today, the Cuba Food & Medicine Access Act of 2001, exempts, among other things, the sale of agricultural commodities from the financing and licensing restrictions of Title Nine of last year's agriculture appropriations bill, also known as the Trade Sanctions Reform & Export Enhancement Act.

Last week, Senator DORGAN and I introduced similar corrective legislation. Title Nine of the fiscal year 2001 agriculture appropriations bill made significant progress toward ending the misguided policy of using unilateral food sanctions to isolate or punish so-called ''countries of concern''. Title Nine holds that ''The President shall terminate any unilateral agricultural sanction or unilateral medical sanction that is in effect as of the date of enactment of this Act.'' That is indeed progress, Mr. President.

As I noted last week with my friend from North Dakota, however, Title Nine prohibits basic facilitators to trade—financing and export promotion. The Trade Sanctions Reform & Export Enhancement Act effectively thwarts U.S. agricultural trade with Cuba.

It is that reality that prompts me to introduce and support as many legislative vehicles as I can toward repealing the prohibitions in last year's bill and opening the Cuban market to American agricultural commodities.

There has been much talk about the importance of American tourist travel to Cuba—this is true and I have stated it repeatedly. The Trade Sanctions Reform & Export Enhancement Act's tourist travel ban stifles the most powerful influence on Cuban society: American culture and perspective, both economic and political.

Consistent with the Dorgan-Roberts bill introduced last week, the codification of tourist travel restrictions is repealed under the Cuba Food & Medicine Access Act of 2001 as are restrictions on the sale of medicine and medical products. Further, the trade of both food and medicine is enhanced by nullifying a provision of the Cuban Democracy Act of 1992, which prohibits ships entering ports in Cuba from visiting U.S. ports for at least 180 days without a special license.

Today, however, I want to place more emphasis on the agricultural trade issue. The U.S. cannot afford to rule out any market for our agricultural commodities. Now more than ever, as new markets develop and our competitors seize those opportunities, it makes no sense to preclude the use of export promotion programs nor outlaw private U.S. financing. It is nonsense to isolate our farmers in this fashion.

Section 908 of the fiscal year 2001 agriculture appropriations bill reads ''no United States Government assistance, including United States foreign assistance, United States export assistance, and any United States credit or guarantees shall be available for exports to Cuba.'' Section 908 goes on to state, incredibly, that ''no United States person may provide payment or financing terms for sales of agricultural commodities or products to Cuba or any person in Cuba.''

It's quite clear, Mr. President, the intent of this provision is to keep the Cuban market cut off from America's farmers. This is unacceptable.

If it's not to keep the Cuban market cut off, then what is the policy? What are our farmers supposed to do when faced with this kind of contradictory and politicized language: You are permitted to sell to Cuba but don't bother trying? We are either going to encourage and facilitate global agricultural trade or we are going to discourage and complicate global agricultural trade. You can't have it both ways.

Why is this significant in regards to Cuba? Let us sample some recent statistics provided by the U.S.-Cuba Trade & Economic Council, based in New York City: Wheat exports from Canada to Cuba in 1999 and 2000—730,000 tons; corn exports from China to Cuba in 2000—26,101 tons; and rice exports from China to Cuba in 2000—225,510 tons.

No, Cuba is not the largest market, Mr. President, but the point is, our farmers should be able to compete for that business. It's our obligation to at least permit such an opportunity.

By Mr. FRIST:

S. 240. a bill to authorize studies on water supply management and development; to the Committee on Environment and Public Works.

Mr. FRIST. Mr. President, today, I introduce the Water Resource Study Act of 2001. The purpose of this bill is to ensure an adequate supply of fresh water for Tennessee's future.

Currently, Tennessee is one of the fastest growing states in the country. We rank 9th out of the 50 states in projected population growth over the next 25 years. Though we welcome this growth, it is beginning to place a strain on our water supply. For example, public water use increased from 380 million gallons in 1960 to 777 million gallons in 1995. As industry and population increase, it will not be long before growth outpaces available water supply. We must act now to avoid serious problems.

Specifically, this legislation would allow Tennessee to work with the Secretary of the Army, acting through the Chief of Engineers, to select a geographical area within the state having ''consistent, emerging water supply needs'' and to take a serious look at the water supply in that particular area. After gathering relevant data, the study would consider available federal resources, identify areas for improvement and detect outdated programs. It would also begin determining the appropriate role of the federal government in helping local communities to develop an adequate water supply.

This legislation is not the full solution, but it will assist in understanding the complexity of water supply development and the different alternatives to meeting future water supply needs. It is a good step in addressing this important issue for all Tennesseans.

I ask that the bill be printed in the RECORD.

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

S. 240

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Water Resource Study Act of 2001''.

SEC. 2. FINDINGS.

Congress finds that—

(1) water resources in the United States are among the most plentiful in the world;

(2) for many years, the effective development and use of water resources in the United States has been the focus of a wide array of Federal policies and programs;

(3) in recent years, unprecedented growth, multiple competing water uses, and growing

public interest in environmental protection have combined to create an atmosphere of conflicting policy interests;

(4) large-scale water conflicts continue to emerge between communities, States, and stakeholder interests in the southeastern region of the United States; and

(5) Federal support is needed to assess the utility and effectiveness of current Federal policies and programs as they relate to resolving State and local water supply needs.

SEC. 3. DEFINITIONS.

In this Act:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of the Army, acting through the Chief of Engineers.

(2) STATE.—The term ''State'' means the State of Tennessee.

SEC. 4. STUDIES ON EMERGING WATER SUPPLY NEEDS.

(a) DESIGNATION.—The Secretary shall offer to provide assistance to the State to conduct studies under this section.

(b) STUDIES.—As a condition of receiving assistance under this section, not later than 1 year after the date of enactment of this Act, in consultation with the Secretary, the State shall—

(1) select a geographic area within the State having consistent, emerging, water supply needs; and

(2) conduct a study on the emerging water supply needs of the geographic area.

(c) ADMINISTRATION.—A study conducted under this section shall—

(1) identify Federal and State resources, assistance programs, regulations, and sources of funding for water supply development and management that are applicable to the geographic areas selected under subsection (b)(1);

(2) identify potential weaknesses, redundancies, and contradictions in those resources, assistance programs, regulations, policies, and sources of funding;

(3) conduct a water resource inventory in the geographic study area to determine, with respect to the water supply needs of the area—

(A) projected demand;

(B) existing supplies and infrastructure;

(C) water resources that cannot be developed for water supplies due to regulatory or technical barriers, including—

(i) special aquatic sites (as defined in section 330.2 of title 33, Code of Federal Regulations (or a successor regulation)); and

(ii) bodies of water protected under any other Federal or State law;

(D) water resources that can be developed for water supplies, such as sites that have few, if any, technical or regulatory barriers to development;

(E) any water resources for which further research or investigation, such as testing of groundwater aquifers, is required to determine the potential for water supply development for the site;

(F) a description of the social, political, institutional, and economic dynamics and characteristics of the geographic study area that may affect the resolution of water supply needs;

(G) incentives for cooperation between water districts, local governments, and State governments, including methods that maximize private sector participation in the water supply development; and

(H) new water resource development technologies that merit further analysis and testing.

(d) LEAD AGENCY.—For each study under this section, the Corps of Engineers—

(1) shall be the lead Federal agency; and

(2) shall consult with the State for guidance in the development of the study.

(e) PARTICIPANTS.—

(1) IN GENERAL.—The United States Geological Survey and the Tennessee Valley Authority shall participate in the study.

(2) ENTITIES SELECTED BY THE STATE.—In consultation with the Secretary, the State shall select additional entities to participate in the study.

(3) UNIVERSITY OF TENNESSEE.—The University of Tennessee may elect to participate in the study.

(f) FUNDING.—The Federal share of each study under this section shall be 100 percent.

(g) REPORT.—Not later than 180 days after the completion of a study under this section, the State shall submit a report describing the findings of the study to—

(1) the Committee on Resources of the House of Representatives; and

(2) the Committee on Environment and Public Works of the Senate.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,000,000 for fiscal year 2002.

By Mr. REID:

S. 241. A bill to direct the Federal Election Commission to set uniform national standards for Federal election procedures, change the Federal election day, and for other purposes; to the Committee on Rules and Administration.

Mr. REID. Mr. President, I rise today to introduce the National Election Standards Act of 2001.

The entire nation was disgusted by the presidential election of 2000. That election revealed the flaws in our election process to the entire world. America is the greatest country—and the oldest democracy—in the world, and we can do better.

The most fundamental premise of democracy is that every vote is counted. But the reality is that votes cast in wealthier parts of the country frequently count more than votes cast in poorer areas, because wealthier districts have better, more accurate, more modern and less error-prone counting machines than poorer precincts and districts. Some counties in this nation are using voting machines and vote-counting machines that are 50, 60, 70 years old, and that have error rates of 3 or more percent. In the wealthiest nation in the world, that is simply unacceptable.

Today, I am introducing a bill that will give the Federal Election Commission the authority to issue uniform federal regulations governing registration, access to polling places, voting machines, and vote-counting procedures in federal elections across the country. Unlike some other proposals introduced this Congress, these regulations will be binding on states and localities. The Commission will also be authorized to set deadlines for states and localities to comply, and to provide the necessary federal funding to enable them to comply.

My bill will also require states to allow voters to register on the same day that they vote, and will move federal election days from the current Tuesday, to the preceding Saturday and Sunday. By simplifying registration, by allowing voters to vote on weekends, and extending election day to two days instead of one, more voters will be able to participate in federal elections more easily. I believe these changes will go a long way toward improving our atrocious voter turnout rates, and help restore some of the confidence in our election process that many Americans lost during the last election.

I urge my colleagues to join me in this effort.

By Mr. BINGAMAN (for himself, Mr. DOMENICI, and Mr. CRAPO):

S. 242. A bill to authorize funding for University Nuclear Science and Engineering Programs at the Department of Energy for fiscal years 2002 through 2006; to the Committee on Energy and Natural Resources.

Mr. BINGAMAN. Mr. President, I rise today to introduce a bill authorizing the Secretary of Energy to provide for the Office of Nuclear Energy, Science and Technology to reverse a serious decline in our nation's educational capability to produce future nuclear scientists and engineers. This bi-partisan bill which is referred to as the ''Department of Energy University Nuclear Science and Engineering Act'' is cosponsored by my colleagues Mr. DOMENICI and Mr. CRAPO. Let me outline how serious this decline is, after doing so I will outline its impact on our nation and then discuss how this bill attempts to remedy this situation.

As of this year, the supply of four-year trained nuclear scientists and engineers is at a 35-year low. The number of four-year programs across our nation to train future nuclear scientists has declined to approximately 25—a 50 percent reduction since about 1970. Two-thirds of the nuclear science and engineering faculty are over age 45 with little if any ability to draw new and young talent to replace them. Universities across the United States cannot afford to maintain their small research reactors forcing their closure at an alarming rate. This year there are only 28 operating research and training reactors, over a 50 percent decline since 1980. Most if not all of these reactors were built in the late 1950's and early 60's and were licensed initially for 30 to 40 years. As a result, within the next five years the majority of these 28 reactors will have to be relicensed. Relicensing is a long, lengthy process which most universities cannot and will not afford. Interestingly, the employment demand for nuclear scientists and engineers exceeds our nation's ability to supply them. This year, the demand exceeded supply by 350, by 2003 it will be over 400. Our current projections are that in five years 76 percent of the nation's nuclear workforce can retire, the university pipeline of new scientists and engineers is moving in the wrong direction to meet this national problem.

These human resource and educational infrastructure problems are serious. The decline in a competently

trained nuclear workforce affects a broad range of national issues.

We need nuclear engineers and health physicists to help design, safely dispose and monitor nuclear waste, both civilian and military.

We rely on nuclear physicists and scientists in the field of nuclear medicine to develop radio isotopes for the thousands of medical procedures performed everyday across our nation—to help save lives.

We must continue to operate and safely maintain our existing supply of fission reactors and respond to any future nuclear crisis worldwide—it takes nuclear scientists, engineers and health physicists to do that.

Our national security and treaty commitments rely on nuclear scientists to help stem the proliferation of nuclear weapons whether in our national laboratories or as part of worldwide inspection teams in such places as Iraq. Nuclear scientists are needed to convert existing reactors worldwide from highly enriched to low enriched fuels.

Nuclear engineers and health physicists are needed to design, operate and monitor future Naval Reactors. The Navy by itself cannot train students for their four year degrees—they only provide advance postgraduate training on their reactor's operation.

Basically, we are looking at the potential loss of a 50 year investment in a field which our nation started and leads the world in. What is worse, this loss is a downward self-feeding spiral. Poor departments cannot attract bright students and bright students will not carry on the needed cutting edge research that leads to promising young faculty members. Our system of nuclear education and training, in which we used to lead the world, is literally imploding upon itself.

I've laid out in this bill some proposals that I hope will seed a national debate in the upcoming 107th Congress on what we as a nation need to do to help solve this very serious problem. It is not a perfect bill, but I think it should start the ball rolling. I welcome all forms of bipartisan input on it. I hope that my colleagues in the House Science Committee looks favorably at this worthy effort and I would suggest joint hearings so that we as a Congressional body can hear together the testimony on the serious decline that we now face. My staff has worked from consensus reports from the scientific community developed by the Nuclear Energy Advisory Committee to the Department of Energy's Office of Nuclear Science and Technology, in particular its subcommittee on Education and Training. The report is available on the Office's website. I encourage everyone to read and look at these startling statistics.

Here is an outline of what is in the bill.

First and foremost, we need to concentrate on attracting good undergraduate students to the nuclear sciences. I have proposed enhancing the current program which provides fellowships to graduate students and extends that to undergraduate students.

Second, we need to attract new and young faculty. I've proposed a Junior Faculty Research Initiation Grant Program which is similar to the NSF programs targeted only towards supporting new faculty during the first 5 years of their career at a university. These first five years are critical years that either make or break new faculty.

Third, I've proposed enhancing the Office's Nuclear Engineering Education and Research Program. This program is critical to university faculty and graduate students by supporting only the most fundamental research in nuclear science and engineering. These fundamental programs ultimately will strengthen our industrial base and over all economic competitiveness.

Fourth, I've strengthened the Office's applied nuclear science program by ensuring that universities play an important role in collaboration with the national labs and industry. This collaboration is the most basic form of tech transfer, it is face-to-face contact and networking between faculty, students and the applied world of research and industry. This program will ensure a transition between the student and their future employer.

Finally, I've strengthened what I consider the most crucial element of this program—ensuring that future generations of students and professors have well maintained research reactors.

I've proposed to increase the funding levels for refueling and upgrading academic reactor instrumentation.

I propose to start a new program whereby faculty can apply for reactor research and training awards to provide for reactor improvements.

I have proposed a novel program whereby as part of a student's undergraduate and graduate thesis project, they help work on the re-licensing of their own research reactors. This program must be in collaboration with industry which already has ample experience in relicensing. Such a program will once again provide face-to-face networking and training between student, teacher and ultimately their employer.

I have proposed a fellowship program whereby faculty can take their sabbatical year at a DOE laboratory. Under this program DOE laboratory staff can co-teach university courses and give extended seminars. This program also provides for part time employment of students at the DOE labs—we are talking about bringing in new and young talent.

For the research funds allocated, I have permitted portions be used to operating the reactor during the investigation. I make this allocation provided that the investigator's host institution makes a cost sharing commitment in its operation. My intent is clearly not to make the program simply fund the operations and maintenance of university reactors; it must be tied to the bill's research. The cost sharing insures that the host institution does not simply reallocate the funds already committed to operating the reactor.

In making all of these proposals, let me emphasize that each one of these programs I have described is intended to be peer reviewed and to have awards made strictly on merit of the proposals submitted. This program is not a hand out. Each element that I am proposing requires that faculty innovate and compete for these funds. Those institutions that do not win such competitions will have the choice of funding the research reactor activities themselves or consider shutting them down.

I have outlined a very serious problem that if not corrected now will cost far more to correct later on. If the program I have outlined is implemented, then it will strengthen our reputation as a leader in the nuclear sciences, strengthen our national security and our ability to compete in the world market place.

Mr. President, I ask for unanimous consent that the text of this bill be printed in the RECORD.

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

S. 242

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as ''Department of Energy University Nuclear Science and Engineering Act''.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) U.S. university nuclear science and engineering programs are in a state of serious decline. The supply of bachelor degree nuclear science and engineering personnel in the United States is at a 35-year low. The number of four year degree nuclear engineering programs has declined 50 percent to approximately 25 programs nationwide. Over two-thirds of the faculty in these programs are 45 years or older.

(2) Universities cannot afford to support their research and training reactors. Since 1980, the number of small training reactors in the United States have declined by over 50 percent to 28 reactors. Most of these reactors were built in the late 1950s and 1960s with 30- to 40-year operating licenses, and will require re-licensing in the next several years.

(3) The neglect in human investment and training infrastructure is affecting 50 years of national R&D investment. The decline in a competent nuclear workforce, and the lack of adequately trained nuclear scientists and engineers, will affect the ability of the United States to solve future waste storage issues, maintain basic nuclear health physics programs, operate existing and design future fission reactors in the United States, respond to future nuclear events worldwide, help stem the proliferation of nuclear weapons, and design and operate naval nuclear reactors.

(4) Further neglect in the nation's investment in human resources for the nuclear sciences will lead to a downward spiral. As the number of nuclear science departments shrink, faculties age, and training reactors

close, the appeal of nuclear science will be lost to future generations of students.

(5) Current projections are that 76% of the nation's professional nuclear workforce can retire in 5 years, a new supply of trained scientists and engineers is needed.

(6) The Department of Energy's Office of Nuclear Energy, Science and Technology is well suited to help maintain tomorrow's human resource and training investment in the nuclear sciences. Through its support of research and development pursuant to the Department's statutory authorities, the Office of Nuclear Energy, Science and Technology is the principal federal agent for civilian research in the nuclear sciences for the United States. The Office maintains the Nuclear Engineering and Education Research Program which funds basic nuclear science and engineering. The Office funds the Nuclear Energy and Research Initiative which funds applied collaborative research among universities, industry and national laboratories in the areas of proliferation resistant fuel cycles and future fission power systems. The Office funds Universities to refuel training reactors from highly enriched to low enriched proliferation tolerant fuels, performs instrumentation upgrades and maintains a program of student fellowships for nuclear science, engineering and health physics.

SEC. 3. DEPARTMENT OF ENERGY PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Energy, through the Office of Nuclear Energy, Science and Technology, shall support a program to maintain the nation's human resource investment and infrastructure in the nuclear sciences and engineering consistent with the Department's statutory authorities related to civilian nuclear research and development.

(b) DUTIES OF THE OFFICE OF NUCLEAR ENERGY, SCIENCE AND TECHNOLOGY.—In carrying out the program under this Act, the Director of the Office of Nuclear Science and Technology shall—

(1) develop a robust graduate and undergraduate fellowship program to attract new and talented students;

(2) assist universities in recruiting and retaining new faculty in the nuclear sciences and engineering through a Junior Faculty Research Initiation Grant Program;

(3) maintain a robust investment in the fundamental nuclear sciences and engineering through the Nuclear Engineering Education Research Program;

(4) encourage collaborative nuclear research between industry, national laboratories and universities through the Nuclear Energy Research Initiative; and

(5) support communication and outreach related to nuclear science and engineering.

(c) MAINTAINING UNIVERSITY RESEARCH AND TRAINING REACTORS AND ASSOCIATED INFRASTRUCTURE.—Within the funds authorized to be appropriated pursuant to this Act, the amounts specified under section 4(b) shall, subject to appropriations, be available for the following research and training reactor infrastructure maintenance and research:

(1) Refueling of research reactors with low enriched fuels, upgrade of operational instrumentation, and sharing of reactors among universities.

(2) In collaboration with the U.S. nuclear industry, assistance, where necessary, in relicensing and upgrading training reactors as part of a student training program.

(3) A reactor research and training award program that provides for reactor improvements as part of a focused effort that emphasizes research, training, and education.

(d) UNIVERSITY—DOE LABORATORY INTERACTIONS.—The Secretary of Energy, through the Office of Nuclear Science and Technology, shall develop—

(1) a sabbatical fellowship program for university professors to spend extended periods of time at Department of Energy laboratories in the areas of nuclear science and technology; and

(2) a visiting scientist program in which laboratory staff can spend time in academic nuclear science and engineering departments.

The Secretary may under section 3(b)(1) provide for fellowships for students to spend time at Department of Energy laboratories in the area of nuclear science under the mentorship of laboratory staff.

(3) OPERATIONS AND MAINTENANCE.—For the research programs described, portions thereof may be used to supplement operation of the research reactor during investigator's proposed effort provided the host institution provides cost sharing in the reactor's operation.

(f) MERIT REVIEW REQUIRED.—All grants, contracts, cooperative agreements, or other financial assistance awards under this Act shall be made only after independent merit review.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

(a) TOTAL AUTHORIZATION.—The following sums are authorized to be appropriate to the Secretary of Energy, to remain available until expended, for the purposes of carrying out this Act:

(1) $30,200,000 for fiscal year 2002.
(2) $41,000,000 for fiscal year 2003.
(3) $47,900,000 for fiscal year 2004.
(4) $55,600,000 for fiscal year 2005.
(5) $64,100,000 for fiscal year 2006.

(b) GRADUATE AND UNDERGRADUATE FELLOWSHIPS.—Of the funds under subsection (a), the following sums are authorized to be appropriated to carry out section 3(b)(1):

(1) $3,000,000 for fiscal year 2002.
(2) $3,100,000 for fiscal year 2003.
(3) $3,200,000 for fiscal year 2004.
(4) $3,200,000 for fiscal year 2005.
(5) $3,200,000 for fiscal year 2006.

(c) JUNIOR FACULTY RESEARCH INITIATION GRANT PROGRAM.—Of the funds under subsection (a), the following sums are authorized to be appropriated to carry out section 3(b)(2):

(1) $5,000,000 for fiscal year 2002.
(2) $7,000,000 for fiscal year 2003.
(3) $8,000,000 for fiscal year 2004.
(4) $9,000,000 for fiscal year 2005.
(5) $10,000,000 for fiscal year 2006.

(d) NUCLEAR ENGINEERING AND EDUCATION RESEARCH PROGRAM.—Of the funds under subsection (a), the following sums are authorized to be appropriated to carry out section 3(b)(3):

(1) $8,000,000 for fiscal year 2002.
(2) $12,000,000 for fiscal year 2003.
(3) $13,000,000 for fiscal year 2004.
(4) $15,000,000 for fiscal year 2005.
(5) $20,000,000 for fiscal year 2006.

(e) COMMUNICATION AND OUTREACH RELATED TO NUCLEAR SCIENCE AND ENGINEERING.—Of the funds under subsection (a), the following sums are authorized to be appropriated to carry out section 3(b)(5):

(1) $200,000 for fiscal year 2002.
(2) $200,000 for fiscal year 2003.
(3) $300,000 for fiscal year 2004.
(4) $300,000 for fiscal year 2005.
(5) $300,000 for fiscal year 2006.

(f) REFUELING OF RESEARCH REACTORS AND INSTRUMENTATION UPGRADES.—Of the funds under subsection (a), the following sums are authorized to be appropriated to carry out section 3(c)(1):

(1) $6,000,000 for fiscal year 2002.
(2) $6,500,000 for fiscal year 2003.
(3) $7,000,000 for fiscal year 2004.
(4) $7,500,000 for fiscal year 2005.
(5) $8,000,000 for fiscal year 2006.

(g) RE-LICENSING ASSISTANCE.—Of the funds under subsection (a), the following sums are authorized to be appropriated to carry out section 3(c)(2):

(1) $1,000,000 for fiscal year 2002.
(2) $1,100,000 for fiscal year 2003.
(3) $1,200,000 for fiscal year 2004.
(4) $1,300,000 for fiscal year 2005.
(5) $1,300,000 for fiscal year 2006.

(h) REACTOR RESEARCH AND TRAINING AWARD PROGRAM.—Of the funds under subsection (a), the following sums are authorized to be appropriated to carry out section 3(c)(3):

(1) $6,000,000 for fiscal year 2002.
(2) $10,000,000 for fiscal year 2003.
(3) $14,000,000 for fiscal year 2004.
(4) $18,000,000 for fiscal year 2005.
(5) $20,000,000 for fiscal year 2006.

(i) UNIVERSITY—DOE LABORATORY INTERACTIONS.—Of the funds under subsection (a), the following sums are authorized to be appropriated to carry out section 3(d):

(1) $1,000,000 for fiscal year 2002.
(2) $1,100,000 for fiscal year 2003.
(3) $1,200,000 for fiscal year 2004.
(4) $1,300,000 for fiscal year 2005.
(5) $1,300,000 for fiscal year 2006.

By Mr. JOHNSON (for himself, Mr. BINGAMAN, Mr. DASCHLE, Mr. INOUYE, Mr. COCHRAN, Mr. BAUCUS, Mr. REID, Mr. AKAKA, and Mr. CAMPBELL):

S. 243. A bill to provide for the issuance of bonds to provide funding for the construction of schools of the Bureau of Indian Affairs of the Department of the Interior, and for other purposes; to the Committee on Indian Affairs.

Mr. JOHNSON. Mr. President, I, along with Senators BINGAMAN, DASCHLE, CAMPBELL, INOUYE, COCHRAN, REID, AKAKA, and BAUCUS am introducing legislation to establish an innovative funding mechanism to enhance the ability of Indian tribes to construct, repair, and maintain quality educational facilities. Representatives from tribal schools in my State of South Dakota have been working with tribes nationwide to develop an initiative which I believe will be a positive first step toward addressing the serious crisis we are facing in Indian education.

Over 50 percent of the American Indian population in this country is age 24 or younger. Consequently, the need for improved educational programs and facilities, and for training the American Indian workforce is pressing. American Indians have been, and continue to be, disproportionately affected by both poverty and low educational achievement. The high school completion rate for Indian people aged 20 to 24 was 12.5 percent below the national average. American Indian students, on average, have scored far lower on the National Assessment for Education Progress indicators than all other students.

By ignoring the most fundamental aspect of education; that is, safe, quality educational facilities, there is little hope of breaking the cycle of low educational achievement, and the unemployment and poverty that result from neglected academic potential.

The Indian School Construction Act establishes a bonding authority to use

existing tribal education funds for bonds in the municipal finance market which currently serves local governments across the Nation. Instead of funding construction projects directly, these existing funds will be leveraged through bonds to fund substantially more tribal school construction, maintenance and repair projects.

The Bureau of Indian Affairs estimates the tribal school construction and repair backlog at over $1 billion. Confounding this backlog, inflation and facility deterioration severely increases this amount. The administration's school construction request for fiscal year 2001 was over $62 million. In this budgetary climate, I believe every avenue for efficiently stretching the Federal dollar should be explored.

Tribal schools in my State and around the country address the unique learning needs and styles of Indian students, with sensitivity to Native cultures, ultimately promoting higher academic achievement. There are strong historical and moral reasons for continued support of tribal schools. In keeping with our special trust responsibility to sovereign Indian nations, we need to promote the self-determination and self-sufficiency of Indian communities. Education is absolutely vital to this effort. Allowing the continued deterioration and decay of tribal schools through lack of funding would violate the Government's commitment and responsibility to Indian nations and only slow the progress of self-sufficiency.

I urge my colleagues to closely examine the Indian School Construction Act and join me in working to make this innovative funding mechanism a reality. I ask unanimous consent that the text of the legislation be printed in the RECORD.

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

S. 243

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Indian School Construction Act''.

SEC. 2. INDIAN SCHOOL CONSTRUCTION.

(a) DEFINITIONS.—In this section:

(1) BUREAU.—The term ''Bureau'' means the Bureau of Indian Affairs of the Department of the Interior.

(2) INDIAN.—The term ''Indian'' means any individual who is a member of a tribe.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(4) TRIBAL SCHOOL.—The term ''tribal school'' means an elementary school, secondary school, or dormitory that is operated by a tribal organization or the Bureau for the education of Indian children and that receives financial assistance for its operation under an appropriation for the Bureau under section 102, 103(a), or 208 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f, 450h(a), and 458d) or under the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.) under a contract, a grant, or an agreement, or for a Bureau-operated school.

(5) TRIBE.—The term ''tribe'' has the meaning given the term ''Indian tribal government'' by section 7701(a)(40) of the Internal Revenue Code of 1986, including the application of section 7871(d) of such Code. Such term includes any consortium of tribes approved by the Secretary.

(b) ISSUANCE OF BONDS.—

(1) IN GENERAL.—The Secretary shall establish a pilot program under which eligible tribes have the authority to issue qualified tribal school modernization bonds to provide funding for the construction, rehabilitation, or repair of tribal schools, including the advance planning and design thereof.

(2) ELIGIBILITY.—

(A) IN GENERAL.—To be eligible to issue any qualified tribal school modernization bond under the program under paragraph (1), a tribe shall—

(i) prepare and submit to the Secretary a plan of construction that meets the requirements of subparagraph (B);

(ii) provide for quarterly and final inspection of the project by the Bureau; and

(iii) pledge that the facilities financed by such bond will be used primarily for elementary and secondary educational purposes for not less than the period such bond remains outstanding.

(B) PLAN OF CONSTRUCTION.—A plan of construction meets the requirements of this subparagraph if such plan—

(i) contains a description of the construction to be undertaken with funding provided under a qualified tribal school modernization bond;

(ii) demonstrates that a comprehensive survey has been undertaken concerning the construction needs of the tribal school involved;

(iii) contains assurances that funding under the bond will be used only for the activities described in the plan;

(iv) contains response to the evaluation criteria contained in Instructions and Application for Replacement School Construction, Revision 6, dated February 6, 1999; and

(v) contains any other reasonable and related information determined appropriate by the Secretary.

(C) PRIORITY.—In determining whether a tribe is eligible to participate in the program under this subsection, the Secretary shall give priority to tribes that, as demonstrated by the relevant plans of construction, will fund projects—

(i) described in the Education Facilities Replacement Construction Priorities List as of FY 2000 of the Bureau of Indian Affairs (65 Fed. Reg. 4623-4624);

(ii) described in any subsequent priorities list published in the Federal Register; or

(iii) which meet the criteria for ranking schools as described in Instructions and Application for Replacement School Construction, Revision 6, dated February 6, 1999.

(D) ADVANCE PLANNING AND DESIGN FUNDING.—A tribe may propose in its plan of construction to receive advance planning and design funding from the tribal school modernization escrow account established under paragraph (6)(B). Before advance planning and design funds are allocated from the escrow account, the tribe shall agree to issue qualified tribal school modernization bonds after the receipt of such funds and agree as a condition of each bond issuance that the tribe will deposit into such account or a fund managed by the trustee as described in paragraph (4)(C) an amount equal to the amount of such funds received from the escrow account.

(3) PERMISSIBLE ACTIVITIES.—In addition to the use of funds permitted under paragraph (1), a tribe may use amounts received through the issuance of a qualified tribal school modernization bond to—

(A) enter into and make payments under contracts with licensed and bonded architects, engineers, and construction firms in order to determine the needs of the tribal school and for the design and engineering of the school;

(B) enter into and make payments under contracts with financial advisors, underwriters, attorneys, trustees, and other professionals who would be able to provide assistance to the tribe in issuing bonds; and

(C) carry out other activities determined appropriate by the Secretary.

(4) BOND TRUSTEE.—

(A) IN GENERAL.—Notwithstanding any other provision of law, any qualified tribal school modernization bond issued by a tribe under this subsection shall be subject to a trust agreement between the tribe and a trustee.

(B) TRUSTEE.—Any bank or trust company that meets requirements established by the Secretary may be designated as a trustee under subparagraph (A).

(C) CONTENT OF TRUST AGREEMENT.—A trust agreement entered into by a tribe under this paragraph shall specify that the trustee, with respect to any bond issued under this subsection shall—

(i) act as a repository for the proceeds of the bond;

(ii) make payments to bondholders;

(iii) receive, as a condition to the issuance of such bond, a transfer of funds from the tribal school modernization escrow account established under paragraph (6)(B) or from other funds furnished by or on behalf of the tribe in an amount, which together with interest earnings from the investment of such funds in obligations of or fully guaranteed by the United States or from other investments authorized by paragraph (10), will produce moneys sufficient to timely pay in full the entire principal amount of such bond on the stated maturity date therefor;

(iv) invest the funds received pursuant to clause (iii) as provided by such clause; and

(v) hold and invest the funds in a segregated fund or account under the agreement, which fund or account shall be applied solely to the payment of the costs of items described in paragraph (3).

(D) REQUIREMENTS FOR MAKING DIRECT PAYMENTS.—

(i) IN GENERAL.—Notwithstanding any other provision of law, the trustee shall make any payment referred to in subparagraph (C)(v) in accordance with requirements that the tribe shall prescribe in the trust agreement entered into under subparagraph (C). Before making a payment to a contractor under subparagraph (C)(v), the trustee shall require an inspection of the project by a local financial institution or an independent inspecting architect or engineer, to ensure the completion of the project.

(ii) CONTRACTS.—Each contract referred to in paragraph (3) shall specify, or be renegotiated to specify, that payments under the contract shall be made in accordance with this paragraph.

(5) PAYMENTS OF PRINCIPAL AND INTEREST.—

(A) PRINCIPAL.—No principal payments on any qualified tribal school modernization bond shall be required until the final, stated maturity of such bond, which stated maturity shall be within 15 years from the date of issuance. Upon the expiration of such period, the entire outstanding principal under the bond shall become due and payable.

(B) INTEREST.—In lieu of interest on a qualified tribal school modernization bond there shall be awarded a tax credit under section 1400K of the Internal Revenue Code of 1986.

(6) BOND GUARANTEES.—

(A) IN GENERAL.—Payment of the principal portion of a qualified tribal school modernization bond issued under this subsection

shall be guaranteed solely by amounts deposited with each respective bond trustee as described in paragraph (4)(C)(iii).

(B) ESTABLISHMENT OF ACCOUNT.—

(i) IN GENERAL.—Notwithstanding any other provision of law, beginning in fiscal year 2002, from amounts made available for school replacement under the construction account of the Bureau, the Secretary is authorized to deposit not more than $30,000,000 each fiscal year into a tribal school modernization escrow account.

(ii) PAYMENTS.—The Secretary shall use any amounts deposited in the escrow account under clauses (i) and (iii) to make payments to trustees appointed and acting pursuant to paragraph (4) or to make payments described in paragraph (2)(D).

(iii) TRANSFERS OF EXCESS PROCEEDS.—Excess proceeds held under any trust agreement that are not needed for any of the purposes described in clauses (iii) and (v) of paragraph (4)(C) shall be transferred, from time to time, by the trustee for deposit into the tribal school modernization escrow account.

(7) LIMITATIONS.—

(A) OBLIGATION TO REPAY.—Notwithstanding any other provision of law, the principal amount on any qualified tribal school modernization bond issued under this subsection shall be repaid only to the extent of any escrowed funds furnished under paragraph (4)(C)(iii). No qualified tribal school modernization bond issued by a tribe shall be an obligation of, nor shall payment of the principal thereof be guaranteed by, the United States, the tribes, nor their schools.

(B) LAND AND FACILITIES.—Any land or facilities purchased or improved with amounts derived from qualified tribal school modernization bonds issued under this subsection shall not be mortgaged or used as collateral for such bonds.

(8) SALE OF BONDS.—Qualified tribal school modernization bonds may be sold at a purchase price equal to, in excess of, or at a discount from the par amount thereof.

(9) TREATMENT OF TRUST AGREEMENT EARNINGS.—Any amounts earned through the investment of funds under the control of a trustee under any trust agreement described in paragraph (4) shall not be subject to Federal income tax.

(10) INVESTMENT OF SINKING FUNDS.—Any sinking fund established for the purpose of the payment of principal on a qualified tribal school modernization bond shall be invested in obligations issued by or guaranteed by the United States or in such other assets as the Secretary of the Treasury may by regulation allow.

(c) EXPANSION OF INCENTIVES FOR TRIBAL SCHOOLS.—Chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subchapter:

"Subchapter XI—Tribal School Modernization Provisions

"Sec. 1400K. Credit to holders of qualified tribal school modernization bonds.

"SEC. 1400K. CREDIT TO HOLDERS OF QUALIFIED TRIBAL SCHOOL MODERNIZATION BONDS.

"(a) ALLOWANCE OF CREDIT.—In the case of a taxpayer who holds a qualified tribal school modernization bond on a credit allowance date of such bond which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to credit allowance dates during such year on which the taxpayer holds such bond.

"(b) AMOUNT OF CREDIT.—

"(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any credit allowance date for a qualified tribal school modernization bond is 25 percent of the annual credit determined with respect to such bond.

"(2) ANNUAL CREDIT.—The annual credit determined with respect to any qualified tribal school modernization bond is the product of—

"(A) the applicable credit rate, multiplied by

"(B) the outstanding face amount of the bond.

"(3) APPLICABLE CREDIT RATE.—For purposes of paragraph (1), the applicable credit rate with respect to an issue is the rate equal to an average market yield (as of the date of sale of the issue) on outstanding long-term corporate obligations (as determined by the Secretary).

"(4) SPECIAL RULE FOR ISSUANCE AND REDEMPTION.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed.

"(c) LIMITATION BASED ON AMOUNT OF TAX.—

"(1) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

"(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(B) the sum of the credits allowable under part IV of subchapter A (other than subpart C thereof, relating to refundable credits).

"(2) CARRYOVER OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.

"(d) QUALIFIED TRIBAL SCHOOL MODERNIZATION BOND; OTHER DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED TRIBAL SCHOOL MODERNIZATION BOND.—

"(A) IN GENERAL.—The term 'qualified tribal school modernization bond' means, subject to subparagraph (B), any bond issued as part of an issue under section 2(c) of the Indian School Construction Act, as in effect on the date of the enactment of this section, if—

"(i) 95 percent or more of the proceeds of such issue are to be used for the construction, rehabilitation, or repair of a school facility funded by the Bureau of Indian Affairs of the Department of the Interior or for the acquisition of land on which such a facility is to be constructed with part of the proceeds of such issue,

"(ii) the bond is issued by a tribe,

"(iii) the issuer designates such bond for purposes of this section, and

"(iv) the term of each bond which is part of such issue does not exceed 15 years.

"(B) NATIONAL LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

"(i) NATIONAL LIMITATION.—There is a national qualified tribal school modernization bond limitation for each calendar year. Such limitation is—

"(I) $200,000,000 for 2002,

"(II) $200,000,000 for 2003, and

"(III) zero after 2004.

"(ii) ALLOCATION OF LIMITATION.—The national qualified tribal school modernization bond limitation shall be allocated to tribes by the Secretary of the Interior subject to the provisions of section 2 of the Indian School Construction Act, as in effect on the date of the enactment of this section.

"(iii) DESIGNATION SUBJECT TO LIMITATION AMOUNT.—The maximum aggregate face amount of bonds issued during any calendar year which may be designated under subsection (d)(1) with respect to any tribe shall not exceed the limitation amount allocated to such government under clause (ii) for such calendar year.

"(iv) CARRYOVER OF UNUSED LIMITATION.—If for any calendar year—

"(I) the limitation amount under this subparagraph, exceeds

"(II) the amount of qualified tribal school modernization bonds issued during such year,

the limitation amount under this subparagraph for the following calendar year shall be increased by the amount of such excess. The preceding sentence shall not apply if such following calendar year is after 2010.

"(2) CREDIT ALLOWANCE DATE.—The term 'credit allowance date' means—

"(A) March 15,

"(B) June 15,

"(C) September 15, and

"(D) December 15.

Such term includes the last day on which the bond is outstanding.

"(3) BOND.—The term 'bond' includes any obligation.

"(4) TRIBE.—The term "tribe" has the meaning given the term "Indian tribal government" by section 7701(a)(40), including the application of section 7871(d). Such term includes any consortium of tribes approved by the Secretary of the Interior.

"(e) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to the taxpayer under this section (determined without regard to subsection (c)) and the amount so included shall be treated as interest income.

"(f) BONDS HELD BY REGULATED INVESTMENT COMPANIES.—If any qualified tribal school modernization bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

"(g) CREDITS MAY BE STRIPPED.—Under regulations prescribed by the Secretary—

"(1) IN GENERAL.—There may be a separation (including at issuance) of the ownership of a qualified tribal school modernization bond and the entitlement to the credit under this section with respect to such bond. In case of any such separation, the credit under this section shall be allowed to the person who on the credit allowance date holds the instrument evidencing the entitlement to the credit and not to the holder of the bond.

"(2) CERTAIN RULES TO APPLY.—In the case of a separation described in paragraph (1), the rules of section 1286 shall apply to the qualified tribal school modernization bond as if it were a stripped bond and to the credit under this section as if it were a stripped coupon.

"(h) TREATMENT FOR ESTIMATED TAX PURPOSES.—Solely for purposes of sections 6654 and 6655, the credit allowed by this section to a taxpayer by reason of holding a qualified tribal school modernization bonds on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.

"(i) CREDIT MAY BE TRANSFERRED.—Nothing in any law or rule of law shall be construed to limit the transferability of the credit allowed by this section through sale and repurchase agreements.

"(j) CREDIT TREATED AS ALLOWED UNDER PART IV OF SUBCHAPTER A.—For purposes of subtitle F, the credit allowed by this section shall be treated as a credit allowable under part IV of subchapter A of this chapter.

''(k) REPORTING.—Issuers of qualified tribal school modernization bonds shall submit reports similar to the reports required under section 149(e).''.

(d) ADDITIONAL PROVISIONS.—

(1) SOVEREIGN IMMUNITY.—This section and the amendments made by this section shall not be construed to impact, limit, or affect the sovereign immunity of the Federal Government or any State or tribal government.

(2) APPLICATION.—This section and the amendments made by this section shall take effect on the date of the enactment of this Act with respect to bonds issued after December 31, 2001, regardless of the status of regulations promulgated thereunder.

By Mrs. FEINSTEIN (for herself, Mr. HELMS, Mr. BROWNBACK, Mr. LEAHY, Mr. REID, Mr. NELSON of Nebraska, Mrs. CLINTON, Mr. DODD, Mr. BAUCUS, Mrs. BOXER, Mr. BYRD, and Mr. CARPER):

S. 244. A bill to provide for United States policy toward Libya; to the Committee on Foreign Relations.

Mrs. FEINSTEIN. Mr. President, yesterday a Scottish court, meeting in the Netherlands, convicted Abdel Basset Ali Megrahi for the 1988 bombing of Pan American flight 103 over Lockerbie, Scotland. That court sentenced him to life in prison. Two-hundred seven people, including 189 Americans, lost their lives in this barbaric act.

In addition, the court conclusively tied the planning and execution of the bombing to Libya and Libya intelligence.

While no verdict could have fully comforted the families of the victims, eased their anguish, or removed the haunting images from their minds, they can take some solace in the fact that guilt has now been established. I would like to personally thank the families of the victims for their hard work, for their dedication, and for the unyielding determination to ensure that their loved ones did not die in vain. The international community truly owes them a debt of gratitude.

Nevertheless, the quest for justice is not over. Now some have suggested the verdict brings the matter to a close, and at the sanctions in place since 1992 should now be lifted. We, however, believe that would be a serious mistake and an insult to the victims and their families. U.N. Resolutions have required Libya to pay compensation to the families of the victims of Pan Am 103 if a guilty verdict is rendered, and, second, to officially end support for international terrorism before the multilateral sanctions can permanently be lifted.

A formal lifting of the sanctions now would send Libya the wrong signal. It would indicate that the international community has absolved Libya of its role in the bombing, a role, to repeat, clearly established by the Scottish court. It would say that Libya should be accepted back into the community of responsible nations. It would bestow upon Colonel Qadhafi's regime a respect and credibility it seeks but has not earned.

The United States must press Libya to publicly accept its role in the bombing of Pan Am Flight 103, issue an apology, and compensate the victims' families.

Consequently, today we are introducing the Justice for the Victims of Pan Am 103 Act of 2001. This legislation is cosponsored by Senators HELMS, BROWNBACK, LEAHY, REID of Nevada, NELSON of Nebraska, CLINTON, DODD, BAUCUS, BOXER, BYRD, and CARPER.

The legislation states that it shall be the policy of the United States to oppose lifting U.N. and U.S. sanctions against Libya until all cases of American victims of Libyan terrorism have been resolved; the Government of Libya has accepted responsibility, has issued an apology, has paid compensation to the victims' families of Pan Am 103; and has taken real and concrete steps to end support of international terrorism; and the legislation would prohibit assistance to the Government of Libya until the President determines and certifies that Libya has fulfilled the above requirements.

In addition, the legislation expresses the sense of the Senate that the Government of Libya should be condemned for its support of international terrorism and the bombing of Pan Am 103.

Second, the Government of Libya should accept responsibility for the bombing, issue a public apology, and provide due compensation.

Finally, the President, the Secretary of State, and other U.S. officials should encourage other countries and the United Nations to maintain sanctions against Libya until it fulfills the above requirements. Until Libya accepts responsibility for its actions, apologizes, and ends its support for international terrorism, the United States should leave and will leave no stone unturned in the quest for justice.

We owe the victims of Pan Am 103 no less.

Mr. President, I yield the floor.

ADDITIONAL COSPONSORS

S. 22

At the request of Mr. HAGEL, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 22, a bill to amend the Federal Election Campaign Act of 1971 to provide meaningful campaign finance reform through requiring better reporting, decreasing the role of soft money, and increasing individual contribution limits, and for other purposes.

S. 29

At the request of Mr. BOND, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 29, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for 100 percent of the health insurance costs of self-employed individuals.

S. 37

At the request of Mr. LUGAR, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 37, a bill to amend the Internal Revenue Code of 1986 to provide for a charitable deduction for contributions of food inventory.

S. 88

At the request of Mr. ROCKEFELLER, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 88, a bill to amend the Internal Revenue Code of 1986 to provide an incentive to ensure that all Americans gain timely and equitable access to the Internet over current and future generations of broadband capability.

S. 104

At the request of Ms. SNOWE, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 104, a bill to require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans.

S. 120

At the request of Mrs. FEINSTEIN, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 120, a bill to establish a demonstration project to increase teacher salaries and employee benefits for teachers who enter into contracts with local educational agencies to serve as master teachers.

S. 127

At the request of Mr. MCCAIN, the names of the Senator from South Carolina (Mr. THURMOND) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. 127, a bill to give American companies, American workers, and American ports the opportunity to compete in the United States cruise market.

S. 143

At the request of Mr. GRAMM, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 143, a bill to amend the Securities Act of 1933 and the Securities Exchange Act of 1934, to reduce securities fees in excess of those required to fund the operations of the Securities and Exchange Commission, to adjust compensation provisions for employees of the Commission, and for other purposes.

S. 174

At the request of Mr. KERRY, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 174, a bill to amend the Small Business Act with respect to the microloan program, and for other purposes.

S. 177

At the request of Mr. AKAKA, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 177, a bill to amend the provisions of title 19, United States Code, relating to the manner in which pay policies and schedules and fringe benefit programs for postmasters are established.

S. 189

At the request of Mr. BOND, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 189, a bill to amend the Internal

Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes.

S. 231

At the request of Mr. CAMPBELL, the names of the Senator from Iowa (Mr. GRASSLEY), the Senator from Hawaii (Mr. AKAKA), and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. 231, a bill to amend the Elementary and Secondary Education Act of 1965 to ensure that seniors are given an opportunity to serve as mentors, tutors, and volunteers for certain programs.

SENATE CONCURRENT RESOLUTION 7—EXPRESSING THE SENSE OF CONGRESS THAT THE UNITED STATES SHOULD ESTABLISH AN INTERNATIONAL EDUCATION POLICY TO ENHANCE NATIONAL SECURITY AND SIGNIFICANTLY FURTHER UNITED STATES FOREIGN POLICY AND GLOBAL COMPETITIVENESS.

Mr. KERRY (for himself, Mr. LEVIN, Mr. REID, Mr. GRAHAM, and Mr. WELLSTONE) submitted the following concurrent reslution; which was referred to the Committee on Foreign Relations.

S. CON. RES. 7

Whereas educating international students is an important way to spread United States values and influence and to create goodwill for the United States throughout the world;

Whereas international exchange programs, that in the past have done much to extend United States influence in the world by educating the world's leaders, are suffering from decline;

Whereas international education is important to meet future challenges facing the United States including challenges involving national security and the management of global conflict and competitiveness in a global economy;

Whereas international education entails the imparting of effective global literacy to United States students and other citizens as an integral part of their education;

Whereas more than 500,000 international students and their dependents contributed an estimated $12,300,000,000 to the United States economy in the academic year 1999-2000;

Whereas other countries, especially the United Kingdom, are mounting vigorous recruitment campaigns to compete for international students;

Whereas United States competitiveness in the international student market is declining, the United States share of internationally mobile students having declined from 40 percent to 30 percent since 1982;

Whereas less than 10 percent of United States students graduating from college have studied abroad; and

Whereas research indicates that the United States is failing to graduate enough students with expertise in foreign languages and cultures to fill the demands of business, government, and universities: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. SENSE OF CONGRESS ON THE ESTABLISHMENT OF AN INTERNATIONAL EDUCATION POLICY FOR THE UNITED STATES.

It is the sense of Congress that the United States should establish an international education policy to enhance national security and significantly further United States foreign policy and global competitiveness.

SEC. 2. OBJECTIVES OF AN INTERNATIONAL EDUCATION POLICY FOR THE UNITED STATES.

An international education policy for the United States should strive to achieve the following:

(1) Invigorate citizen and professional international exchange programs and to promote the international exchange of scholars.

(2) Streamline visa, taxation, and employment regulations applicable to international students.

(3) Significantly increase participation in study abroad by United States students.

(4) Promote greater diversity of locations, languages, and subjects involved in study abroad to ensure that the United States maintains an adequate international knowledge base.

(5) Ensure that a college graduate has knowledge of a second language and of a foreign area.

(6) Enhance the educational infrastructure through which the United States produces international expertise.

(7) Capture 40 percent of the international student market for the United States.

Mr. KERRY. Mr. President, today I am honored to be joined by Senators LUGAR, LEVIN, REID, WELLSTONE, and GRAHAM in introducing a resolution focused on the important issue of international education. My colleagues and I strongly believe that the United States should continue to build a vigorous international education policy. Former Secretary of Education Richard Riley has noted that nations across the world are keen on fostering greater faculty and student exchanges and suggested a series of new steps to re-energize the cause of international education in the United States. The conference report of the FY01 Commerce, Justice, State Appropriations bill included language recognizing that international education is a foreign policy priority. On November 11–17, 2000, campuses and schools across the country celebrated the first-ever International Education Week, recognized by Presidential Proclamation. I hope that this resolution will build on these efforts to preserve and extend a proud tradition of support for U.S. international education programs that dates back almost a half century.

Providing an excellent education to America's children has always been vital in preserving U.S. leadership abroad. During the cold war, we demonstrated democracy's strength by winning the space race, by possessing superior scientific knowledge, and by understanding the languages, cultures and history of regions where the defense of liberty and freedom was paramount. In 1958, in response to the launch of Sputnik by the Soviet Union, the Congress enacted the National Defense Education Act as a major tool of cold war policy. The NDEA focused on improving the teaching of science and math education, history, geography and foreign languages in all levels of education. The National Defense Education Act provided capital funds to colleges and universities so that they could make low-interest loans to students.

Today more than ever, in an environment of intense global economic, scientific and technological competition, a national education policy is crucial to America's leadership in the world. I believe that we need a new national defense education policy that focuses on foreign languages and the history and cultures in other parts of the world, because we can not lead in a world we do not understand. Unfortunately, we are once again falling behind when it comes to providing our children the tools they need to compete on the global stage.

Less than one-tenth of graduating American college students have studied abroad. The reality of the global economy dictates that we cannot allow this rate to stand. In order for graduates to be effective in the increasingly international business community, they must better understand the world. Secretary Richard Riley put it well last year when he argued that ''college students [should] expect their education to give them a diverse global perspective that enriches their learning. More and more, international education will become the norm, not the exception, and students will routinely study abroad and know multiple languages.''

Of course, international education works both ways. The resolution we are introducing today also recognizes the intrinsic value of bringing international students to study in this country. Today, the percentage of science and engineering doctoral recipients from abroad is declining. We must reverse this trend, because international students working in our universities make a valuable contribution to the research and study of their American counterparts and an invaluable contribution to global peace and stability when they return to their home nations imbued with all the possibilities democracy has to offer.

Mr. LUGAR. Mr. President, I rise to introduce a resolution expressing the need for establishing an international education policy for the United States. I am pleased to join Senator KERRY and other colleagues from both sides of the aisle in this endeavor.

Ask any American Ambassador in any U.S. Embassy what their most valuable programs are and many will respond by citing those programs which promote international cooperation and understanding. Educational and cultural exchanges typically rank high on their list because they are integral to our foreign policy and national security interests and build enormous good will abroad.

Our resolution reflects the same priority to international education. It expresses the need for an international education policy that enhances our national security, advances our foreign policy and strengthens our global competitiveness.

Our resolution states: 1. That all college graduates should have knowledge

of a second language and another geographic area of the world; 2. That we should enhance and streamline our educational infrastructure to strengthen international expertise—this should include our employment practices, our tax laws, visa and immigration procedures, educational advising and other areas for improving international education programs; 3. That we should increase U.S. student participation in study abroad programs. For now, only about one percent of our college population study abroad; 4. That we should increase the diversity of countries, languages, and subjects in our study abroad and exchange programs; and 5. We should promote and expand the number, diversity and educational levels of citizen and international professional exchange programs.

We are introducing this resolution because we believe that improved international education and global literacy are important elements of a sound foreign policy. They help: build a foundation of trust and knowledge on which the conduct of international affairs must take place; narrow the distance with other cultures and societies with whom we increasingly interact and share burdens; our competitiveness in international commerce and trade in an increasingly global economy—95 percent of the world's population live outside the United States and are potential customers and knowing the language, the culture, and the customs of other countries helps improve doing business abroad; develop skills to manage our political relations with other countries as we address diverse challenges to stability, national security and economic growth; and in sharing our values (e.g., democracy and freedom) and know-how with others and to acquire values and know-how from others.

We know that international cultural and educational programs played a key role in helping to end the cold war and build the post-Cold War era through interpersonal contacts, grass-roots exchanges and other forms of international engagement.

Success in promoting international education programs today and in the future will help promote democratic values and international cooperation. They can serve to reduce poverty and injustice and promote new leaders and new leadership skills in the U.S. and abroad that are essential to a better world.

Forty-six years ago, I traveled to study at Oxford University, England, where I had the unique opportunity to meet and study with student leaders and scholars from Asia, Africa, the Middle East, and other parts of the world. Those two years made a difference in my life and I have been indebted ever since to the experiences and the idealism I learned at the time.

I hope colleagues will share our enthusiasm for international education and will join us in urging the development of a sound, cohesive and constructive international education policy for the United States.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mrs. FEINSTEN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, February 1, 2001 at 9:30 am on the American TWA merger.

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

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, RESTRUCTURING AND THE DISTRICT OF COLUMBIA

Mrs. FEINSTEN. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs Subcommittee on Oversight of Government Management, Restructuring and the District of Columbia be authorized to meet on Thursday, February 1, at 10:30 a.m. for a hearing entitled ''High-Risk: Human Capital in the Federal Government.''

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

PRIVILEGE OF THE FLOOR

Mr. WELLSTONE. Mr. President, I ask unanimous consent that Jay Barth, who is a fellow in my office, be allowed to have privileges of the floor during the duration of this debate up to the final vote.

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

Mr. WELLSTONE. I thank Jay Barth for all of his help in our office.

ORDER FOR ADJOURNMENT

The PRESIDING OFFICER. In my capacity as the Senator from the State of Illinois, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order, following the remarks by the Senator from California, Mrs. FEINSTEIN.

Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. I thank the Chair.

(The remarks of Mrs. FEINSTEIN pertaining to the introduction of S. 244 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

ADJOURNMENT UNTIL 10 A.M. MONDAY, FEBRUARY 5, 2001

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 10 a.m. Monday, February 5, 2001, for a pro forma session only.

Thereupon, the Senate, at 2:53 p.m., adjourned until Monday, February 5, 2001, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate February 1, 2001:

DEPARTMENT OF STATE

PAUL HENRY O'NEILL, OF PENNSYLVANIA, TO BE UNITED STATES GOVERNOR OF THE INTERNATIONAL MONETARY FUND FOR A TERM OF FIVE YEARS; UNITED STATES GOVERNOR OF THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT FOR A TERM OF FIVE YEARS; UNITED STATES GOVERNOR OF THE INTER-AMERICAN DEVELOPMENT BANK FOR A TERM OF FIVE YEARS; UNITED STATES GOVERNOR OF THE AFRICAN DEVELOPMENT BANK FOR A TERM OF FIVE YEARS; UNITED STATES GOVERNOR OF THE ASIAN DEVELOPMENT BANK; UNITED STATES GOVERNOR OF THE AFRICAN DEVELOPMENT FUND; UNITED STATES GOVERNOR OF THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT.

FOREIGN SERVICE

THE FOLLOWING-NAMED CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE DEPARTMENT OF AGRICULTURE FOR PROMOTION WITHIN THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

JAMES D. GRUEFF, OF MARYLAND

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENT OF AGRICULTURE FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

SUZANNE E. HEINEN, OF MICHIGAN
ROBIN A. TILSWORTH, OF VIRGINIA
GEOFFREY W. WIGGIN, OF VIRGINIA

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR, AND CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

PETER FERNANDEZ, OF NEW YORK
JOHN S. NICHOLS, OF MARYLAND
RALPH IWAMOTO, JR., OF HAWAII

THE FOLLOWING-NAMED PERSONS OF THE DEPARTMENT OF STATE FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASS STATED:

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS ONE, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, EFFECTIVE JANUARY 14, 2001:

DEPARTMENT OF STATE

AN THANH LE, OF FLORIDA
JOSEPH T. ZUCCARINI, OF FLORIDA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS THREE, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, EFFECTIVE JANUARY 14, 2001

DEPARTMENT OF STATE

DANIEL T. FROATS, OF CALIFORNIA
MICHAEL ANDREW ORDONEZ, OF WASHINGTON
GAVIN ALEXANDER SUNDWALL, OF NORTH CAROLINA
DAVID MICHAEL ZIMOV, OF OHIO

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS FOUR, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, EFFECTIVE JANUARY 14, 2001:

DEPARTMENT OF STATE

ABIGAIL KESSLER ARONSON, OF NEW JERSEY
ERIN C. BRANDT, OF MICHIGAN
DON L. BROWN, OF TEXAS
LINDA ELISA DAETWYLER, OF CALIFORNIA
PAUL GRADY DEGLER, OF TEXAS
CHERYL L. EICHORN, OF VIRGINIA
JOSHUA D. GLAZEROFF, OF NEW YORK
JOHN J. HILL, OF ALASKA
MICHELLE MARIE HOPKINS, OF CALIFORNIA
GEORGE W. LYNN, OF VIRGINIA
DOUGLAS L. PADGET, OF VIRGINIA
REBECCA ANN PASINI, OF INDIANA
TROY ERIC PEDERSON, OF VIRGINIA
SCOTT MICHAEL RENNER, OF COLORADO
JOHN C. ROBERTS, OF MISSISSIPPI
ABIGAIL ELIZABETH RUPP, OF VIRGINIA
AMY WING SCHEDLBAUER, OF TEXAS

CONFIRMATION

Executive nomination confirmed by the Senate February 1, 2001:

DEPARTMENT OF JUSTICE

JOHN ASHCROFT, OF MISSOURI, TO BE ATTORNEY GENERAL.