United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 107th CONGRESS, FIRST SESSION

Vol. 147 WASHINGTON, THURSDAY, FEBRUARY 1, 2001 No. 14

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.

Printed on recycled paper.

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 pennyante—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 hardline 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 Godfearing 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 color-blind? 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 anti-gun 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