address other judgeship nominees who had previously been voted on a number of times. So we have been diverted off the track of the Energy bill by these judicial nominees, not of our doing but because of the scheduling which the other side has undertaken.

I know our assistant leader has been concerned about that as well, if I am not mistaken, in that regard. Is that not correct?

Mr. KENNEDY. The Senator is correct. As the Senator remembers, I think those votes were in the late morning and even interrupted committee work at that time, which many of us were involved in, let alone the consideration of the Energy bill.

Mr. SARBANES. I thank the Senator.

Mr. KENNEDY. I thank the Senator from Maryland.

The PRESIDING OFFICER. The Senator from Massachusetts.

NOMINATIONS

Mr. KENNEDY. Mr. President, contrary to the widespread impression of a partisan breakdown in the judicial nomination process, Democrats in this closely divided Senate have, in fact, tried our best to cooperate with the President on judicial nominations. We have largely succeeded, even though there are a handful of nominees who we believe are too extreme.

Since President Bush's inauguration, the Senate has confirmed 140 of his nominees and so far blocked only 2. We have said ''no'' in those cases partly because these few nominees were too extreme for lifetime judicial appointments and partly because the White House and the Senate majority have tried to jam the nominations through the Senate without respect for the Senate's advice and consent role under the Constitution and without respect for the Senate rules and traditions.

The nomination of Mr. Pryor illustrates all of these issues. Even his advocates concede that his attitudes and beliefs are the very extreme of legal thinking. I am confident that when the Members of the Senate and the public fully understand and consider his prejudices and attitudes, a majority of the Senate, with the strong support of the public, will agree that he does not merit confirmation to a lifetime seat on an appellate court that often has the last word on vital issues, not only for the 4½ million people of Alabama but also for the 8 million people of Georgia and the 15 million people of Florida. In fact, this nomination does not belong on the Senate floor at this time.

The Pryor nomination was reported out of the committee as a result of a gross violation of the same committee rule of procedure which caused the Cook and Roberts nominations to be held up in the Senate floor earlier this year. The Judiciary Committee has a rule which clearly prevents the termination of debate on a nominee unless a majority of the committee, including at least one member of the minority, is ready to vote on the nominee.

This rule, Rule 4, was adopted at the insistence of Senator HATCH, Senator Thurmond, and other Republicans in 1979, when I was chairman of the Judiciary Committee, as a reasonable protection for the minority. After the rule was ignored in the Cook and Roberts case, we thought we had resolved this matter amicably and equitably. Both nominees were later confirmed based on a clear understanding that Democrats would not in the future be deprived of their rule 4 rights.

After all, these rules were put in place at the start of this Congress, with the support of the Republican chairman of the committee, and now we have seen a blatant and flagrant disregard, which is not just an issue of procedure but affects the substance of this issue in a very important way.

Just as important is the reason why Democrats were unwilling to vote on this nomination in the committee. The reporting of this nomination was totally premature because the committee was forced to move to a vote in the midst of a serious investigation of substantive questions of candor and ethics raised at the hearing by the nominee's own testimony, by his answers and non-answers to the committee's followup questions.

On Friday, Chairman HATCH presented a version of the history of this nomination and this investigation which does not comport with the facts. I want to go through that history so the Senate can fully understand that Democrats have proceeded expeditiously and responsibly and that the rush to judgment in the committee last week was an effort to cut off an important investigation. The full Senate deserves to know its result before it considers this nomination.

The basic facts on this issue are straightforward. Democrats did not invent the issue. Years before this nomination, lengthy articles in Texas and DC newspapers raised the question of the propriety of the activities of the Republican Attorneys General Association.

It was reported that the organization sought campaign contributions to support the election of Republican attorneys general because they would be less aggressive than Democratic attorneys general in challenging business interests for violations of the law. Some descriptions of this effort characterize it as a shakedown scheme. The leaders of the association denied the allegation but refused to disclose its contributors. They were able to maintain secrecy by funneling the contributions through an account at the Republican National Committee that aggregated various kinds of State campaign contributions, thus avoiding separate public reporting of the contributions or the amount of these gifts. The issue received significant press coverage during the 2002 U.S. Senate campaign in Texas especially since several Republican attorneys general have denounced the association as fraught with ethical problems.

Since Mr. Pryor had been identified publicly as a leader of the association's efforts and the ethical issues raised by it, these issues are obviously relevant to his qualifications. Senator FEINGOLD asked the nominee about it at the June 11 hearing. Until this point in the hearing, Mr. Pryor was, in Senator HATCH's own words, ''no shrinking violet.'' He had been open and honest about his personal beliefs and ideological views. He did not retreat a single step or hedge his opinions. Nor were there any ''confirmation conversions'' taking new views, contradicting old ones. Mr. PRYOR was a model of outspokenness, with clear recollections of the details of briefs, legal opinions, speeches, and other complex legal issues.

Only on the issue of the Republicans Attorney General Association were his statements cramped and fudged, his recollections virtually nil. His answers were unresponsive and incomplete. They raise serious questions about his candor and truthfulness. He was asked a broad question reciting the allegations against the association. He was asked whether, if the allegations of soliciting contributions from potential target corporations are true, his own role in the association would present at least an appearance of conflict of interest. His answer was what would have been called a ''nondenial denial'' in the Watergate days. He said the contributions were made to the Republican National Committee, not to the association. He said that ''every one of these contributions, every penny, was disclosed [by the Republican National Committee] every month.''

The association's own materials show that its contributions were being given to the association and that the writing of checks to an aggregated account of the Republican National Committee was merely a way to use a reporting loophole to mask the association's contributions and the amounts of their gifts.

Even more startling, Mr. Pryor's assertion that every penny of the contributions was disclosed by the Republican National Committee was a clear misrepresentation. The fact is, the association and its members have explicitly refused to disclose the contributions. Republican National Committee reports did not mention any association funds, let alone every penny. Mr. Pryor's statement raised a giant red flag.

Senator FEINGOLD immediately told the nominee there would be followup on this issue in written questions. On June 17, Senator FEINGOLD and I both asked the followup questions. We gave him an opportunity to review the previous answers and make them more responsive. He refused. He said: ''I stand by them.'' We asked about other details of the association's operation and his specific role in it. Once again, his

answers were unresponsive and silent on key facts.

This careful lawyer could remember the most esoteric details of complex legal cases going back many years but could not remember a single company or person he himself had solicited for the association. He could not recall whether any of the leading tobacco or other companies identified by the President were contributors. He could not remember the name of a single association member or contributor or whether he had ever personally received any of the campaign funds.

Typical was this question and answer: I asked, ''To the extent that the RAGA designated system funds were transmitted to or through another entity, did that entity disclose publicly the funds raised by or for RAGA?''

His answer was a non-answer: ''To my knowledge, RAGA complied with all the applicable campaign laws and its operations.

He later said, ''I never solicited for RAGA a contribution from any person who has been the subject of an investigation or legal action of my office.'' He refused to say whether someone else on behalf of the association had made such solicitations. He refused to say whether contributions came from companies his office might have investigated, but did not.

These issues that were raised about the telephone companies, about the calls, about the meetings, about the breakfast meetings, who was there, have all been left open. There is strong evidence that is in conflict with what the nominee has presented. This is part of the committee's work in terms of the future, to get to the bottom of this, in fairness to the nominee and so that the Senate will be able to make its judgment.

Senator HATCH's floor statement made much of the number of times the Pryor nomination appeared on the committee's agenda. In fact, the Pryor nomination was on the agenda for June 19 but the listing was obviously premature since the answers to our questions had not even arrived. The answers were received on June 25. Again, Pryor was placed on the agenda for the next day, but before any of us had a chance to examine his intricate web of answers, partial answers and non-answers. The nomination was obviously not even close to ready for consideration. Even our first look at the answers made clear there would have to be further investigation, more followup questions. Even Senator HATCH realized proceeding the next day would be inappropriate.

By this time, Pryor's statements had been widely reported and had come to the attention of many people who knew the facts and some who might cast light on the facts that Mr. Pryor could not recall. On July 2, during the Fourth of July recess, just before the long holiday weekend, extensive new material from one such source arrived at the minority office in the committee. After a brief initial review to assess the authenticity and relevance, the material was turned over to the majority staff when the Senate returned from the recess. At the same time, the chairman's staff was fully briefed about the process by which the materials had reached the committee.

Then, contrary to the chairman's floor assertion, a bipartisan group of investigators questioned the source of material in detail. No question was raised about the authenticity of the materials. On the contrary, when the joint staff shortly thereafter interviewed the author of the document, she confirmed the source had full access to them.

The material was then distributed by each side to each member. After reviewing the documents, the minority requested that a bipartisan investigation be conducted. That investigation was to begin July 15, with calls to the association's former finance director and executive director. Until then, not a single document had been disseminated outside the committee.

However, on that day, the majority gave the documents to the nominee and to the Justice Department. Someone on the Republican side gave them to a strongly pro Pryor columnist on the Mobile Register newspaper. The columnist called the former finance director, a close Pryor ally and former campaign director. That call was made before the investigators could reach her, warning her that she could expect a call from the committee staff. Although the call to her did produce some useful information, it also marked the beginning of a consistent effort by the majority investigators to interfere with the investigation.

After the interviewee stated that she might well have the files of the association, the Democratic investigator requested she provide them to the committee. The Republican investigator told her not to comply with the request and not even to comply with the request to at least begin searching for association materials in her possession.

The Mobile Register columnist disclosed and discussed the documents on July 16, and others in the press wrote about them on the 17th. The committee had a brief discussion of the documents on the 17th with the expectation that the just started investigation would continue on a bipartisan basis in accordance with an investigative plan provided to the majority.

However, at that point, the Republican investigative staff began informing the interviewees that the calls to them were not part of an official committee investigation, implying that they did not have to cooperate.

Between July 17 and July 23, many calls were made in accordance with the plan. Many of these calls did not reach the parties called.

By the time of the committee's meeting scheduled for July 23rd, the investigators had just begun accumulating significant information in accordance with the investigation plan. The day before the meeting, all nine Democrats, having considered the information available up to that point, wrote to the chairman and informed him that the investigation was producing serious and disturbing information, that it would require substantial addition time, that his investigators were interfering with it, and that after it was complete, we would want to question the nominee under oath.

The Republican staff had offered interviews with the nominee before that time, but the Democratic investigators had declined to participate until the basic investigative work had been done, and in any event, the Democratic members wanted to question the nominee in person under oath at the appropriate time.

At the meeting on July 23, the chairman rejected the minority's request out of hand. He insisted on a vote on the nomination without completion of the investigation and without further questioning of the nominee under oath. That was the situation when Senator LEAHY invoked the committee's Rule IV to prevent a premature vote on the nomination. The chairman refused to follow Rule 4 and insisted on an immediate vote.

The nine Democrats on the committee voted against reporting the nomination, and the 10 Republicans voted to report it, with one member of the majority noting that his vote to report did not mean he would necessarily vote for the nominee on the floor. He also noted that he would want to review the results of the investigation with the nominee before any floor vote.

Despite the lack of co-operation from the majority staff, the investigation has continued. It has developed new information which expands both the scope and the gravity of the original concerns. It tends to show not only that the nominee was not candid with the committee, but that his statements may have been intended to obscure facts that would raise extremely serious ethical or legal questions about the nominee's activities.

I raise these points because the chairman has suggested that these issues are not serious. They are very, very serious. I do not know how it will ultimately come out after the investigation is complete, but as I said in committee, the nomination comes to the floor with a ticking ethical time bomb which might explode at any moment.

There is no doubt that this nomination is not ripe for a vote of the full Senate. The committee majority was not willing to finish its job before reporting the nomination to the Senate. But that is no reason for the Senate to allow the nomination to be voted on, before these matters are thoroughly reviewed, and the nominee has responded.

On the issue of the merits, Mr. Pryor is simply too ideological to serve as a Federal court judge. The concern is not

simply that Mr. Pryor is a conservative. The question is not whether all of us agree with his views. Mr. Pryor's litigation positions, public statements and his writings leave little doubt that he is committed to using the law not simply to advance a ''conservative'' agenda, but a narrow and extreme, ideological agenda.

Mr. Pryor's record is clear. He is an aggressive supporter of rolling back the power of Congress to remedy violations of civil rights; he is a vigorous opponent of the constitutional right to privacy and a woman's right to choose; he is an aggressive advocate of the death penalty, even for individuals who are mentally retarded. He is contemptuously dismissive of claims of racial bias in the application of the death penalty. He is an ardent opponent of gay rights.

More than just disagreeing with much of the Supreme Court's jurisprudence over the last 50 years on issues such as privacy, the death penalty, criminal justice, and the separation of church and state, Mr. Pryor has dedicated his advocacy and litigation to rolling back widely accepted legal principles and laws. What we know about Mr. Pryor leaves little doubt that he will try to advance that agenda if he's confirmed as a Federal judge.

At his hearing and in answers to written questions, Mr. Pryor, for the most part, adhered to his past, extreme, views. He did not renounce his view that the Supreme Court's decisions in Miranda v. Arizona and Roe v. Wade were the worst examples of judicial activism or that the Roe decision was an abomination. What are we expected to believe? That despite the intensity with which he holds these views and the years he has devoted to dismantling these legal rights, he will still ''follow the law'' if he is confirmed to the Eleventh Circuit? Repeating that mantra again and again in the face of his extreme record does not make it credible that he will do so.

We know the cases that Mr. Pryor has won at the Supreme Court to narrow Federal rights, and the effect of these cases on the lives of disabled workers—of breast cancer victims like Patricia Garrett—and of the many older workers who face discrimination by State agencies.

Mr. Pryor's agenda is more far-reaching. He has consistently advocated views to narrow individual rights far beyond what any court in this land has been willing to hold.

Just this term, his radical views were rejected by the Supreme Court. In its recent term, the Supreme Court rejected his argument that States could not be sued for money damages for violating the Family and Medical Leave Act. The Court rejected his argument that States should be able to criminalize private sexual conduct between consenting adults. The Court also rejected his far-reaching argument that counties should have the same immunity from lawsuits that States have.

What is more disturbing, Mr. Pryor has plans for narrowing Federal power far beyond the Supreme Court's current case law. The Supreme Court has held that Congress has broad power under the spending clause, but Mr. Pryor's agenda would restrict Congress's power under that clause. He has praised a district court's decision to limit the ability of individuals to enforce spending clause statutes. That decision would have reversed more than 60 years of Supreme Court precedents, and it was rejected unanimously by the Sixth Circuit. Seventy-five constitutional law scholars had joined a brief opposing the decision. Yet, Mr. Pryor said that the District Court decision was ''sublime'' and ''brilliant.''

He has even argued in a race discrimination case that Alabama should not be subject to a lawsuit under title VII of the Civil Rights Act of 1964. That argument was unanimously rejected by the Eleventh Circuit, because it would have reversed decades of settled Supreme Court law. It shows how far he would go—trying even to limit Federal power to address race discrimination under the 14th amendment, even though combating race discrimination is the amendment's very purpose.

These examples rebut the notion, repeatedly urged by Mr. Pryor's supporters, that Mr. Pryor is simply ''following the law'' or that his views are within the mainstream. Again and again his statements and litigation positions make clear that his agenda to ''make the law'', and again and again his radical views to change decades of Supreme Court jurisprudence are rejected by the Federal courts.

Mr. Pryor even seems to resist the application of Supreme Court decisions with which he disagrees. In 2002, Mr. Pryor authored a friend-of-the-court brief to the Supreme Court arguing that it did not violate the eighth amendment to execute people who are mentally retarded. The Court rejected his argument by a 6 to 3 vote in Atkins v. Virginia. Yet this past May, Mr. Pryor attempted to prevent a prisoner with an IQ of 65—and whom even the prosecution had noted was mentally retarded—from raising a claim under Atkins. The Eleventh Circuit unanimously rejected Mr. Pryor's arguments, and stayed the execution of the Alabama prisoner.

Do you call that mainstream? Judicial mainstream?

Mr. Pryor does not simply advocate these views in public life. He has used his position as Attorney General to advance his own ideolgical agenda. His State was one of only three States to submit an amicus brief in support of Texas in the Lawrence case on gay rights. His restrictive view of the constitutional right of privacy and his argument that States should be allowed to criminalize homosexual activity were rejected by the Supreme Court in its decision last month.

He was the only State attorney general—with 37 on the other side—to submit an amicus brief opposing the remedy in the Violence Against Women Act. He was the only attorney general to argue to the Supreme Court that Congress has no power to make provisions of the Clean Water Act enforceable against the States.

Do we understand now? He was the only State attorney general, with 37 on the other side, to submit an amicus brief opposing the remedy in the Violence Against Women Act; the only attorney general to argue to the Supreme Court that Congress has no power to make provisions of the Clean Water Act enforceable against the State. He had ridiculed the Supreme Court of the United States for granting a temporary stay of execution of a prisoner in a capital case who even the prosecution had noted was mentally retarded. The Eleventh Circuit unanimously rejected his arguments and stayed the execution of the Alabama prisoner, and the proponents of this nominee say he is in the mainstream? The mainstream of thinking?

Mr. Pryor has vigorously opposed gun control laws. He says the victims of violence who sue gun dealers or manufacturers failing to follow the Federal law are ''leftist bounty hunters.''

He filed an amicus brief for the State of Alabama opposing a law limiting possession of firearms.

In this case, a Federal district court judge dismissed an indictment against a man in Texas who had possessed a firearm while under a restraining order for domestic violence, in violation of Federal law. The judge ruled that the law violated the second amendment. Alabama was the only State to file an amicus brief in the Fifth Circuit. The brief broadly argued that the Federal Government's interpretation of the statute was so broad that it constituted a ''sweeping and arbitrary infringement on the second amendment right to keep and bear arms.''

Mr. Pryor's argument went far beyond what the Fifth Circuit or any other court has held. The concern is that here again Mr. Pryor was using the attorney general's office in Alabama to advance his own personal ideological agenda in a Texas case, and that he will continue this mission if his nomination is confirmed.

What he was trying to intervene on was the fact that you have a law that restricts the ability for someone to bear an arm who is under a restraining order for domestic violence. Do we understand this? State law has said people who are under restraining orders for domestic violence should not bear arms. Attorney General Pryor is saying, ''Wait a minute. That violates the second amendment.'' And we are saying that this is in the mainstream of judicial thinking? A State law says that when you have domestic violence and an individual is under a restraining order, that individual can't bear arms. He is trying to override it and you say that is in the mainstream?

Mr. Pryor has ridiculed the Supreme Court of the United States for granting a temporary stay of execution in a capital punishment case. Alabama is one of only two States in the Nation that uses the electric chair as its sole method of execution. The Court granted review to determine whether the use of the electric chair was cruel and unusual punishment. For Mr. Pryor, however, the Court should not have even paused to consider this eighth amendment question.

Listen to this. He stated that the issue ''should not be decided by nine octogenarian lawyers who happen to sit on the Supreme Court.''

He stated that the issue ''should not be decided by nine octogenarian lawyers who happen to sit on the Supreme Court'' of the United States.

Talk about respect for the law and respect for the Supreme Court. All of us know that the courts may support our views at times. We may differ with the other courts. We just saw this in recent times when they made a decision on the outcome of an election. Many had concerns about it. It was supported by the American people because of the great respect that we have for the Supreme Court. And he is talking about ''nine octogenarian lawyers who happen to sit on the Supreme Court.''

Mr. Pryor's many inflammatory statements suggest that he lacks the temperament to serve as a judge. He is dismissive of concerns about fairness and racial bias in capital punishment. He has stated: ''make no mistake about it, the death penalty moratorium movement is headed by an activist minority with little concern for what is really going on in our criminal justice system.''

Many of his statements reflect an alarmingly politicized view of the judiciary—hardly appropriate for someone who wants to serve as a Federal judge. In a speech to the Federalist Society, he praised the election of George Bush as the ''last best hope for federalism'' and ended his speech with these words a ''prayer for the next administration: Please God, no more Souters.''

That is obviously a derogatory remark about a very distinguished jurist, Justice Souter.

He was thankful for the Bush v. Gore decision because, as he said, ''I wanted Governor Bush to have a full appreciation of the judiciary and judicial selection so we can have no more appointments like Justice Souter.''

I hope that his nomination will be rejected.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, is the Senator from New Mexico recognized?

The PRESIDING OFFICER. Yes, the Senator is recognized.

Mr. DOMENICI. Madam President, I conferred with the majority leader, and he is thinking about the situation we are in. I would like to chat for a little bit as one who greatly appreciates the Senate, the committees, and the jobs we all have and the job I have.

While the majority leader is thinking about matters and deciding what to do, I want to talk a little bit about the situation.

First of all, let me say there is no question that the United States of America needs an Energy bill and needs an Energy bill sooner rather than later. We have already passed the time to have an Energy bill. As far as I am concerned, whatever this interference of a judge and a judge's vote and Senators on the other side of the aisle wanting to speak, the way I look at it, I would let them all do it. In fact, I would say to the Democratic Members of that committee, why don't you all speak? I would set up the vote on the judge at the earliest possible time under the rules, and let them speak if we have to stay here all night. Let them all speak. Then we will have the judge out of the way sooner than later. Then we would just say to everybody, fine. One day we were supposed to be debating the Energy bill and we debated the judge, so we will stay here an extra day. I would just say, let's start tomorrow, and after you talk for the next 9 hours, instead of working on the Energy bill, let us go to work and let us do the Energy bill. That might mean instead of Friday we would be here Saturday. We would just substitute one day called Saturday for a day called Wednesday. Wednesday was the day we ought to be working on the Energy bill, but there has been a decision to speak to a very important subject which the other side of the aisle has thought to be very important, and that is their privilege. They think it is important to talk about a judge. I think it is important that we in fact get an Energy bill. I think there is only one way to do both of them. That is to let the Democrats talk as long as they would like. If they want to talk now, or want to talk for the rest of the night, or want to talk right up until the time we are supposed to vote, then sooner or later that vote will be over. That will be one of the jobs we have in front of us.

Then I would turn to the next job we have, and that is the Energy bill. If we don't get to that until tomorrow morning, we will then be on the Energy bill. Then we will decide how much time we want to take on the Energy bill. Then the public will know where we are.

Everything will have been done: Democrats will have gotten to talk all they wanted on a judge and the Republican leader will have brought up the judge and the Senate having voted on the judge—whatever happens, a cloture vote, approval, nonapproval, but the vote will be over, and we will be back on the Energy bill. Then we will have nothing else before us.

Straightforward, looking out to the public of America, looking across the aisle to our friends and saying: You had it your way. Now, are we ready? Are we ready to go and finish the Energy bill the American way? You can't have both of them. You can have one or the other. You can have one at a time but you can't have both at the same time.

So I think it is pretty easy. I don't think it is the only way, though. I think the majority and minority leaders can, in fact, reach an agreement. That is not the business of the Senator from New Mexico but I believe they could reach an agreement.

Let me repeat, if nobody wants to agree, and the Democrats want to talk—and they have told us absolutely they have the right to talk, not about the Energy bill, about a judge. And I am not being critical. There is a judge nominee who they claim they want to talk about. I think they ought to talk about it. I think they ought to talk right up until the time we vote. But sooner or later we will vote on that judge and then we ought to come back to the Energy bill. Then we can tell the public, clear and simple, there is no judge in the way, there is nothing in the way. Here we are, full speed ahead.

We have as many days as we need. We have Friday—well, that would still only be Thursday. We have the rest of Thursday. We have Friday. We have Saturday. Then certainly some people would not want to work on Sunday but then we could come back Monday. If the Democrats think we need 4 more days, we could have 4 more days.

I, frankly, believe, without any doubt, you can finish this Energy bill in a day and a half, and people can have all the time they want on important matters—maximum, 2 but you can finish it in 1½ to 2 days.

So from this Senator's standpoint—I repeat, I do not speak for anyone but myself as the chairman of the Energy Committee and someone who has worked pretty hard to get a bill I think is pretty good but that I would like to take to conference someday with the House and get an Energy bill for the country. This bill does not please everybody but it is pretty good.

I have been pondering it, but I think probably the best thing to do is to make arrangements to do them both, to do the judge and to do the bill. If that is what the other side wants, to take the time that I think belongs to the Energy bill so they can speak, I would say, let them do it. But that time will end. When that time ends, we go to the Energy bill and then there will not be any excuses—that will be it.

Whatever are the amendments—my friend, the whip, has told me there are three or four more on the electricity

section—let's have them. We can do them whenever that time comes that I have just described, one after another, just like we have done. None have passed yet. That is not to say some will not in the future.

Then we will go to the other ones, three of which are important to people but that do not even belong on this bill. And they are important. They are going to take a lot of time. They literally do not belong on this bill.

So I have spent a lot of time so far. I am willing to spend a lot more. I don't think it needs 3 more days of the time of the Senator from New Mexico. I think it needs 2 days. But I can't do that so long as the other side wants to talk about a judge. I can't do both. The public ought to know that. It just can't be done.

Having said that, let me repeat, let's do both. But let's have an understanding that when we are finished with the judge—and the Democrats will have had all the time they needed to talk about the judge; and that is fine; we have the ranking member here; he might want to talk about him—then we will go to the Energy bill, and we will stay here Friday and Saturday and Sunday and Monday and finish the Energy bill.

I yield the floor.

The PRESIDING OFFICER (Mr. CHAMBLISS). The Senator from Nevada.

Mr. REID. Mr. President, as the distinguished Senator from New Mexico said, the public should know. The public should know the following: The last 4 weeks the distinguished majority leader has been saying we are going to complete the Energy bill in 1 week. For 4 weeks, the minority has said: We cannot do that. There is not enough time to do that.

Last year, when we worked our way through this bill, there were 140-some odd amendments. This year, we have had stops and starts on this bill. The majority leader said we have been on it 16 days. Everyone knows that is simply not factual. We have been on it days but these were Fridays and Mondays when nothing was going on here.

Now, the public should know that in addition to having a difficult time finishing this bill in 1 week, the majority leader has made the decision to schedule votes on judges.

The public should know that the vote we took today on Miguel Estrada was the seventh time we have voted on this judge. There has not been a single vote change all seven votes but yet the valuable time of the Senate was taken on this wasteful exercise.

We also voted, for the third time, on Justice Owen from Texas. Votes have not changed on that. Also, another waste of time.

My friend from New Mexico says: Well, let's finish the debate on Pryor and then go to energy. The problem with that is, we have been told there is going to be another cloture motion filed on a judge. There has been no time spent on the floor on her, either, a woman from California by the name of Kuhl. So using the logic of the Senator from New Mexico, then we would take and debate all day Thursday, and some of Friday, prior to the vote on that.

We have not caused the stops and starts on this bill. Not only have we had stops and starts dealing with judges, which have slowed this up immensely, but we also have had thrown in here two trade bills, the Singapore and Chile trade bills. We still have 6 hours to complete on that debate.

The public should know there is not a single Democrat who opposes an Energy bill. We think this Energy bill is imperfect and there should be amendments filed on it. We have not filed a single amendment that has been, in any way, an effort to slow down this bill. There have been meaningful and important debates, and every vote has been extremely close. Had there been not arm-twisting on the other side on the Cantwell amendment and the Feingold amendment—people in the well wanted to vote with us but did not. As we know what happens down here in close votes, they were unable to vote with us.

These are not meaningless amendments. They have been very important amendments. As I have explained on several occasions, we have other amendments that are just as meaningful as these that have been filed.

We have also heard my friend from New Mexico say: We want to do this the American way. I don't know what that means. But that is what this is. We are in the Senate and we are doing things the American way, as established by the U.S. Constitution. That is how we are going to do things.

We did not make the decision to have the parliamentary posture as it is. That has been made by the majority leader. He has a right to do that, but he also has the obligation to know that the stops and starts on this Energy bill has made it virtually impossible to pass this bill.

Now, to have threats made—and that is what they are: You are going to be here Friday afternoon; you are going to be here Saturday, Sunday, Monday, Tuesday—well, that is the way it is. But always remember, any inconvenience that is caused to the Democrats will be caused to the Republicans also. Remember, there are two more of them than there are of us, so they will have a little extra inconvenience.

But this Senator and all 48 other Senators who are here in the minority are willing to work to complete whatever work needs to be done. But we are not going to be rushed into voting for a judge such as the man from Alabama who has been hustled out of the Committee of the Judiciary without proper debate in the committee itself. We are going to have proper debate in the Senate. We are going to have the American people know because the public should know. We are going to do it the American way.

We are going to hear the ranking member of the committee, who, by the way, has been responsible for our approving, during this administration, 140 Federal judges.

We have turned down two. The American public should know that. That is the American way. One-hundred and forty to two isn't that bad. Anybody who has a basic knowledge of math understands those are pretty good odds.

There is also a complaint that the distinguished ranking member has requested votes on some of these judges. Well, yes, and we have six judges now who could have been approved during the 4 hours we are going to be wasting on these cloture votes. In fact, we probably could have done all of them in the 4 hours set aside. Of course we could have.

The plaintive cries create no pity on our side. We are here ready to work on the Energy bill. If they don't want Senators from the Judiciary Committee and others speaking about Pryor, then let's not have a cloture vote tomorrow. Let's not have a cloture vote on Kuhl on Friday. We can spend more time on the Energy bill.

Until the majority leader understands that he is his own worst enemy, we are going to continue what we are doing to protect the rights of the American people because the public should know.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I must say I completely agree with the senior Senator from Nevada on this. The senior Senator from New Mexico, who was in the Chamber, expressed concern about time being taken talking about William Pryor's nomination. We are not the ones who scheduled William Pryor's nomination in the middle of the Energy bill.

The distinguished senior Senator from Utah, chairman of the Senate Judiciary Committee, is in the Chamber. He knows the concerns expressed by members of the committee that this nomination was voted out of committee before investigations underway involving Mr. Pryor were completed.

It is passingly strange that when we say that after the nomination has been moved prematurely out of the Senate Judiciary Committee with pending questions, very serious questions involving the conduct of that nominee unresolved, but it gets sort of rocketed onto the floor. Then we are asked to lie down and just let it go through without even saying why we object.

First, the rules of the Senate Judiciary Committee itself were violated. Rule 4 was violated. The matter is still coming up. The distinguished majority leader and the distinguished Democratic leader had a conversation in which the distinguished majority leader assured us that this would never happen again. Within a few weeks of that assurance, it happens again, an assurance that no nomination of this nature would come up if it was sent out

in violation of rule 4 of the Senate Judiciary Committee. It was. The nomination is up. And we don't ask questions about it?

Then we hear some on the other side say: Our judges are being blocked. Well, it is true; 2 out of 140 have been. But at the same time, they want to quietly voice vote all these other judges through so that nobody will notice that we are passing judges. One of the reasons we have asked for rollcall votes on a number of them is to show how easy it is to pass a judge where there is a consensus.

In those rare instances where people have actually been consulted about a judge and where a judge has been nominated who is not going to be an ideological arm of either political party but, rather, be an independent judge, they go through easily.

In this case, the Republican leadership—not the Democratic leadership, the Republican leadership—filed a cloture motion on the nomination of William Pryor to the Eleventh Circuit. So we are going to have this premature debate.

I hope there is one aspect on which we can get closure in the Senate. In connection with this nomination, supporters of the administration have leveled the unfounded charges that Democratic Senators are anti-Catholic. This charge is despicable. I have waited patiently for more than 2 years for Republican Senators to disavow such charges. So far, only one has, the distinguished Presiding Officer. This is a despicable, slanderous charge. It is one calculated to throw us back into a time that maybe some in this Chamber may not remember. Some of us have parents who do remember when anti-Catholic bias ran rampant in this country.

It is outrageous, of course, that Republicans will not knock down these slanderous charges of anti-Catholicism and allow them to go forward. This slander and the ads recently run by a group headed by the President's father's former White House counsel and a group whose funding includes money raised by Republican Senators and the President's family are personally offensive. They have no place in this debate or anywhere else.

For a charge of anti-Catholicism to be leveled against any Member of this Chamber, Republican or Democratic, is wrong. But for those who stay silent and allow it to go forward, who take part in it, the only way for a lie to get traction is for people to remain silent. And those who could stop this lie in a hurry remain silent.

I challenged the Republican Senators on the Judiciary Committee who are so fond of castigating special interest groups and condemning every critical statement of a Republican nominee as being somehow a partisan sneer, to condemn this ad campaign and the injunction of religion into these matters. Only the junior Senator from Georgia now presiding responded to that challenge. Other Republican members of the Judiciary Committee and of the Senate have either stood mute in the face of these obnoxious and disgusting and scurrilous charges or, worse, they have fed the flames.

Today, Republican Senators have another chance to do what they have not yet done and what this administration has not yet done—disavow this campaign of division and those who have played wedge politics with religion. I hope the Republican leadership of the Senate and of the Judiciary Committee will finally disavow the contention that any Senator is being motivated in any way by religious bigotry, just as I and others on this side of the aisle have defended members of the Republican side of the aisle when they have been attacked on their religion. We find it so painful that not only do they remain silent when people on this side of the aisle are attacked on their religion but in some instances have even continued the attack in statements they have made outside this Chamber.

When we began debate on the nomination of Miguel Estrada in February, I made a similar request with respect to the charges that Senators were being anti-Hispanic. The other side never withdrew that ridiculous charge. Instead, the special interest groups and others trying to intimidate the Senate into voting on that nomination broadened the attack to include Hispanic members of the Congressional Hispanic Caucus, MALDEF, the Puerto Rican Legal Defense and Education Fund, past presidents of the Hispanic National Bar Association, and many other Hispanic and civil rights organizations that opposed the Estrada nomination. It was so bad that one Hispanic organization that supported Miguel Estrada issued a statement that the charge was wrong, that they certainly didn't believe it applied to any Member of the Senate, and urged the Republicans to stop it.

They didn't, but they were urged by other Hispanic groups to stop it. The demagoguery, divisive and partisan politics being so cynically used by supporters of the President's most extreme judicial nominees needs to stop. There are at least five judicial nominations on the Executive Calendar on which we can join as Democrats and Republicans. I would be willing to bet that they would be confirmed by an overwhelming vote.

I remember when we had a circuit court of appeals judge nominated by President Bush. For a month, the Democrats tried to get a vote on that nominee. For a month, one Republican had an anonymous hold and refused a vote to go forward. There are people we could vote on. Why don't they? We took a month to get the Republicans to release the anonymous hold on Judge Edward Prado, who was nominated by President Bush. Interestingly enough, I finally found out why. They didn't want a vote. They wanted to attack us for not voting on him, even though we were the ones asking to vote on him. It is Alice in Wonderland to the tenth power.

Now, the assistant minority leader suggested going to these matters and making progress. I have suggested scheduling rollcall votes on these nominees and making further bipartisan progress. Instead, we waste time on cloture motion after cloture motion after another cloture motion in connection with the most controversial of this President's nominees. Now I find out why. I am told by members of the press that the Republicans said this was supposed to be our issue this week. We are not getting appropriations bills done, we are not going to finish the Energy bill, or do anything else, so we are going to tie up the Senate with a number of cloture votes. Then they all went out with their talking points with members of the press to tell them how terrible it was that we were having these votes, which they scheduled.

Mr. DORGAN. Will the Senator from Vermont yield for a question?

Mr. LEAHY. Yes.

Mr. DORGAN. I listened to some of the complaints on the floor recently while I was in my office. They were concerned about not moving ahead on energy. I guess the obvious question is—we didn't bring up the judge; we are not requiring a vote on the judge; we are not requiring a vote on the trade agreements; and there is no requirement to vote on the trade agreements this week. There is no requirement to vote on this judge this week. So isn't the proposition that those who are scheduling this place, who insist on a vote on a judge, insist on bringing up trade agreements in the middle of the discussion on energy, isn't that what is causing the delay?

Mr. LEAHY. Mr. President, the Senator is absolutely right. The distinguished assistant Democratic leader pointed out just a short while ago that we have had a number of votes on the Energy bill, which were very close votes, which could have gone either way. We had a good debate going and we were actually voting. Now, instead we spend more time in quorum calls and bringing up judicial votes that are not going anywhere.

I must say to my friend from North Dakota, as ranking member of the Judiciary Committee, if we would have taken the time that has been wasted on things not going anywhere, if we had taken time to vote through some of the judges, where I believe we could get consensus of both Democrats and Republicans, and vote and confirm them and let them go to the bench, that would be a better way. We spent a whole month, as I mentioned, trying to get the Republicans to allow a vote on Judge Edward Prado for a circuit court of appeals position. He had been nominated by President Bush and was strongly supported by President Bush. For a month, they blocked it from going to a vote. We found out afterward it was because they went to the same members of the press they have

gone to this week and they said: This is terrible. The Democrats aren't allowing us to vote.

Democrats, time after time, came on the Senate floor and said we can have unanimous consent to go to a vote, and they objected.

Mr. DORGAN. Mr. President, further inquiring of the Senator from Vermont, is it the case, then, that there are judge candidates that could be brought to the Senate floor without any controversy at all, which would require very little time? Those are not the ones brought to the floor. Very controversial nominations are brought to the Senate floor, and complaints arise because someone wants to debate it. Isn't it the point that we didn't bring this judgeship to the floor for a cloture vote?

Mr. LEAHY. No. In fact, I say to my friend that the one time we did try to bring one of President Bush's circuit court nominees to the floor and ask to have him considered, for a month we were not allowed to because the Republicans objected. I have not done a whip check, but I am willing to bet that if we brought them to a vote, and they are on the calendar now, they would get confirmed. Even in the time we have had quorum calls and discussions on this today, we could have brought them up and had a series of 10-minute rollcall votes. And I am willing to bet we would have passed them all.

Mr. DORGAN. The Senator indicated we were dealing with very important issues today. Indeed we were. I mention the Cantwell amendment, which lost by two votes. It was a very significant amendment which I think, in the rear view mirror of public policy, will turn out to be one of the most important amendments turned down by the Senate dealing with energy.

We know what is happening on the west coast. Firms bilked people out of billions of dollars. There is substantial criminal investigation still ongoing and the proposition today on the Energy bill was important: Will there be adequate protections for consumers, and will we do something about the scandals that occurred on the west coast and stand up and support the interests of consumers and prevent manipulation of energy markets? That amendment failed by two votes. There was a significant debate, a big amendment. These are big, important issues.

The question is, Why are we not continuing to work on the Energy bill? What interrupted it? Have we done that or has someone else brought something else to the floor of the Senate?

Mr. LEAHY. Mr. President, I answer my friend from North Dakota that we have been willing to move forward on amendments on the Energy bill. We are not the ones who brought up the extraneous cloture votes which are not going anywhere. Maybe some want to get off the Energy bill. I note that the distinguished Senator mentioned Senator CANTWELL's amendment. I was very proud to support that amendment. It was excellent and, as the Senator said, it would protect the consumers.

It was interesting because, at one point, she had the amendment won, and you heard the snap, crackle, and pop, not of Rice Crispies but the arms being twisted and snapped as votes were being changed. Most of the power company lobbyists were saying to the leadership on the other side that you cannot allow that to go through, and votes were being changed. It came within two votes.

I agree with the Senator from North Dakota that people are going to look in the rear view mirror and say Senator CANTWELL was right, and that should have been allowed to go through.

Mr. DORGAN. If the Senator will yield further, and I am sorry to continue to inquire, at this point, is there a cloture vote that is now scheduled on Mr. Pryor? Is there a vote scheduled and, if so, when is it scheduled?

Mr. LEAHY. Mr. President, it is scheduled for tomorrow under the normal circumstances, unless there has been an agreement entered into otherwise. That would be an hour after we come into session. Unless the established quorum is waived, we could go to a vote.

Mr. DORGAN. Mr. President, I inquire further, if a cloture motion has been filed and it ripens tomorrow and we presumably would have a cloture vote on this nomination tomorrow, for those tonight who are concerned about not moving ahead on energy, we could resolve that by vitiating the cloture motion vote tomorrow.

I was sitting in my office listening to those complaining that we are not moving ahead on energy, understanding it was not us who brought this judgeship forward. We did not put forward the proposal that we have to do two free-trade agreements this week.

It seems to me, at least with respect to the judgeships, perhaps what ought to be done is unanimous consent ought to be entertained to vitiate the cloture vote tomorrow on this judge and move on. After all, there is no reason that we have to vote on this judge tomorrow. This nomination has not been waiting a great length of time. It can be done in September. For those who are worried about moving ahead on energy—and we should—it seems to me what we probably ought to do is join together and vitiate this cloture vote, move on, and continue with the Energy bill tonight. Does the Senator think that is an appropriate course?

Mr. LEAHY. Mr. President, I tell my friend from North Dakota, not only would it be an appropriate course because cloture is not going to be invoked primarily because, for one major reason because of his qualifications, but also because the rules of the Judiciary Committee were not followed in having this nomination go out.

We could very well at that time, if we want to get judges through, not have this cloture vote, which is not going to go anywhere. We have James Cohn, of Florida. During this time we could have voted on him to be a judge. We could have voted on Frank Montalvo, of Texas. These are nominees I would support and I think a majority of us would support. Xavier Rodriguez, of Texas, could have been voted on. The Republicans have made no effort to bring them up, even though we told them they could. H. Brent McKnight, of North Carolina—these are people we would allow to being brought up. We would allow the home State Senators to take a few minutes to speak about them. In fact, they could bring them all up and do them in a stack of 10-minute rollcall votes. They would have gone through in the amount of time of some our quorum calls today.

Mr. DORGAN. Mr. President, if I may address the Senator from Vermont with one final inquiry, it seems to me if the issue in the Senate is we have limited time and we have a substantial amount of work to do on energy—I was at the White House yesterday. President Bush called a number of us down to the White House to talk about the urgent need to pass this Energy bill. If that is, in fact, the case—and I believe it is and the majority leader has said it is—in order to get back on this Energy bill, it seems to me what we should do—and I encourage the majority leader to do this—is vitiate the cloture vote on the judgeship. We do not need to do it this week. We all know we do not. He can decide we do not have to bring up the two free-trade agreements this week. There is nothing urgent about those agreements. That need not be done this week.

If the President is correct—and I believe he is—and if the majority leader is correct—and I believe he is—that this Energy bill ought to move, it is urgent public business, then let's move back to the Energy bill and do it now. I encourage the majority leader to make that decision.

Mr. SANTORUM. Will the Senator from Vermont yield?

Mr. DORGAN. The Senator from Vermont has the time. I thank the Senator from Vermont for yielding to me. I, again, say to the majority leader, I do not want to hear people complaining about the fact that we are not on the Energy bill. We are not making progress on the bill because the majority leader and others said we have to move to the judgeships and then move to the trade agreements.

The fact is, they are the ones taking us off the Energy bill, not us. We ought to offer the next amendment right now on the Energy bill and vitiate the cloture vote tomorrow morning on the judgeship. That will solve the problem.

The PRESIDING OFFICER. The Senator may yield for questions but not for comments. The Senator from Vermont has the floor.

Mr. LEAHY. Mr. President, the distinguished Senator from Pennsylvania has asked if I will yield for a question. I will yield without losing my right to

the floor or my right to reclaim the floor within 1 minute.

Mr. SANTORUM. Mr. President, I ask if the Senator from North Dakota and the Senator from Vermont will agree to a unanimous consent request that we have a final vote on the Energy bill by noon on Friday and in exchange for that, we will vitiate the cloture votes on the two judges that are in the queue right now. I think we can probably get unanimous consent on that on our side fairly quickly.

If the Senator from North Dakota agrees with that, we will be happy to move forward.

Mr. LEAHY. Mr. President, I have the floor. I am not on the Energy Committee.

Mr. SANTORUM. I think that is what the Senator from North Dakota suggested.

Mr. DORGAN. Mr. President, if the——

The PRESIDING OFFICER. The Senator from Vermont has the floor.

Mr. LEAHY. Mr. President, let me respond this way. I have been in the Senate for 29 years. I love the Senate. I love following our normal course of doing business. The Senator from Pennsylvania has raised an appropriate question. I suggest that is a question that should be directed to the Republican leader and the Democratic leader and the chairman and the ranking member of the committee, which is the normal course of doing business, the way we have always done it. Naturally, I would be guided by the direction of the Republican and Democratic leaders, not only in the Senate but in the committee.

Obviously, I am not in a position to speak for the Republican or Democratic leaders or the Republican chairman or Democratic ranking member on this issue. The Senator from Pennsylvania is perfectly within his rights in raising the issue, and I hope that might prompt a discussion with them.

Mr. DORGAN. Mr. President, I ask the Senator to yield for one more question.

Mr. LEAHY. I yield.

Mr. DORGAN. Mr. President, I ask the Senator, would it make the most sense to have a final vote on the Energy bill when we have finished our work on the Energy bill? And wouldn't that best be accommodated by not going off and on to come up with judgeships and trade agreements? Wouldn't the best approach to reaching a final vote on the Energy bill be to stop bringing to the floor of the Senate other business, business that need not be done now?

Mr. LEAHY. Mr. President, I will answer this way: We have diverted some 6 to 10 hours off the Energy bill now. I see my friend, the senior Senator from Nevada. I know over the years he has worked very closely with his counterpart on the Republican side and usually tried to work out a finite list of amendments to the Energy bill. Again, based on my experience, my years in the Senate—almost three decades—I find usually if we stay on a bill that is your important bill, if you do not keep going off it for the trade agreements about which the Senator from North Dakota spoke, or these various cloture motions, if we keep going off these bills, then nobody feels the pressure to work things out.

On the other hand, if we just stay on the bill and people bring up amendments, we will find which ones are close amendments and actually have a chance of being adopted and which ones are not going to be adopted. Usually the Republican and Democratic leadership get together and whittle down the finite number. Then, as the Senator from Pennsylvania suggested, we are usually in the position to find a time for a final vote.

My suggestion is that we use what he has suggested but stay on the Energy bill, work toward a finite list of amendments. We will then know when they are going to take place and how much time they are going to take. And then we will know when we are going to have final passage. We can do that and then go back to anything else they want.

If we are going to keep going back to these judges—as I said, we so far stopped two of President Bush's judges and confirmed 140, unlike the 60 of President Clinton's judges who were stopped by the Republicans, usually because someone objected anonymously. We have done it out here on the floor where we stood up on the nomination.

I am one Senator who actually takes seriously the role of the Senate. There are only 100 of us, and we are given the privilege to represent 270 million Americans. But we also have a very unique place. There is no other parliamentary body in the world quite like the Senate. We have this unique spot where we have checks and balances, especially on confirmations. The Constitution does not say advise and rubberstamp; it says advise and consent.

Nobody should underestimate our commitment to the independence of the Federal judiciary and to our constitutional duty to advise and consent on these lifetime appointments. Nobody should underestimate our commitment to the protection of the rights of all Americans—Republicans and Democrats, Independents—in every part of this Nation.

The Senate was intended to serve as a check and balance in our unique system of Government. We fail our oaths of office as Senators if we allow the Federal judiciary to be politicized, if we cast votes that would remove their independence.

Mr. President, I ask unanimous consent that it be in order to yield to the distinguished senior Senator from California.

The PRESIDING OFFICER. Is there objection?

Mr. SANTORUM. Mr. President, I object.

The PRESIDING OFFICER. The objection is heard.

Mr. LEAHY. Mr. President, then I will continue my speech.

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

The PRESIDING OFFICER. Objection has been heard.

Does the Senator from Pennsylvania withdraw his objection?

Mr. SANTORUM. No, I do not.

Mr. LEAHY. Mr. President, then I would——

Mr. HATCH. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his parliamentary inquiry.

Mr. HATCH. Could I ask how much time the distinguished Senator from California desires?

Mrs. FEINSTEIN. I do not think more than 10 or 12 minutes.

Mr. HATCH. My personal belief is we ought to let her go ahead, and I would encourage my colleague to do that.

Mr. LEAHY. Mr. President, I would renew my——

Mr. HATCH. I ask unanimous consent that we——

Mr. LEAHY. I have the floor. I would renew my request.

Mr. HATCH. Would the Senator add that I be given time?

Mr. LEAHY. Along with the distinguished senior Senator from Utah, I renew my request that I be allowed to yield now to the distinguished senior Senator from California.

Mr. HATCH. I add to that, when the distinguished Senator from California is finished I would be granted the floor for my remarks.

Mr. LEAHY. For how long?

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object.

Mr. HATCH. I have no idea.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. I object.

The PRESIDING OFFICER. The Senator from Illinois objects.

Mr. DURBIN. I reserve the right to object, Mr. President. I inquire of the Senator from Utah how much time he would want to be recognized.

Mr. HATCH. I do not have an exact time, but I would hope not too long.

Mr. DURBIN. Well, if the Senator from Utah would give me a fair approximation so I can request to follow him in speaking order, that is all I am asking for.

Mr. HATCH. I would estimate up to an hour.

Mr. REID. Objection.

The PRESIDING OFFICER. The objection is heard.

Mr. HATCH. Then I will ask for the floor when the distinguished Senator from Vermont ends his remarks.

The PRESIDING OFFICER. The Senator from Vermont has the floor.

Mr. REID. Will the Senator from Vermont yield for a question?

Mr. LEAHY. I yield to the distinguished senior Senator from Nevada for a question.

Mr. REID. I say to the Senator from Vermont, it is my understanding that the Senator has approximately 15 or 20 minutes on his speech. What the Senator wanted to do is yield to the Senator from California for 10 or 12 minutes, I think she said. Then it is my understanding that the request was the Senator from Utah be recognized for up to an hour, and then following that I would like to modify the request that the Senator from Illinois be recognized for up to 45 minutes

Mr. SANTORUM. Mr. President, I object.

The PRESIDING OFFICER. The Senator from Nevada cannot propound a unanimous consent request. He does not have the floor. The Senator from Vermont does.

Mr. LEAHY. Mr. President, on behalf of both myself and the Senator from Utah, Mr. HATCH, I ask unanimous consent that the distinguished Senator from California be recognized for no more than 15 minutes; the distinguished Senator from Utah be recognized for up to an hour; and then the distinguished senior Senator from Illinois be recognized for up to 40 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. SANTORUM. I object.

The PRESIDING OFFICER. The objection is heard.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont has the floor.

Mr. LEAHY. Mr. President, I tried to accommodate the Senator from Utah.

Mr. HATCH. Who is trying to accommodate the Senator from Vermont.

Mr. LEAHY. Who is trying to accommodate the Senator from Vermont. I will try to do that even though the Senator from Utah wants to speak longer than I thought. But he is, after all, the chairman of the committee. I was willing to stop my speech at this point to accommodate him. We have probably taken longer in making these unanimous consent requests.

Mr. HATCH. I have a suggestion. Why does not the distinguished Senator end his speech and we will go to the distinguished Senator from California before me, and then I will try to be less than an hour?

Mr. LEAHY. Mr. President, I ask that that be the order; that I complete my speech, yield to the Senator from California, and then the Senator from Utah be recognized.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I have spoken to the distinguished junior Senator from Pennsylvania. He said the reason he objected is because he felt it was an unequal distribution of time. If that is the case, we want to make sure there is an equal distribution of time. Through the chair, to the Senator from Utah, I am wondering who wants to speak after the Senator from Utah. I am trying to figure out how to balance this out fairly.

We recognize that Senator KENNEDY spoke for 20 minutes or so.

Mr. HATCH. He spoke for half an hour.

Mr. LEAHY. Mr. President, I suggest to my colleagues that we do this, as we have offered before: We allow the Senator from California to speak, and then the Senator from Utah, and then, as we have done before, we go back and forth.

Mr. REID. I do not think we should go back and forth. Whoever gets recognized should speak after the Senator from Utah.

Mr. SANTORUM. That is fine.

Mr. LEAHY. I ask unanimous consent that it be in order to recognize the Senator from California, and then be in order to recognize the Senator from Utah, Mr. HATCH.

The PRESIDING OFFICER. Is there objection?

Mr. DORGAN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, as I understand the unanimous consent request, we are now moving forward to debate this judgeship so that we can have a cloture vote in the morning, much to the angst of many who believe we should be on the electricity title of the Energy bill. So I ask when is it in order for us to ask unanimous consent to vitiate the cloture vote in the morning so we might do what every one of us in this Chamber knows we should be doing, and that is be back on the energy title to try to finish the Energy bill?

I ask the Presiding Officer when might it be in order for me to seek unanimous consent to vitiate the cloture vote tomorrow morning so we can get back to the Energy bill now?

The PRESIDING OFFICER. The Senator can make a unanimous consent at any time he gains the floor in his own right.

Mr. DORGAN. Would that include the time during a reservation of another unanimous consent request?

The PRESIDING OFFICER. No, it would not.

The Senator from Vermont.

Mr. LEAHY. Mr. President, I would renew any request.

The PRESIDING OFFICER. Is there objection?

Mr. SANTORUM. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. I say for the purpose of edification of the Senator from North Dakota, the two leaders have met and talked and our leader went to the Democratic leader and actually suggested to do just that, vitiate in exchange for a time certain this week to finish this bill, which is what I know the Senator from North Dakota was looking to do.

Mr. DORGAN. No, that is not the case.

Mr. SANTORUM. As a result, that was not accomplished. The Senator from South Dakota said that was not acceptable, so as a result we are now stuck on what seemingly some Members of this Chamber would like to talk about.

Mr. DORGAN. Mr. President, continuing to reserve the right to object.

The PRESIDING OFFICER. The Senator from Vermont has the floor.

Mr. LEAHY. I renew my request.

The PRESIDING OFFICER. Is there objection?

Mr. DORGAN. I continue my reservation to object. Let me just say that I speak fairly well for myself on this floor, and I have never suggested that in exchange for anything we have a time certain. What I suggested is that if we want to finish this Energy bill, we be able to offer the amendments on the title and debate the amendments. We are not going to get to that point if we keep interrupting the Energy bill with judges and trade agreements.

If we believe this is urgent—and the President says it is, I believe it is, others believe it is—let's get back to it this moment. Let's vitiate the cloture vote tomorrow on the judgeship. Let's hold over the free-trade agreements until September and decide this is important, as we have always said it was, and move to finish this Energy bill. I am not talking about a time certain. The time for finishing it is when we finish the amendments, have debate on the amendments, and have votes on the amendments.

We can do that if I ask unanimous consent to vitiate the cloture vote tomorrow, but I guess I cannot do that under a reservation of objection.

The PRESIDING OFFICER. Is there objection to the unanimous consent request of the Senator from Vermont?

Mr. LEAHY. Mr. President, I will withhold my request for the moment without losing my right to the floor so that the Senator from Utah might make a point.

The PRESIDING OFFICER. Without objection.

Mr. HATCH. Reserving my right to object, Mr. President, it is not unusual to have multiple matters heard by the Senate. It is certainly not unusual to have cloture votes on judges, especially under the current situation. I would be happy to quit debating General Pryor tonight, even though there has been probably close to an hour of the Senate's time utilized on this debate, and just go to the cloture vote tomorrow, quit playing around with the Energy bill that we know is being slow-walked, and try to finish the Energy bill before the end of this week.

There is no excuse for not having a cloture vote on Judge Pryor or Judge Kuhl on Friday.

Mr. LEAHY. Mr. President, regaining my right to the floor, I probably could have completed my speech during this

time, but I was trying to save everybody some time. I was trying to accommodate the distinguished senior Senator from Utah, who is the chairman. I think everybody has agreed now to the request I have made.

I would renew my request that the distinguished Senator from California be recognized, the ball then goes back to the distinguished Senator from Utah.

The PRESIDING OFFICER. Is there objection?

Mr. SARBANES. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. I am prompted to do this by the statement of the chairman of the Judiciary Committee.

It is outrageous you should suggest you would schedule the judge for tomorrow on a cloture vote and not provide time for debate, which is the issue that is at stake here. We need the debate on the judge, and then you say, well, you are interfering with the progress of the Energy bill.

Who was it who scheduled the judge for tomorrow? That is where the intrusion came in terms of the process of dealing with the Energy bill.

Mr. HATCH. People have a right to schedule the judge.

Mr. SARBANES. And at the same time assert that you have to pass the Energy bill.

Mr. HATCH. This is the first time we have ever——

The PRESIDING OFFICER. The Senator from Vermont has the floor. Is there an objection to the unanimous consent?

Mr. DORGAN. I object.

The PRESIDING OFFICER (Mr. COLEMAN). The objection is heard.

Mr. LEAHY. Well, Mr. President, I know everyone stands riveted to hear the rest of my speech. I was trying to complete the speech so the Senator from California could be recognized.

Mr. President, sometimes after all this work, the Senate actually does work. Those who are watching someday will explain what exactly has happened.

To continue, the Senate has already confirmed 140 of this President's judicial nominees, including 27 circuit court nominees. We could have confirmed at least five more this week if the Republican leadership would have worked with us to schedule votes on them. That stands in sharp contrast to the treatment of President Clinton's nominees by a Republican-controlled Senate from 1995 through 2001, when judicial vacancies on the Federal courts were more than doubling from 16 to 33.

Opposition to Mr. PRYOR's nomination is shared by a wide spectrum of objective observers. Mr. PRYOR's record is so out of the mainstream that, even before last month's hearing, a number of editorial boards and others weighed in with significant opposition.

Last April, even the Washington Post, which has been exceedingly generous to the Administration's efforts to pack the courts, termed Mr. PRYOR ''unfit''. Both the Tuscaloosa News and the Hunstville Times wrote in early May against the nomination. Other editorial boards across the country spoke out, including the San Jose Mercury News and the Pittsburgh Post-Gazette. Since the hearing, that chorus of opposition has only grown and now includes the New York Times, the Charleston Gazette, the Arizona Daily Star and the Los Angeles Times. I ask unanimous consent to print the full package of these editorials and op-eds in the RECORD.

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

[From the Washington Post, April 11, 2003]

UNFIT TO JUDGE

President Bush must have worked hard to dream up an escalation of the judicial nomination wars as dramatic as his decision this week to nominate Alabama Attorney General Bill Pryor to the U.S. Court of Appeals for the 11th Circuit. A protege of Alabama Republican Sen. Jeff Sessions, Mr. Pryor is a parody of what Democrats imagine Mr. Bush to be plotting for the federal courts. We have argued strongly in favor of several Mr. Bush's nominees—and urged fair and swift consideration of all. And we have criticized Democratic attacks on nominees of substance and quality. But we have also urged Mr. Bush to look for common ground on judicial nominations, to address legitimate Democratic grievances and to seek nominees of such stature as defies political objection. The Pryor nomination shows that Mr. Bush has other ideas.

Mr. Pryor is probably best known as a zealous advocate of relaxing the wall between church and state. He teamed up with one of Pat Robertson's organizations in a court effort to defend student-led prayer in public schools, and he has vocally defended Alabama's chief justice, who has insisted on displaying the Ten Commandments in state court facilities. But his career is broader. He has urged the repeal of a key section of the Voting Rights Act, which he regards as ''an affront to federalism and an expensive burden.'' He has also called Roe v. Wade ''the worst abomination of constitutional law in our history.'' Whatever one thinks of Roe, it is offensive to rank it among the court's most notorious cases, which include Dred Scott and Plessy v. Ferguson, after all.

Mr. Pryor's speeches display a disturbingly politicized view of the role of courts. He has suggested that impeachment is an appropriate remedy for judges who ''repeatedly and recklessly . . . overturn popular will and . . . rewrite constitutional law.'' And he talks publicly about judging in the vulgarly political terms of the current judicial culture war. He concluded one speech, for example, with the following prayer: ''Please, God, no more Souters''—a reference to the betrayal many conservatives feel at the honorable career of Supreme Court Justice David H. Souter.

Mr. Pryor has bipartisan support in Alabama, and he worked to repeal the provisions in that state's constitution that forbade interracial marriage. Bush this is not a nomination the White House can sell as above politics. Mr. Bush cannot at once ask for apolitical consideration of his nominees and put forth nominees who, in word and deed, turn federal courts into political battlegrounds. If he sends the Senate nominees such as Mr. Pryor, he cannot complain too loudly when his nominees receive the most researching scrutiny.

[From the Tuscaloosanews.com, May 4, 2003]

PRYOR'S OPINION GOES BEYOND MAINSTREAM

Attorney General Bill Pryor's opinion that lumps homosexuality in with abusive crimes such as child pornography, bestiality, incest and pedophilia puts him well within the camp of recent nominees to the federal bench but well outside the mainstream of American life.

Pryor was nominated by President Bush to a seat on the U.S. Court of Appeals for the 11th Circuit, which has jurisdiction over Alabama, Georgia and Florida. A legal argument Pryor wrote earlier this year, which just came to light last week, parallels comments by Sen. Rick Santorum, that landed the Pennsylvania Republican in hot water recently.

The amicus brief, penned by Pryor and signed by attorneys for South Carolina and Utah, declared that states' support for the Texas sodomy law in the Supreme Court case of Lawrence vs. Texas, which the court is expected to decide in June or July. Pryor argues the Texas law should be upheld, otherwise constitutional protections ''must logically extend to activities like prostitution, adultery, necrophilia, bestiality, possession of child pornography, and even incest and pedophilia (if the child should credibly claim to be 'willing').''

Hardly so.

It is a long step from sanctioning, or even tolerating, consensual private activity between two adults to permitting abusive crimes such as pedophilia. The law is perfectly capable of drawing such distinctions in theory and in practice.

We have cautiously supported Pryor's nomination, while taking issue with a number of his controversial positions. These include his defense of state Supreme Court Chief Justice Roy Moore's decision to display the Ten Commandments in the state Judicial Building, his opposition to multistate lawsuits against tobacco companies and his defense of utility companies in upgrading their coal-fired power plants without adding new pollution control devices.

Several of Bush's nominees for federal bench hold extreme anti-gay views. Timony Tymkovich, confirmed to an appeals court last month, has compared homosexuality to cockfighting, bestiality, prostitution and suicide.

Pryor's confirmation hearings have not yet been set. The Judicial Committee will certainly want an explanation of his incendiary comments, which unfortunately are typical of the nominees they will be asked to consider.

———

[From the Huntsville Times, May 4, 2003]

PRYOR'S PREACHING

Churches promote faith; courtrooms promote justice.

Attorney General Bill Pryor usually has been what few Alabama politicians seem to know how to be: principled. Though unabashedly a conservative Republican, Pryor has usually been more nonpartisan than partisan.

More than once, he has ignored the prevailing political winds to do what he thought was right. Trying to reform the state's sentencing system is a prime example. One that he thought was right again. But this time Pryor has gotten it wrong.

In a ''friend of the court'' brief filed almost three months ago regarding the Texas sodomy case before the U.S. Supreme Court, Pryor compared homosexual acts to ''prostitution, adultery, necrophilia, bestiality, possession of child pornography, and even incest and pedophilia.''

This is the same case, of course, the Pennsylvania Sen. Rick Santorum, another conservative Republican, made similarly troubling remarks about.

The problem here is neither that Pryor has a certain point of view that others may not share, nor that he expressed it. In the United States, we all have a right to think and speak freely.

The problem is that as the attorney general of Alabama—and President Bush's nominee to the 11th Circuit Court of Appeals—Pryor did not separate his personal moral views from his public role as a promoter of justice.

Bill Pryor has championed causes that many Republicans and not a few Democrats would probably have walked away from: such as the removal of the interracial marriage ban from the state constitution and the recruitment of mentors for underprivileged children, to mention a few.

Alabama has benefited from having him as attorney general, and would probably benefit if he decided to seek an even higher elected office one day.

Perhaps the nation would too, but not if Pryor plans to use a judicial appointment as an opportunity to give his moral points of view the heft of the law's brief seems to be a part of a trend to infuse public policy and the law with morality of an abashedly religious strain.

Until God—or whoever or whatever it is you do or do not worship—decides to clarify the myriad matters of faith that have caused us to separate into different churches, temples, mosques, sects, and beliefs, it would be best for those who believe to enjoy their beliefs in a way that allows others to enjoy theirs—or to enjoy not having any beliefs at all.

Churches are supposed to promote faith, and courtrooms, justice. If Pryor is confirmed to the 11th Circuit, he would do well to honor this distinction.

[From the San Jose Mercury News, May 21, 2003]

COUP IN THE COURTS

President Bush has treated judicial nominations like tax cuts: Declare, with a straight face, that the extreme is reasonable and that any opponent is obstructionist.

In the case of judgeships, that means nominating one conservative ideologue after another, knowing that Democrats in a Republican Senate have neither the will nor a way to challenge and defeat most of them.

Instead, the Democrats have picked their shots—and they should continue to do that.

Contrary to his protestations, Bush has had tremendous success. In his first 28 months of office, the Senate has approved 121 of his nominations—better than President Clinton averaged over his administration. Bush has named one out of seven active federal judgeships.

What's at stake is whether Bush will be able to stuff the federal courts with judges narrow in their view of minority and women's rights, staunch in opposition to abortion, and intent on overturning decisions that have been long accepted by the courts and the public.

Individuals like James Leon Holmes, nominated to a federal court in Arkansas, who has written that the role of a woman ''is to place herself under the authority of the man.'' And Alabama Attorney General Bill Pryor, who characterized Roe v. Wade, the decision establishing a right to an abortion, as ''the worst abomination of constitutional law in our history.''

The latest troubling nomination is that of Los Angeles Superior Court Judge Carolyn Kuhl to the 9th Circuit Court of Appeals. That court is the ultimate authority, save for the U.S. Supreme Court, for a huge swath of the West, including California.

As an eager young lawyer in the Reagan administration, Kuhl fought the IRS to retain a tax-exempt status for Bob Jones University despite its record of religious and racial discrimination. The Supreme Court later overturned that decision 8–1. As a deputy attorney general, she co-wrote a brief calling on the Supreme Court to overturn Roe. v. Wade. Three years ago, she dismissed the suit of a breast-cancer patient who claimed a violation of privacy after a drug-company salesman watched her examination without her permission. That appallingly insensitive ruling was also overturned.

Kuhl has plenty of supporters among lawyers, including Democrats, who say she's a good trial judge. If so, that's where she should stay—not placed on an appeals court where decisions are binding an all lower courts.

Both home state senators, Barbara Boxer and Dianne Feinstein, oppose Kuhl's appointment; traditionally, that's been enough to sink a nomination. But Senate Republicans are pushing ahead, after slipping by the Judiciary Committee on a party-line vote.

Democrats have used the filibuster to delay two nominations to federal appeals courts, that of Washington attorney Miguel Estrada and Texas Supreme Court Justice Priscilla Owen.

Bush deserves the right to appoint capable, smart, conservative judges. But senators must exercise their constitutional veto over nominees whose values and judicial philosophy are way out of the mainstream.

[From the Pittsburgh Post-Gazette, July 20, 2003]

NOT FIT FOR THE BENCH

ALABAMA'S PRYOR IS A WALKING STEREOTYPE

The problem with Senate Republicans during the Clinton administration was that they too often assumed the president's nominations to the federal bench were wild-eyed liberals. Now that a Republican president is in the White House, the Democrats and their friends are playing tit-for-tat by viewing Mr. Bush's nominations as reactionary by definition.

The Post-Gazette has deplored these tendencies, which have made it difficult to sort out the slanderous caricatures from the solid characters. It is why we rose strongly to the defense last year of Western Pennsylvania's D. Brooks Smith, a Republican nominee who was eventually confirmed for an appeals court seat after seeing his record distorted by liberal special-interest groups.

One trouble with crying wolf is that, just as in the old story, sometimes a real wolf turns up. Such a one is Alabama Attorney General Bill Pryor, whom The Washington Post observed in an editorial ''is a parody of what Democrats imagine Bush to be plotting for the federal courts.''

If Mr. Pryor is confirmed for a seat on the 11th U.S. Circuit Court of Appeals, he will be well placed to begin preying on a number of settled legal precedents and doctrines. Roe v. Wade? ''The worst abomination in the history of constitutional law'' in the United States, he said. Separation of church and state? He's cozy with the religious right, so he looks favorably on such things as the display of the Ten Commandments on public property. Protect the environment? Mr. Pryor thinks the feds should get out of that business and leave it to the states.

And so it goes with this reactionary's reactionary, who would be in the mainstream only if it were far to the right.

On Thursday, the Senate Judiciary Committee put off voting on Mr. Pryor's nomination amid concerns raised about his fundraising activities for the Republican Attorneys General Association, specifically focusing on how accurately he answered the committee's questions.

This is no small matter, but it was dismissed as ''pure politics, pure and simple'' by Committee Chairman Sen. Orrin Hatch, R-Utah. In a sense, he was right, except that the process began in the White House. This nomination is entirely political, meant to curry favor with President Bush's right-wing constituency.

The delay represents an opportunity for Pennsylvania's Sen. Arlen Specter, who has a reputation for reason and moderation but has been fretting for days about exposing his flank to a right-wing challenger in the primary. Whatever happens with the fund-raising questions. Sen. Specter and the others have before them a self-confirming stereotype who should be opposed.

[From the New York Times, July 23, 2003]

AN EXTREMIST JUDICIAL NOMINEE

The Senate Judiciary Committee could vote as early as today on the nomination of the Alabama attorney general, William Pryor, to a federal appeals court judgeship. Mr. Pryor is among the most extreme of the Bush administration's far-right judicial nominees. If he is confirmed, his rulings on civil rights, abortion, gay rights and the separation of church and state would probably do substantial harm to rights of all Americans. Senators from both parties should oppose his confirmation.

Mr. Pryor, who has been nominated for a seat on the Federal Court of Appeals for the 11th Circuit, based in Atlanta, has views that fall far outside the political and legal mainstream. He has called Roe v. Wade, the landmark abortion-rights ruling, ''the worst abomination'' of constitutional law in our history. He recently urged the Supreme Court to uphold laws criminalizing gay sex, a position the court soundly rejected last month. He has defended the installation of a massive Ten Commandments monument in Alabama's main judicial building, which a federal appeals court recently held violated the First Amendment. And he has urged Congress to repeal an important part of the Voting Rights Act.

Moderates in the Senate and in the legal community have repeatedly called on the Bush administration to stop trying to stack the federal judiciary with far-right partisans like Mr. Pryor. But the White House and its supporters have chosen instead to lash out at these reasonable critics. In a shameful bit of demagoguery, a group founded by Boyden Gray, a White House counsel under the first President George Bush, has run newspaper ads accusing Mr. Pryor's critics in the Senate of opposing him because he is Catholic.

At today's committee meeting, much of the attention will be on Arlen Spector, the Pennsylvania Republican who could cast the deciding vote. Mr. Specter owes it to his constituents to break with the White House and vote against Mr. Pryor, whose extremist views are out of step with most Pennsylvanians'. Standing up for an independent, nonideological judiciary is an urgent cause, and one that should find support on both sides of the aisle.

[From the Charleston Gazette, June 30, 2003]

EXTREMIST FAR-RIGHT NOMINEE

President Bush hopes to pack the federal judiciary with numerous ultraconservative appointees who eventually will revoke women's right to choose abortion—a goal of the Republican national platform—and make other legal changes desired by the party's ''religious right'' wing.

Many of the White House appointees are evasive about their personal views when questioned at Senate confirmation hearings. But one of them, Alabaman William Pryor, nominated to the Atlanta circuit court, has

such an inflammatory record that he can't hide his extreme beliefs.

He told the senators that allowing women to choose abortion is ''morally wrong'' and this freedom has caused ''the slaughter of millions of unborn children.'' He said he once refused to take his family to Disney World on a day that gays attended, because his personal ''value judgment'' dictated it.

In the past, he has sneered at the U.S. Supreme Court as ''nine octogenarian lawyers'' because the justices delayed an execution that Pryor desired.

The New York Times commented:

''As Alabama attorney general, Mr. Pryor has turned his office into a taxpayer-financed right-wing law firm. He has testified to Congress in favor of dropping a key part of the Voting Rights Act. In a Supreme Court case challenging the Violence Against Women Act, 36 state attorneys general urged the court to uphold the law. Mr. Pryor was the only one to argue that the law was unconstitutional. This term, he submitted a brief in favor of a Texas law that makes gay sex illegal, comparing it to necrophilia, bestiality, incest and pedophilia. . . .

''If a far-right legal group needs a lawyer to argue extreme positions against abortion, women's rights, gay rights and civil rights, Mr. Pryor may be a suitable candidate. But he does not belong on the federal bench.''

Where on Earth does Bush find such narrow-minded nominees—from TV evangelist shows? It will be tragic if America's federal courts become dominated by one-sided, puritanical judges far out of step with the majority of people.

Senate Democrats are threatening filibusters to block the worst of Bush's judicial appointees. Republicans want to change Senate rules, banning filibusters when judges are up for confirmation. We hope that West Virginia's senators, Robert C. Byrd and Jay Rockefeller, do their utmost to hold the line against extremist judges.

[From the Arizona Daily Star, June 14, 2003]

DENY THE IDEOLOGUE

President Bush continues his quest to pack the American judicial system with ideologically driven, conservative activists who simply are unfit to take a seat on the nation's appellate courts. The latest is William H. Pryor, the Alabama Attorney General.

Pryor's nomination to the 11th Circuit Court of Appeals is outrageous. It is designed, as are the president's other ideological nominations, to appeal to the base instincts of the right-wing, conservative Christian element of the Republican Party.

Pryor makes no attempt to distance himself from his outlandish comments. He has said that if a Texas law outlawing homosexual sex were overturned, it would open the door to legalized ''prostitution, adultery, necrophilia, bestiality, possession of child pornography and even invest and pedophilia.''

That statement is breathtakingly bigoted.

But Pryor is a multi-dimensional ideologue. Here's his stance on Roe v. Wade, the Supreme Court decision allowing abortion: The law is ''an abominable decision'' and ''the worse abomination in the history of constitutional law.'' He opposes abortion even in the case of rape.

Though these are his personal opinions about legal decisions, he says, he would uphold the law as an appellate court judge. That is disingenuous, at best. He admitted during a Senate hearing that in a meeting with a conservative group, he ended by saying a ''prayer for the next administration: Please, God, no more Souters.''

David Souter, a Supreme Court justice appointed by the first President Bush, is widely scourned by conservatives because he is a moderate rather than a conservative Supreme Court justice.

Only once during questioning before the Senate Judiciary hearing on his nomination did Pryor backtrack on previous remarks. He admitted he made an inappropriate remark when he referred to the Supreme Court as ''nine octogenarian lawyers who happen to sit on the Supreme Court.'' He made the comment after the Court issued a stay of execution in his state. They stay was issued in order to determine whether the use of the electric chair was unconstitutional.

His background also includes efforts to allow students-led prayers in schools; defense of an Alabama judge who displays the 10 Commandments in his courtroom; and support of Alabama prison guards who handcuff prisoners to hitching posts during the summer.

Civil rights activists signed a letter arguing against Pryor's confirmation. The letter said the group was alarmed that Pryor ''. . . is not only an avowed proponent of the modern states rights movement, now called federalism, but he has also asked Congress to 'repeal or amend' Section 5 of the Voting Rights Act, which he said is an 'affront to federalism.' '' The section requires Justice Department approval to changes in voting procedures made by states.

This ideologue is also delusional. Pryor believes that only guilty people are executed in this country. The judicial system, he said, has ''extraordinary safeguards, many safeguards.'' Further, he said, ''the system catches errors.''

One of the benefits of nominating a right-winger like Pryor is that the president gets valuable political points for it. Even if Pryor is not confirmed by the Senate, and he should not be, the president still wins. In this age of cynical politics, Bush will get credit among the most distasteful elements of his party for nominating one of their own for a seat on the bench. It will serve him well when he runs for re-election.

[From the Los Angeles Times, June 30, 2003]

SKEWED PICTURE OF AMERICA

By nominating William H. Pryor Jr. to the federal appeals court, George Bush has declared that the Alabama attorney general is not only qualified to sit on the nation's second-highest court but is the kind of judge most Americans want. Senators should reject this implausible assessment.

Even though the Senate has already confirmed 132 judges, pushing court vacancies to a 13-year low, the White House still complains about delays. Go-along-to-get-along Republicans may want to approve Pryor rather than buck their president.

But the appointment of Pryor, 41, to a lifetime seat on the U.S. Court of Appeals would be an endorsement of an ominous view of American law. At this month's Senate Judiciary Committee hearing, he defended—even amplified on—his disturbing views. His candor is refreshing but it leaves squirming senators no cover.

''Congress . . . should not be in the business of public education nor the control of street crime,'' he has argued, a position at odds with Bush's education initiative and support for beefed-up law enforcement and tougher criminal penalties.

Pryor contends that the Constitution does not grant the federal government power to protect the environment. He regards Roe vs. Wade, the 1973 Supreme Court decision upholding the legal right to an abortion, as ''the worst abomination of constitutional law in our history'' and hopes that the landmark ruling will be overturned.

He would urge repeal of the 1965 Voting Rights Act requirement that the federal government review state and local changes to voting procedures that may affect minorities. It's ''an affront to federalism and an expensive burden,'' Pryor believes.

Before the Supreme Court last week struck down Texas' anti-sodomy statute, he argued for upholding that law and another like it in Alabama. If the Constitution protects the choice of a sexual partner, he contends, it also permits ''prostitution, adultery, necrophilia, bestiality . . . and even incest and pedophilia.'' He also believes that the 1st Amendment's establishment clause should permit a two-ton granite representation of the Ten Commandments to sit in an Alabama courthouse.

These views and Pryor's lack of judicial experience caused the American Bar Assn. to splinter over his fitness for the appeals seat.

With the Senate already having confirmed so many of Bush's picks for the federal bench, there's no argument for this unqualified nominee.

Mr. LEAHY. We have also heard from a number of organizations and individuals concerned about justice before the Federal courts. The Log Cabin Republicans, the Leadership Conference on Civil Rights, the Alliance for Justice, NARAL and many others have provided the committee with their concerns and the basis for their opposition. We have received letters of opposition from organizations that rarely take positions on nominations but feel so strongly about this one that they are compelled to write, including the National Senior Citizens' Law Center, the Anti-Defamation League and the Sierra Club. I ask unanimous consent to print a list of the letters of opposition we have received in the RECORD.

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

LETTERS OF OPPOSITION TO THE NOMINATION OF BILL PRYOR, TO THE 11TH CIRCUIT COURTS OF APPEAL

ELECTED OFFICIALS

Congressional Black Caucus.

PUBLIC INTEREST ORGANIZATIONS

Ability Center of Greater Toledo, Access Now, Inc., ADA Watch, AFL-CIO, AFSCME, Alliance for Justice, Americans for Democratic Action, American Association of University Women, Americans United for Separation of Church and State, Anti-Defamation League, B'nai B'rith International, California Council of the Blind, California Foundation for Independent Living Centers.

Citizens for Consumer Justice of Pennsylvania letter also signed by: PennFuture, Sierra Club, NARAL-Pennsylvania, National Women's Political Caucus, PA, United Pennsylvanians.

Coalition For Independent Living Options, Inc., Coalition To Stop Gun Violence, Disabled Action Committee, Disability Resource Agency for Independent Living, Stockton, CA, Disability Resource Center, North Charleston, SC, Eastern Paralyzed Veterans Association, Jackson Heights, NY, Eastern Shore Center for Independent Living, Cambridge, MD.

Environmental Coalition Letter signed by: American Planning Association, Clean Water Action, Coast Alliance, Community Rights Counsel, Defenders of Wildlife, EarthJustice, Endangered Species Coalition, Friends of the Earth, National Resources Defense Council, The Ocean Conservancy, Oceana, Physicians for Social Responsibility, Sierra Club, U.S. Public Interest Research Group, The Wilderness Society, Alabama Environmental Council, Alliance for Affordable Energy, Buckeye

Forest Council, Capitol Area Greens, Citizens Coal Council, Committee for the Preservation of the Lake Purdy Area, Dogwood Alliance, Foundation for Global Sustainability, Friends of Hurricane Creek, Friends of Rural Alabama, Kentucky Resources Council, Inc., Landwatch Monterey County, Sand Mountain Concerned Citizens, Southern Appalachian Biodiversity Project, Tennessee Environmental Enforcement Fund, Waterkeepers Northern California, Wisconsin Forest Conservation Task Force.

Feminist Majority, Heightened Independent & Progress, Houston Area Rehabilitation Association, Human Rights Campaign, Independent Living Center of Southern California, Inc., Independent Living Resource Center, Ventura, CA, Interfaith Alliance.

Justice for All letter signed by the following California organizations: Southern California Americans for Democratic Action, California Abortion and Reproductive Rights Action League, California Women's Law Center, Committee for Judicial Independence, Democrats.Com of Orange County, San Diego Democratic Club, National Center for Lesbian Rights, National Council of Jewish Women/Los Angeles, California National Organization for Women, Planned Parenthood Los Angeles County Advocacy Project, Progressive Jewish Alliance, Public Advocates, Inc., Rock the Vote Educational Fund, Stonewall Democratic Club, Unitarian Universalist Project Freedom of Religion, Workmen's Circle/Arbeter Ring, Lake County Center for Independent Living, IL, Leadership Conference on Civil Rights, Log Cabin Republicans, MALDEF, NAACP, NARAL Pro-Choice America, National Abortion Federation, National Association of Criminal Defense Lawyers, National Council of Jewish Women, National Council of Jewish Women Chapter in Florida, Alabama and Georgia, National Disabled Students Union, National Employment Lawyers Association, National Family Planning & Reproductive Health Association, National Partnership for Women & Families, National Resource Defense Council, National Senior Citizens Law Center, National Women's Law Center, New Mexico Center on Law and Poverty, Albuquerque, NM, Options Center for Independent Living, People for the American Way, Pennsylvania Council of the Blind, Placer Independent Resource Services, Planned Parenthood Federation of America, Protect All Children's Environment, Marion, NC, Religious Action Center of Reform Judaism, SEIU, Sierra Club, Society of American Law Teachers, Summit Independent Living Center, Inc., Missoula, MT, Tennessee Disability Coalition, Nashville, TN, Vermont Coalition for Disability Rights.

LETTERS FROM THE 11TH CIRCUIT

Joseph Lowery, Georgia Coalition for the Peoples' Agenda, NAACP, Alabama State Conference, Alabama Chapter of the National Conference of Black Lawyers, Alabama Hispanic Democratic Caucus, Hispanic Interest Coalition of Alabama, Latinos Unidos De Alabama, Jefferson County Progressive Democratic Council, Inc., Morris Dees, Co-Founder and Chief Trial Counsel, Southern Poverty Law Center, Bryan Fair, Professor of Constitutional Law at University of Alabama, Tricia Benefield, Cordova, AL, Judy Collins Cumbee, Lanett, AL, Michael and Becky Pardoe, Mobile, AL, Harold Sorenson, Rutledge, AL, Patricia Cleveland, Munford, AL, Larry Darby, Montgomery, AL, Sisters of Mercy letter signed by Sister Dominica Hyde, Sister Alice Lovette, Sister Suzanne Gwynn, Ms. Cecilia Street and Sister Magdala Thompson, Mobile, AL.

LETTER SUBMITTED BY CIVIL RIGHTS MOVEMENT VETERANS

Rev. Fred Shuttlesworth, Leader, Birmingham Movement; Rev. C.T. Vivian, Executive Staff for Dr. Martin Luther King, Jr.; Dr. Bernard LaFayette, Executive Staff for Dr. Martin Luther King, Jr.; Rev. Kim Lawson, Jr., Advisor to Dr. Martin Luther King, Jr.; President of Southern Christian Leadership Conference (Los Angeles); Rev. James Bevel, Executive Staff or Dr. Martin Luther King, Jr.; Rev. James Orange, Organizer for National Southern Christian Leadership Conference; Claud Young, M.D., National Chair, Southern Christian Leadership Conference; Rev. E. Randel T. Osbourne, Executive Director, Southern Christian Leadership Foundation.

Rev. Joseph Ellwanger, Alabama Movement Activist and Organizer; Dorothy Cotton, Executive Staff for Dr. Martin Luther King, Jr.; Rev. Abraham Woods, Southern Christian Leadership Conference; Thomas Wrenn, Chair, Civil Rights Activist Committee, 40th Year Reunion; Sherrill Marcus, Chair, Student Committee for Human Rights (Birmingham Movement, 1963); Dick Gregory, Humorist and Civil Rights Activist; Martin Luther King, III, National President, Southern Christian Leadership Conference; Mrs. Johnnie Carr, President, Montgomery Improvement Association (1967–Present) (Martin Luther King, Jr. was the Association's first President. The Association was established in December, 1955 in response to Rosa Park's arrest.)

OTHER

H.J. Bobb, Defiance, OH; Davis Budd, Sr, Defiance, OH; Don Beryl Fago, Evansville, WI; Daily Dupre, Jr., Lafayette, LA; Greg Jones, Parsons, KS; Catherine Koliha, Boulder, CO; Ashley Lemmons, Defiance, OH; Rebecca Lindemann, Defiance, OH; Patricia Murphy, Juneau, AK; Randy Wagoner, location unknown; Rabbi Zev-Hayyim Feyer, Murrieta, CA.

Mr. LEAHY. The ABA's evaluation also indicates concern about this nomination. Their Standing Committee on the Federal Judiciary gave Mr. Pryor a partial rating of ''not qualified'' to sit on the Federal bench. Of course this is not the first ''not qualified'' rating or partial ''not qualified'' rating that this administration's judicial nominees have received. As of today, 20 of President Bush's nominees have received some form of ''not qualified'' rating. Perhaps that is a reflection of the ideological basis for so many of these nominations, and the concern on the part of some on what has been a rather compliant ABA committee that these nominees cannot be fair to every litigant who may come before them.

Like Jeff Sutton, Bill Pryor has been a crusader for the federalist revolution, but Mr. Pryor has taken an even more prominent role. Having hired Mr. Sutton to argue several key federalism cases in the Supreme Court, Mr. Pryor is the principal leader of the federalist movement, promoting state power over the Federal Government.

A leading proponent of what he refers to as the ''federalism revolution,'' Mr. Pryor seeks to revitalize State power at the expense of Federal protections, seeking opportunities to attack Federal laws and programs designed to guarantee civil rights protections. He has urged that Federal laws on behalf of the disabled, the aged, women, minorities, and the environment all be limited.

He has argued that the Federal courts should cut back on the protections of important and well-supported federal laws including the Age Discrimination in Employment Act, the Americans with Disabilities Act, the Civil Rights Act of 1964, the Clean Water Act, the Violence Against Women Act, and the Family and Medical Leave Act. He has repudiated decades of legal precedents that permitted individuals to sue States to prevent violations of Federal civil rights regulations. Mr. Pryor's aggressive involvement in this ''federalist revolution'' shows that he is a goal-oriented, activist conservative who has used his official position to advance his ''cause.'' Alabama was the only State to file an amicus brief arguing that Congress lacked authority to enforce the Clean Water Act. He argued that the Constitution's commerce clause does not grant the Federal Government authority to prevent destruction of waters and wetlands that serve as a critical habitat for migratory birds. While this is a sign to most people of the extremism, Mr. Pryor trumpets his involvement in these cases and is proud of his work to limit Congress's authority.

Bill Pryor's passion is not some obscure legal theory but something in which he has believed deeply since he was a student and something that guides his actions as a lawyer. Mr. Pryor's speeches and testimony before Congress demonstrate just how deeply-rooted his views are, how much he seeks to effect a fundamental change in the country, and how far outside the mainstream his views are. Mr. Pryor's judicial ideology is something in which he deeply believes, not just an argument that he makes as a lawyer.

Mr. Pryor is candid about the fact that his view of federalism is different from the current operation of the Federal Government—and that he is on a mission to change the Government to fit his vision. His goal is to continue to limit Congress's authority to enact laws under the 14th amendment and the commerce clause—laws that protect women, ethnic and racial minorities, senior citizens, the disabled, and the environment—in the name of sovereign immunity. Is there any question that he would pursue his agenda as a judge on the Eleventh Circuit Court of Appeals—reversing equal rights progress and affecting the lives of millions of Americans for decades to come?

His strong views against providing counsel and fair procedures for death row inmates have led Mr. Pryor to doomsday predictions about the relatively modest reforms in the Innocence Protection Act to create a system of competent counsel. When the U.S. Supreme Court questioned the constitutionality of Alabama's method of execution in 2000, Mr. Pryor lashed out at the Supreme Court, saying

''[T]his issue should not be decided by nine octogenarian lawyers who happen to sit on the U.S. Supreme Court.'' Aside from the obvious disrespect this comment shows for this Nation's highest Court, it shows again how results-oriented Mr. Pryor is. Of course an issue about cruel and unusual punishment ought to be decided by the Supreme Court. It is addressed in the eighth amendment, and whether or not we agree on the ruling, it is an elementary principle of constitutional law that it be decided by the Supreme Court, no matter how old its members.

Mr. Pryor has also vigorously opposed an exemption for persons with mental retardation from receiving the death penalty, exhibiting more certainty than compassion. He authored an amicus curiae brief to the Supreme Court arguing that the Court should not declare that executing mentally retarded persons violated the eighth amendment. After losing on that issue, Mr. Pryor made an unsuccessful argument to the eleventh circuit that an Alabama death-row defendant is not mentally retarded.

Mr. Pryor has spoken harshly about the moratorium imposed by former Illinois Governor George Ryan, calling it a ''spectacle,'' and saying that it will ''cost innocent lives.'' How can someone so sure of his position be relied upon to hear these cases fairly? Over the last few years, many prominent Americans have begun raising concerns about the death penalty, including current and former supporters of capital punishment. For example, Justice O'Connor recently said there were ''serious questions'' about whether the death penalty is fairly administered in the United States, and added: ''[T]he system may well be allowing some innocent defendants to be executed.'' In response to this uncertainty, Mr. Pryor offers us nothing but his steadfast belief that there is no problem with the application of the death penalty. This is a position that cannot possibly offer a fair hearing to a defendant on death row.

Mr. Pryor's troubling views on the criminal justice system are not limited to capital punishment. He has advocated that counsel need not be provided to indigent defendants charged with an offense that carries a sentence of imprisonment if the offense is classified as a misdemeanor. The Supreme Court nonetheless ruled that it was a violation of the sixth amendment to impose a sentence that included a possibility of imprisonment if indigent persons were not afforded counsel.

Like Carolyn Kuhl, Priscilla Owen, and Charles Pickering, Bill Pryor is hostile to a woman's right to choose. There is every indication from his record and statements that he is committed to reversing Roe v. Wade. Mr. Pryor describes the Supreme Court's decision in Roe v. Wade as the creation ''out of thin air [of] a constitutional right,'' and opposes abortion even in cases of rape or incest.

Mr. Pryor does not believe Roe is sound law, neither does he give credence to Planned Parenthood v. Casey. He has said that, ''Roe is not constitutional law,'' and that in Casey, ''the court preserved the worst abomination of constitutional law in our history.'' When Mr. Pryor appeared before the committee, he repeated the mantra of those who desire confirmation, saying that he would ''follow the law.'' But his deeply held and intense commitment to overturning established Supreme Court precedent that protects fundamental privacy rights makes it impossible to give his promises any credence.

Bill Pryor has expressed his opposition to fair treatment of all people regardless of their sexual orientation. The positions he took in a brief he filed in the recent Supreme Court case of Lawrence v. Texas were entirely repudiated by the Supreme Court majority just a few weeks ago when it declared that the ''The petitioners are entitled to respect for their private lives. The State cannot demean their existence or control their destiny by making their private conduct a crime.'' Mr. Pryor's belief is the opposite. He would deny certain Americans the equal protection of the laws, and would subject the most private of their behaviors to public regulation.

Mr. Pryor's comments have revealed an insensitivity to the barriers that disadvantaged persons and members of minority groups and women continue to face in the criminal justice system.

In testimony before Congress, Bill Pryor has urged repeal of Section 5 of the Voting Rights Act the centerpiece of that landmark statute because, he says, it ''is an affront to federalism and an expensive burden that has far outlived its usefulness.'' That testimony demonstrates that Mr. Pryor is more concerned with preventing an ''affront'' to the States' dignity than with guaranteeing all citizens the right to cast an equal vote. It also reflects a long-discredited view of the Voting Rights Act. Since the enactment of the statute in 1965, every Supreme Court case to address the question has rejected the claim that Section 5 is an ''affront'' to our system of federalism. Whether under Earl Warren, Warren Burger, or William Rehnquist, the United States Supreme Court has recognized that guaranteeing all citizens the right to cast an equal vote is essential to our democracy not a ''burden'' that has ''outlived its usefulness.''

On all of these issues, the environment, voting rights, women's rights, gay rights, federalism, and more, William Pryor's record of activism and advocacy is clear. That is his right as an American citizen, but it does not make him fit to be a judge or likely to be fair on such issues. I think the length and level of his devotion to these issues creates a situation in which his impartiality on such issues would reasonably be questioned by litigants in his court. He should not be confirmed to the United States Court of Appeals for the Eleventh Circuit.

Mr. HATCH. I yield to the distinguished Senator from California, and I intend to take the floor as soon as she is through.

The PRESIDING OFFICER. Is there objection?

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

Mr. DOMENICI. Object to what?

Mr. HATCH. You cannot object.

Mr. DORGAN. Does the Senator from Utah, does the chairman of the committee, have the opportunity to yield the floor to another Member of the Senate?

The PRESIDING OFFICER. He does not.

Mr. DORGAN. What did the Senator from Utah just try to do?

Mrs. FEINSTEIN. It was a nice thing.

Mr. HATCH. I ask unanimous consent that the distinguished Senator from California be recognized for 15 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. DORGAN. I object.

Mr. DOMENICI. Reserving the right to object, I want to say to everyone who is listening, in case you are confused, we are not on the Energy bill.

The PRESIDING OFFICER. The Senator from Utah has the floor.

Mrs. FEINSTEIN. Mr. President.

The PRESIDING OFFICER. The Senator from Utah has the floor.

Is there an objection to the unanimous consent request of the Senator from Utah?

Mr. DORGAN. I object.

The PRESIDING OFFICER. There is an objection.

Mr. HATCH. Mr. President, let me take the floor. I am going to yield the floor in just a second.

I expect the distinguished Senator from California to be recognized so she can take 15 minutes. Then I am going to warn the Senate, right now, the minute she is through, I want the floor back, and I have a right to have it as the leader on the majority side. Am I right, parliamentarily?

The PRESIDING OFFICER. The Senator from Utah is seeking recognition. He has priority of recognition as the majority manager.

Mr. DORGAN. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator from North Dakota will state his parliamentary inquiry.

Mr. DORGAN. Mr. President, the Senator from Utah stated that when he finishes his presentation, he expects the Senator from California to be recognized, after which he expects to be recognized.

Does the Senator from Utah have a right to yield the floor to the Senator from California?

Mr. HATCH. I didn't do that.

The PRESIDING OFFICER. He does not have the right to yield the floor, but he did not propose that as a unanimous consent request.

Mr. DORGAN. Mr. President, the Senator from Utah has priority recognition as manager of the bill. He

may seek the floor on that basis following the presentation by the Senator from California, not by prearrangement, however; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. DORGAN. Thank you.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, thank you very much. I thank the chairman of the committee and I thank the ranking member.

I have served on this committee for 10 years. I love this committee. The Presiding Officer serves on this committee. It is a challenging committee. It is particularly challenging for me because I am a nonlawyer. I have had a great opportunity to work across the aisle on any number of different proposals with the chairman of the committee, with the Senator from Arizona, Mr. KYL, with Senator LINDSEY GRAHAM, with others. I have enjoyed it. There has always been a spirit of collegiality.

However, that spirit of collegiality is at a crossroads. Something very ugly has been injected. It has to do with this nominee, and it has to do with circumstances around this nominee. I will spend a few moments discussing them. This kind of thing that has been going on has to stop.

Last week, the Democratic members of the committee were accused by outside groups, and even some of our colleagues on the committee, of applying an anti-Catholic religious litmus test on the nomination of William Pryor. These charges are false. They are baseless. They are offensive. And they are beneath the dignity of a Senate committee tasked with making very important decisions on the future of the Federal judiciary.

We have heard a lot about the ad. I never thought I would see an ad like this. It is a rather insidious ad. I will not show it, but I will describe it. It is two courtroom doors. Atop it says ''Judicial Chambers.'' On the doorknob hangs a sign that says ''Catholics Need Not Apply.'' When I saw this ad, I thought we were going back decades. When I saw this ad, I thought: Uh-oh, if there is one thing I know—and I have watched cities polarized, I have seen assassinations result from the polarization—I know what happens when people seek to divide. One of the easiest ways to divide is to use race or religion in an adverse manner. That is what this ad sought to do. It sought to divide.

Then I watched C–SPAN the other night. I saw clergy discussing the ad. I saw them beginning to believe that religious litmus tests were being used by the Judiciary Committee. Now, in fact, that has never been the case.

Senator SCHUMER pointed out during Mr. Pryor's markup in the committee that this kind of thing is becoming somewhat of a pattern. Once it becomes a pattern, no one really knows where it goes.

We have not opposed a lot of nominees. The ranking member has made that clear: 140 nominations have gone through. Just today we had a hearing in the morning. I introduced two California judges who were going through in a 4-month period of time, new judges produced because the chairman and the ranking member agreed there was a very heavy caseload in San Diego and there should be a number of new judges. They were nominated in May. Already these judges have had their hearing. So good things do happen.

However, each time we have opposed a nominee, there has been bias used as a rationale for those who do not agree with us, to purport that bias is part of our rationale. It happened with an anti-Hispanic charge with Miguel Estrada, an anti-woman charge with Priscilla Owen, an anti-Baptist charge with Charles Pickering, and now with William Pryor an anti-Catholic charge.

You have no idea what happens when this begins to circulate throughout the electorate. People do not know exactly what goes on. It is a dastardly thing to do. In a sense it is scurrilous, because it caters to the basic insecurity of all of us who share a religion that may be different from someone else's. So it has a truly insidious quality to it.

To call us antiwoman—I don't have to tell you how bizarre it is for me to be called antiwoman. And to say we have set a religious litmus test is really equally false.

Many of us have concerns about nominees sent to the Senate who feel so very strongly, and sometimes stridently, and often intemperately about certain political beliefs and who make intemperate statements about those beliefs. So we raise questions about whether those nominees can be truly impartial, particularly when the law conflicts with those beliefs.

It is true that abortion rights can often be at the center of these questions. As a result, accusations have been leveled that any time reproductive choice becomes an issue, it acts as a litmus test against those whose religion causes them to be anti-choice. But pro-choice Democrats on this committee have voted for many nominees who are anti-choice and who believe that abortion should be illegal, some of whom may even have been Catholic. I do not know because I have never inquired.

So this truly is not about religion. This is about confirming judges who can be impartial and fair in the administration of justice. I think when a nominee such as William Pryor makes inflammatory statements and evidences such strongly held beliefs on a whole variety of core issues, it is hard for many of us to accept that he can set aside those beliefs and act as an impartial judge—particularly because he is very young, 41; particularly because this is a lifetime appointment; and particularly because we have seen so many people who have received lifetime appointments then go on and do just what they want, regardless of what they said. So it is of some concern to us.

I hope these accusations will stop. I hope we can focus on the merits of each nominee, not on baseless allegations against Members of the Senate who are trying to do their constitutional duties.

I am very concerned because, to date, not a single Member on the other side has said they believe these ads are baseless, have said they know we do not practice this kind of decisionmaking. No one has disavowed these ads.

So I call on the committee to disavow these ads. I call on the administration to disavow these ads. And I call on them to set the record straight.

There was a time in our history when the phrase ''Catholics need not apply'' was used to keep countless qualified Americans from pursuing the American dream. The same can be said for ''no Jews need apply'' and ''no Irish need apply.'' And, much like Justice Sandra Day O'Connor, when she first looked for her first job and I first looked for my first job, really ''women need not apply.''

In fact, I lost my first job to a man who was less qualified than I, but I was a woman and I had a small child and at that time that was not much coin of the realm to get a job. So I was beaten out many times by men who were less qualified—had less academic experience, less graduate experience, et cetera.

These were dark times in American history and many of us in this body remember those times. But every one of us should be absolutely committed to preventing those days from ever recurring. What this is a sign of is that those days are beginning to occur again.

I hope we do not see political cheapshot artists bringing painful phrases back for the purposes of intimidating Senators and stacking Federal courts. We should be above that in this debate. This is the Senate, as the distinguished Senator from Nevada has said, and our constitutional duty should not be marred by false allegations or intimidating political tactics. Our Nation's history in fighting bigotry of all kinds must continue. I urge my colleagues very sincerely to condemn these tactics and move on to debating the merits of controversial nominees.

Now a second event at the Pryor markup also disturbed me greatly and was especially troubling because we faced a repeated refusal to acknowledge the clear application of a longstanding committee rule on ending debate. Without the violation of the rule, Mr. Pryor would still be before the Judiciary Committee, as I deeply believe he should be.

The Judiciary Committee rules contain a clause known as Rule 4 that prevents closing off debate on a nominee unless at least one member of the minority agrees to do so.

It isn't used a lot but it has been used before when I have been on the committee.

During debate on the Pryor nomination, the Ranking Member attempted to invoke this rule because members of the minority did not believe that an ongoing investigation into Mr. PRYOR's nomination had been given sufficient time.

Serious allegations were made about Mr. Pryor's truthfulness to the committee during the hearing, and staff had been looking into those allegations. Put simply, the job has not been completed.

But, as Chairman HATCH did earlier this Congress with regard to the nomination of Deborah Cook and John Roberts, he chose to ignore this rule and force through a vote over the objections of every member of the minority on the committee.

We thought the issue had been resolved during discussions over what happened last time, but apparently we were wrong.

The rule contains the following language:

The Chairman shall entertain a non-debatable motion to bring a matter before the Committee to a vote. If there is objection to bringing the matter to a vote without further debate, a rollcall vote of the Committee shall be taken, and debate shall be terminated if the motion to bring the matter to a vote without further debate passes with ten votes in the affirmative, one of which must be cast by the Minority.

That is a reading on its face. It stands on its face. It is what it is.

Over the last few decades, it has clearly meant that unless one member of the minority agrees to cut off debate and move straight to a vote, no vote can occur. This is one of the only protections the minority party has in the Judiciary Committee. Without it, there might never be debate at all. A chairman could convene a markup, demand a vote, and the entire process would take 2 minutes. This is not how a deliberative body should function, and more importantly, it is contrary to the rules. Either the rules are observed or we have chaos on the committee. If we do not like the rules, we should change the rules. But we should follow the rules.

As I understand it, this rule was first instituted in 1979. Senator KENNEDY was chairman of the committee at the time. It has been followed ever since.

Senator HATCH, our current chairman, has also followed the rule. I make no bones about the fact that I am very fond of the chairman, but he has been going through some kind of a change lately, and I don't quite know what it is.

During the markup of Bill Lann Lee to be the Assistant Attorney General for the civil rights division, there was some fear that Republicans, who had the votes to defeat the nomination would move directly to a vote and prevent any debate on the issue at the markup. Democrats, on the other hand, wanted the chance to explain their position, and maybe even try to change some minds on the other side.

During that markup, then, there was significant discussion about what rule 4, the rule about cutting off debate, really means. At one point, it is interesting to note, Chairman HATCH himself commented that:

At the appropriate time, I will move to proceed to a vote on the Lee nomination. I assume there will be no objection. It seems to me he deserves a vote. People deserve to know where we stand on this issue. Then we will, pursuant to Rule IV, vote on whether to bring the Lee nomination to a vote. In order to vote on the nomination, we need at least one Democrat to vote to do so.

That is precisely what we are discussing. The situation then was the same as the situation regarding Mr. Pryor. In order to vote on the nomination, we need at least one Democrat to vote to do so. But we never even had the chance to vote on cutting off debate.

I don't need to lecture this body that we are a nation of laws. We know that. We expect these laws to be obeyed. This is a Senate of rules. Our rule book is 1,600 pages long. There is no greater expert on rules than the senior Senator from the great State of West Virginia. Rules have always been observed. Some of them are complicated. This happens to be pretty simple, and we all understand it.

I want to spend a moment on the materials that have been before us that are being investigated. The materials in question came to the Judiciary Committee just 2 or 3 weeks ago.

Those materials raise real questions about whether Mr. Pryor misled the committee about his activities on behalf of the Republican Attorneys General Association, a fundraising organization that I believe raises serious concerns about conflicts of interest.

For instance, questions have been raised about whether Mr. Pryor raised money from tobacco companies, while at the same time arguing against pursuing those companies through litigation. I don't know whether this allegation is true or not true. None of us do. I wasn't really prepared to vote. But we should look into it and we should be able to match his statements to the committee with the facts.

There are other areas where the documents given to the committee suggest that Mr. Pryor may not have been completely forthcoming at his hearing.

We will never get past the partisan bad-feelings that are increasingly apparent in the Judiciary Committee if we cannot even rely on having our rules followed to the extent of carrying out an investigation with materials about which none of us knew existed when we had the hearing on the nominee.

On the merits, this is a nominee who has been before us for just a few months.

I mentioned the investigation. I mentioned rule 4. But let me go into a couple of the merits from our side and from our point of view.

He used his position as Attorney General to limit the scope of crucial civil rights laws like the Violence Against Women's Act, the Age Discrimination In Employment Act, the American with Disabilities Act, the Fair Labor Standards Act, and the Family Medical Leave Act.

He said that he doesn't believe that the Federal Government should be involved in ''education or street crime.''

Mr. SESSIONS. Will the Senator yield for a question?

Mrs. FEINSTEIN. I beg your pardon?

The PRESIDING OFFICER. The Senator from California has the floor.

Mr. SESSIONS. Will the Senator yield for a question?

Mrs. FEINSTEIN. No. I would rather finish my remarks. If I have time left, I will yield.

Mr. SESSIONS. I wanted to clear up a misstatement.

The PRESIDING OFFICER. The Senator from California has the floor.

Mrs. FEINSTEIN. Mr. Pryor calls Roe v. Wade ''the worst abomination of constitutional law in our history.'' He has written that he could ''never forget January 22, 1973, the day seven members of our highest court ripped out the life of millions of unborn children.'' That is a quote. It is a very strong statement.

He has lobbied for the repeal of section V of the Voting Rights Act.

After the Bush v. Gore decision, Pryor made the astounding statement, ''I'm probably the only one who wanted [the decision] 5–4 . . . I wanted Governor Bush to have a full appreciation of the judiciary and judicial selection so we can have no more appointments like Justice Souter.''

This is a sitting attorney general taking on a Justice of the U.S. Supreme Court by name. I have never heard of that before. Of course, there is always a first time. It was also an attack on a Justice who was well known as being more moderate than he was expected to be and who does not simply toe a party line.

So is Mr. Pryor saying he would want only those judges who remain completely faithful to the ideology of those who choose them? Is he saying that Justice Souter is simply not conservative enough? I think he is.

Mr. Pryor has taken positions so extreme that they are at odds with the rest of the Nation's attorneys general. For example, he was the only attorney general to argue against a key provision in the Violence Against Women Act on federalism grounds.

So there is a reason we feel strongly about it.

My experience is that in appointing someone to the trial bench when that individual has never been a judge is probably a good idea, even if they are an attorney general. One can make some judgments about people who hold political office and who are strong advocates as to whether in fact they can separate themselves from their ideology, whatever that ideology may be.

I believe people can do this. I voted for Jeffrey Sutton because I had that belief. In this case, I am not so sure because the rhetoric is so strident and so very intemperate.

The Senator from Alabama, who is present on the floor, believes he can, and there are people who believe he can. But I think the jury is out because there is a venture into an attack on a sitting U.S. Supreme Court Justice, there is a characterization of a landmark Supreme Court case as ''an abomination,'' and other things as well. There is an attack on many significant—significant to those of us on this side of the aisle—pieces of Federal legislation.

Truly, this is a nomination that deserves and merits debate—an open debate. But I would like the debate to take place with the observation of the rules of the committee and after the investigation that is ongoing is finished.

I hope the Senator from North Dakota's importuning to leadership is taken. We don't need to have a cloture vote at this time on this nominee. That cloture vote can come after the results of the investigation are finished—certainly after the Energy bill—because I think if a cloture vote is taken, these arguments I have made on the merits of the case are really going to be dispositive as far as votes on our side are concerned.

I thank the Chair. I yield the floor. I thank very much the chairman of the committee.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I compliment the distinguished Senator from California as well. I feel very deeply toward her. I think she is a wonderful person, and I think she is a fine Senator who works very hard on the Judiciary Committee. And I appreciate her kind remarks about me.

Mr. President, let me make something clear. I keep hearing that we are going to vote on judges. Well, I certainly wish that were the case. What we are talking about is a cloture vote tomorrow, and one on Friday. It is not unusual at all, in fact it is a matter of course, for the Senate to double track various items in the interests of the body to keep on top of matters.

The two trade bills are extremely important for this country, with two of our greatest allies and supporters, Chile and Singapore. It needs to be done. There is no reason to have hours of debate on it. There are some hard feelings about it, and so forth, but it can be done.

We could have debated this in the hour before the cloture vote, which is what the rule calls for. If we invoke cloture, there will be ample opportunity to devote time to the total debate on General Pryor.

But now let me just make another point or two. The distinguished Senator from California is very upset at him because he actually took up to the Supreme Court an issue on the Violence Against Women Act. She takes great umbrage at that. Unfortunately, he won. So to indicate that he may be outside the mainstream or somebody who should not be supported because he wins in front of the Supreme Court—and almost everything they criticize, as far as Supreme Court matters are concerned, he has won on, until this last term when he lost on a couple of issues. And in every case he followed what he believed the law was regardless of his own personal beliefs. By the way, I am one of the coauthors in the Congress of the Violence Against Women Act.

So to criticize him for something that the Supreme Court agrees with him on gives an indication who is outside the mainstream. It isn't General Pryor. And there is case after case after case where he wins that has been criticized by our colleagues over there as though somehow or other he has been off the charts when it comes to the law. He has been on the charts. I admit, he has lost some, too. But I don't know of anybody who has taken multiple cases to the Supreme Court who has won everything. I know a few who have had pretty good records—and he has one of the better records as an attorney general in this country.

My Democratic colleagues assert, in laundry list format, that General Pryor is basically against everything they are for. He is ''out of the mainstream.'' We hear that over and over again. Pryor is against civil rights, disability rights, minorities and women themselves, the environment—the whole thing, presumably, and of course—abortion rights.

I am paraphrasing just one Democratic Senator's statement during the markup on July 23, 2003, but it is a fair representation of the types of assertions against General Pryor that are designed not to debate his fitness for the Federal bench but, rather, to strangle debate before it begins. To paint this excellent nominee as so ''extreme'' as to be not worth discussing.

By the way, we did not bring this debate up tonight. I did not want to stand here tonight and answer these so-called allegations. My friends on the other side did. They are the ones who interrupted the Energy bill, which is being slow-walked. And we all understand that—as almost everything has been this year.

These are what you call obstructionist tactics. And that is what is going on here. For them to come out here on the Senate floor and act like, well, we are interrupting the energy debate—it is almost more than I can take.

This energy debate is very important. It should be over. And I would be happy to end it right now, have the cloture vote tomorrow. I will even give up the hour before cloture, if they want to, to keep working on the Energy bill. But, no, that is not what they are doing. This is all a slow-walk to try to make this Congress look as if it isn't a good one, even though, in spite of these slow-walks, we have done bill after bill after bill, some of them extremely important pieces of legislation.

Let me provide you with a succinct but very different, and much more realistic picture of General Pryor.

General Pryor has been criticized as insensitive to the rights of the disabled because he argued in the Garrett case that the Americans with Disabilities Act could not, under section 5 of the 14th amendment, validly abrogate States' 11th amendment immunity and authorize money damage suits against States in Federal court.

But the Supreme Court agreed with General Pryor. He is being criticized by others on the Senate floor for cases that he has won in the Supreme Court.

He has also been criticized as insensitive to age-based discrimination because he and a bipartisan group of 23 other State attorneys general—23 other bipartisan State attorneys general—argued in the Kimel v. Florida Board of Regents case that the provision of the Age Discrimination in Employment Act that allowed money damage suits against States in Federal courts was invalid under the 11th amendment, something that they should have argued because it is an important issue.

But, again, the Supreme Court agreed with General Pryor. He is being criticized for winning cases in the Supreme Court as though he is the one who is out of the mainstream. I don't think it takes any brains to realize who is out of the mainstream. It is not General Pryor.

And we have heard criticism that he is insensitive to women's rights because he argued in the case of U.S. v. Morrison that neither the commerce clause nor the 14th amendment provided Congress with the authority to enact one civil remedies provision of the Violence Against Women Act. But the Supreme Court agreed with him again.

Further, General Pryor has been criticized as anti-environment because of his argument in Solid Waste Agency of Northern Cook County that the Army Corps of Engineers did not have the authority, under the Federal Clean Water Act, to exercise Federal jurisdiction over entirely intrastate bodies of water—in this case, an abandoned gravel pit.

He was arguing for his State, which is what attorneys general are obligated to do. He even urged the Court not to reach the issue of whether the Commerce Clause allowed Congress to regulate entirely intrastate bodies of water. The Court did not reach the Commerce Clause issue and again agreed with General Pryor's statutory interpretation argument.

So I guess those who oppose Pryor are saying when the Supreme Court agrees with you that an environmental statute should be interpreted in accordance with its actual language, rather than expanded through bureaucratic fiat, that makes you extreme

and anti-environment, especially when you win the case in front of the Supreme Court. Talk about turning the world upside down.

General Pryor has even been criticized as insensitive to civil rights concerns because of his argument in Alexander v. Sandoval that there is no private right of action under title VI of the Federal Civil Rights Act to challenge Alabama's policy of issuing drivers' licenses only to English speakers—a policy that I understand is no longer in effect. Once again, the Supreme Court agreed with his argument, holding that Congress, not Federal courts, should create causes of action to enforce Federal laws. That proposition should not be controversial, nor should supporting it be held against General Pryor, who again won in the Supreme Court.

Finally, let me just give one more example. The Supreme Court, including Justice Souter, agreed with General Pryor's argument in the Scheidler v. NOW case that Federal antiracketeering laws could not properly be applied to pro-life protest groups who admittedly had not engaged in any activities covered by those laws with respect to the targets of their protests. So while General Pryor may have criticized Justice Souter, they do not always disagree when it comes down to interpreting the law.

Let me say this. A nominee is not an extremist—or should I put the word ''extremist'' in quotes because it seems to be a special word that is used so often by our colleagues—a nominee is not an extremist when the positions he has taken have been consistently supported by Supreme Court majorities. We know who the extremists are, and it isn't General Pryor.

We will hear more about these cases, and I'm not saying Bill Pryor has won all of these arguments at the Supreme Court. Not even the best lawyers can win them all, and he did lose a couple in this last session. But to say that Bill Pryor is ''out of the mainstream,'' when he has been such a successful advocate for his State in the Nation's highest Court, is plainly wrong.

Anybody who makes that argument should think twice before they make that type of argument.

We are in the middle of a slow walk here, trying to make the Senate look bad—not by Republicans but by the other side. Frankly, to complain about double-tracking important things like a circuit court of appeals judgeship, the third branch of Government in our society, I think is hitting a little bit below the belt.

It is certainly not unusual for cloture votes on judgeship nominees when the other side is filibustering for the first time in history Federal judicial nominees. I made the mistake of saying the Fortas nomination was the only filibuster up until now. I was wrong. I was corrected by none other than former Senator Robert Griffin who led the fight against Fortas. He said: We weren't filibustering, and they knew it. They knew we had the votes to beat them up and down and they are the ones who called for the cloture vote, which they barely won. They only had 45 votes, and there were 12 who weren't there, many of whom were going to vote against Fortas for justifiable reasons.

So these filibusters going on now are the only ones we've ever had in the Senate. My colleagues on the other side are fond of saying: There have been 140 Bush judges confirmed by us and only two have been filibustered. That is two too many. Constitutionally, that is two too many. One is one too many. I have to admit there were a few on our side during the Clinton years who wanted to filibuster some of those judges. I personally stopped them with the help of the leadership and others who thought it through that we should not be filibustering judges. It is the wrong thing to do. It should not be done, but it is being done here.

Mr. SANTORUM. Mr. President, will the Senator yield?

Mr. HATCH. If the Senator will just wait for a few more minutes, I want to make a point on Rule 4. For the life of me, I can't understand how anybody reading the Judiciary Committee's Rule 4 would interpret it any differently than the way I did. I was surprised to see my comments during the Bill Lan Lee nomination used against me. What happened there was, I was Chairman. We had the votes to stop the nomination. The Democrats didn't want us to stop the nomination because it would have been embarrassing and might have made it more difficult for them to recess-appoint Lee, who I would have supported for any other job in Government but not that one. Because I knew he would get there and he would use the power of the civil rights office to bring litigation against communities, municipalities who would have to give in rather than spend millions of dollars in defense fees and accept full scale racial quotas. My fears were confirmed. Because they recess-appointed him and he did bring that kind of litigation.

But with the Lee nomination, the Democrats started a filibuster of their own nominee. There was no reason for them to make any arguments. I would have given them a vote up or down right there. They started the filibuster. I, in graciousness, agreed not to have a vote. I have to admit I myself was in error by making some of the statements I did because I didn't realize the importance of this, nor had I even looked at Rule 4. But let's look at this Rule.

It says: ''The chairman shall entertain. . . .'' That means this is a rule that forces the chairman to entertain a nondebatable motion to bring a matter before the committee to a vote. It is a way of forcing the chairman to give a vote that you could not otherwise give if the chairman decided not to do it.

''The chairman shall entertain a nondebatable motion to bring a matter before the committee to a vote if there is objection to bringing the matter to a vote without further debate''—a rollcall vote, in other words. If the chairman refuses, they can then demand a rollcall vote of the committee to be taken. It is nondebatable. It has to happen. And ''debate shall be terminated if the motion to bring the matter to a vote without further debate passes with 10 votes in the affirmative, one of which must be cast by the minority.''

Anybody with brains can read that and say: That is a rule that forces a recalcitrant chairman to have to call a vote. But any competent person reading that can also conclude, as have I, having consulted with the two Parliamentarians beforehand, that a chairman cannot be foreclosed from his right to call a vote. Because if that were the rule, that means the minority would always control whether there would ever be a vote on a judge. That can't possibly be the rule, though that is what Democrats now are trying to say it is, with regard to the Committee's vote on General Pryor.

We are all well aware by now that Democrats invoked the Judiciary Committee's rule 4 to try to block a committee vote on General Pryor's nomination. Their interpretation of this rule was and is simply incorrect, and let me explain why.

Rule 4, entitled ''Bringing a Matter to a Vote,'' was clearly intended to serve as a tool by which a determined majority of the committee could force a recalcitrant chairman to bring a matter to vote. In fact, the rule provides, ''The Chairman shall entertain a non-debatable motion to bring a matter before the Committee to a vote.'' On July 23, there was no motion to bring a matter before the committee to a vote. In fact, there was an objection to voting, which I overruled. Thus, on its face, rule 4 was inapplicable to the Pryor nomination.

If we followed the interpretation that Democratic members of the committee urged, it would mean that the committee minority would essentially control the committee's agenda. Essentially, the committee's chairman, on behalf of the majority, could not bring any nomination or piece of legislation to a vote without the affirmative vote of at least one member of the minority. So the chairman would have no right to call for a vote—the minority could restrict that right at their discretion.

No chairman would suffer such limitations on his power. The limitation that exists in rule 4 as properly interpreted is entirely reasonable: that all members of the committee's majority, plus one minority member, can force the committee to have a vote over the objection of the chairman—who, in that case, clearly would not be representing his committee's majority. Rule 4 does not, as Democrats, would currently, expediently, have it allow the minority to prevent a vote. Rule 4

does not authorize filibusters in the Judiciary Committee.

Despite claims to the contrary, there has been no inconsistency in the interpretation of this rule. During the Clinton administration, in an effort to prevent the defeat in committee of a controversial Justice Department nominee and spare both committee Democrats and the administration considerable embarrassment, I chose not to exercise the inherent power that I and all committee chairmen have to bring a matter to a vote. President Clinton ultimately made a recess appointment of the nominee. In retrospect, my graciousness to the other side, and my reliance on rule 4 to accomplish this was admittedly not the best course of action. I nevertheless believe that I had the power to bring that matter to a vote, and that I used the discretion of the chairman to decide not to do so.

In short, there was no violation of committee rules or process in bringing the Pryor nomination to a vote on July 23, and any argument to the contrary was merely a last-ditch effort to prevent the full Senate from considering it.

Unfortunately, that effort continues, in a manner equally offensive to the ultimate rules that govern the Senate, the U.S. Constitution.

The fact is, this was the fifth markup that General Pryor was on, having had his confirmation hearing on June 11. And there were continual Democratic efforts to try and thwart these markups every time. I went along with a number of those efforts just out of graciousness. But on July 23 everybody knew we were going to vote because at the prior markup they invoked the two-hour rule, the Democrats did, so that we couldn't possibly, during the time the Senate was in session, vote on Mr. Pryor.

I said: Well, then we will meet after the Senate goes out, which would get around the two-hour rule. That meant about 9 o'clock at night that night, the Thursday before we finally voted. Everybody knew I had the votes. Everybody knew I was going to go ahead. We gave them all day to resolve any problems they had in this so-called ''investigation'' which is as phony as any investigation I have ever seen. By the time we got ready, nobody told me about this, but by the time we got ready for the vote or for the Senate to go out of session and for us to meet—and we worked all day to make sure we would have a quorum—I was informed that there was a personal exigency that existed, a legitimate personal exigency, that was known about earlier in the day, and I agreed to not continue the markup.

I put it over then until the next Wednesday, a full week, and said: Get the staffs together, interview the four witnesses you want to, interview General Pryor in the process, but next Wednesday we are going to vote. There have been comments that our staff stalled that. That is not true. I believe the distinguished Senator from Massachusetts tried to make that point. That is not true.

As a matter of fact, the Democrats' staff refused to interview or ask questions of Mr. Pryor who could have easily answered them all, and would have, and in fact already had answered all of these questions at his hearing and in writing. It was a phony ''gotcha'' type of a situation which Democrats on the Judiciary Committee are putting nominees through.

Let me talk about the religious problem. I am getting a little tired of this. The outside groups have been outrageous with the smears they have brought upon Republican judicial nominees. If you made one mistake in your life or what they perceive to be a mistake, you are going to be smeared because of it. That perceived mistake is going to be enough for these groups to try to ruin your whole career. The tactics used against Judge Kuhl are a perfect illustration. Her whole career she has had the support of Democratic and Republican judges and everybody else in California who really counts, it seems to me, as far as judges are concerned. They found one thing they can beat into the ground, they think. I don't think even that is valid. I think we can rebut that case. And yet they are going to stop this brilliant woman who has a well-qualified rating, their gold standard, from the American Bar Association.

What is particularly offensive is what the outside groups have done against some of our nominees because of religious beliefs. By the way, throughout the extensive, lengthy, one-of-a-kind hearing on Judge Pryor, there were consistent questions about his deeply held beliefs. This has caused a lot of people to become very upset.

The PRESIDING OFFICER. The Senator from Utah has the floor.

Mr. SANTORUM. Will the Senator from Utah yield for a question?

Mr. HATCH. I am sorry. I am happy to yield for a question without losing my right to the floor.

Mr. SANTORUM. I thank the Senator from Utah because he has hit on a point that is deeply disturbing to me as a member of the Senate. I understand the Constitution talks about, we shall establish no religion, and that is generally termed, in many cases, the separation of church and State, although the words ''separation of church and State'' do not appear in the Constitution.

What appears to be going on in the Judiciary Committee by Members of the other side of the aisle is not a separation of church and State, but a separation of anybody who believes in church and faith from any public role. I do not believe that is what the Constitution was founded to do. I listened to the comments of the Senator from California who said because of General Pryor's ''strongly held beliefs'' basically he cannot be impartial.

So if you have strongly held religious beliefs, because of your strongly held religious beliefs——

Mr. DURBIN. Will the Senator yield for a question?

Mr. SANTORUM. I will not. Because of those beliefs that are referred to continually, the ''strongly held beliefs''——

Mr. DURBIN. Mr. President, I have a——

The PRESIDING OFFICER. The Senator from Utah has the floor and the Senator has yielded for a question to the Senator from Pennsylvania.

Mr. DURBIN. Mr. President, parliamentary inquiry.

Mr. SANTORUM. Are the beliefs that are referred to—

Mr. DURBIN. Mr. President, parliamentary inquiry.

Mr. SANTORUM. Mr. President, the Senator yielded to me for a question, which I am about to ask.

Mr. DURBIN. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. DURBIN. If a Member of the Senate characterizes the words of another Member of the Senate incorrectly, can those words be taken down?

The PRESIDING OFFICER. There is no such right.

Mr. DURBIN. I thank the Chair.

Mr. SANTORUM. I ask the Senator from Utah, when the other side uses the term ''deeply held beliefs'' over and over again, which we have heard on certain issues, would the Senator from Utah characterize what those ''deeply held beliefs'' might pertain to, and on what issues, and what they might tie to from the perspective of religious beliefs?

Mr. HATCH. At least in one instance over and over it was on the issue of abortion. Several Democrats asked questions about that.

Mr. SANTORUM. With respect to abortion and Mr. Pryor's beliefs, if the Senator from Utah will allow me, I would like him to comment on a letter just received today, written by Carl Anderson, who is with the Knights of Columbus. I ask unanimous consent that the letter be printed in the RECORD.

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

KNIGHTS OF COLUMBUS,
New Haven, CT, July 30, 2003.

Hon. ORRIN HATCH,
Chairman, Senate Judiciary Committee, U.S. Senate.

DEAR SENATOR HATCH: I am writing to express concerns as to the way the nomination of Alabama Attorney General Bill Pryor for the federal appeals court in Atlanta is being handled in the Senate.

Many have questioned Mr. Pryor's fitness for this position because of his ''deeply held beliefs,'' in particular his opposition to abortion. Yet this ''deeply held belief'' is grounded in Mr. Pryor's adherence to his Catholic faith, which unequivocally declares abortion to be a grave evil.

Raising Mr. Pryor's ''deeply held beliefs'' in terms of his qualifications to serve on the

federal bench thus suggests a de facto religious test for public office, something clearly prohibited by the Constitution. Of even more concern, it comes perilously close to suggesting that Catholics who faithfully adhere to their church's teaching on abortion, and perhaps other public moral issues, are unfit to serve their country in the federal judiciary.

Those who fault Mr. Pryor's ability to serve on the federal bench argue that his deeply held beliefs preclude him from judging and applying the law impartially. In effect, they are trying to put Mr. Pryor in the very uncomfortable and very unjust position of choosing between following his faith or serving his country. No candidate for any public office should be put in such a position. As Attorney General of Alabama, Mr. Pryor has already demonstrated an unquestioned record of applying the law impartially. He has already shown that one can be a faithful Catholic, with ''deeply held beliefs'' and still render unimpeachable service to his country and fellow citizens.

Perhaps it is worth remembering on this occasion that many distinguished jurists have dissented from the Supreme Court's decision in Roe v. Wade including the current Chief Justice of the United States and former Justice Byron White. To suggest that such jurists are unfit to serve on the Federal Bench does a disservice to the confirmation process itself. Moreover, it is worth reiterating that the Catholic Church teaches that abortion is unjust, not as a matter of faith, but as a matter of natural justice which obligates all citizens regardless of religious belief or lack thereof. This is attested to by the many persons of diverse religious belief or none at all who find abortion to be gravely unjust.

As head of the world's largest Catholic fraternal organization and as a former member of the United States Commission on Civil Rights, I am dismayed that the course of Mr. Pryor's nomination compels me to make a point which by now should be obvious: a good Catholic can also be a good public servant. Much as I would wish otherwise, a continuation of the trend that critics of Mr. Pryor's nomination have set in motion will compel American Catholics to face religious bigotry of a kind many of us thought to be extinct in this nation. I urge that Mr. Pryor be judged solely on his ability, his qualifications and his judicial temperament.

Respectfully,

CARL A. ANDERSON,
Supreme Knight.

Mr. SANTORUM. I want to refer to a couple of paragraphs and I want the Senator to comment, because this is the point that I think is very important. There is a code word going on here—code words. When you hear the term ''deeply held beliefs''—I know the Senator from Illinois was upset when I used the term ''religious'' as a characterization. I think it is a completely accurate characterization of exactly what is going on. I am not alone. I will read a portion of the letter:

Many have questioned Mr. Pryor's fitness for this position because of his ''deeply held beliefs,'' in particular his opposition to abortion. Yet, this ''deeply held belief'' is grounded in Mr. Pryor's adherence to his Catholic faith, which unequivocally declares abortion to be a grave evil.

I am ending the quotation from Mr. Anderson's letter, and I just suggest that it is obvious to anyone that this code word is an antireligious bias—not an antireligious bias if you don't hold your faith deeply, but only if you do. Would the Senator from Utah care to comment on this letter I just quoted briefly from?

Mr. HATCH. First, I have seen the letter dated July 30, 2003, which I believe the Senator has put into the RECORD. The first time I have seen it is tonight.

Mr. SANTORUM. Yes, the July 30 letter.

Mr. HATCH. Right. I am concerned about this. I know some of these outside groups have been doing this regularly. I personally do not believe the distinguished Senator from California is—and I hope none of the other Democrat Senators on the committee are—against Mr. Pryor because of his religious beliefs. But I have to admit that people all over the country have been calling me and talking to me and saying, how could it be anything else? People are drawing that conclusion, and I will be honest with you, I am concerned about it.

Mr. SANTORUM. If the Senator will yield for a further question, I want to read the next paragraph and get his comment:

Raising Mr. Pryor's ''deeply held beliefs'' in terms of his qualifications to serve on the Federal bench thus suggests a de facto religious test for public office, something clearly prohibited by the Constitution.

Would the Senator from Utah agree that the religious test for holding an office with the Government of the United States of America would be unconstitutional?

Mr. HATCH. There is no question about that. We all have to agree that our Constitution states no religious test shall ever be required as a qualification to any office of public trust in the United States. I don't believe any Senator would intentionally impose a religious test on the President's judicial nominees. I do not think any Senators are guilty of anti-religious bias. However, I am deeply concerned that some are indirectly putting at issue the religious beliefs of several judicial nominees.

I will give you one illustration. During the Pryor hearing, General Pryor's religion was an issue—and this is why I have raised it, which I have never done before. One Senator accused General Pryor during the hearing of ''asserting an agenda of your own, a religious belief of your own.'' In his opening statement, another Senator stated:

''In General Pryor's case, his beliefs are so well known, so deeply held that it is very hard to believe that they are not going to deeply influence the way he comes about saying 'I will follow the law,' and that would be true of anybody who had very deeply held views.''

The only deeply held views that I know outside of belief in the law would be his own personal religious beliefs. I will just say this on another point. On the subject of Roe v. Wade, Senator SCHUMER said, ''I for one believe that a judge can be pro-life, yet be fair, balanced, and uphold a woman's right to choose. But for a justice to set aside his or her personal views, the commitment to the rule of law must clearly supersede his or her personal agenda. . . . But based on the comments Attorney General Pryor has made on the subject, I have some real concerns that he cannot because he feels these views so deeply and so passionately.''

I don't know how you read it any other way.

Another Senator told General Pryor:

I think the very legitimate issue at question with your nomination is whether you have an agenda, and that many of the positions you have taken do not reflect just an advocacy, but a very deeply held view and a philosophy, which you are entitled to have, but you are also not entitled to get everyone's vote.

As you know, General Pryor is openly pro-life.

Mr. SANTORUM. If the Senator will yield, does the Senator from Utah, who I know is not Catholic, know that as part of the Catholic faith, one of the central teachings with respect to faith and morals is that it is not an option under the Catholic church doctrine to be a faithful Catholic and not be pro-life. It is a core teaching of the church. It is not an optional teaching or a recommended teaching; it is a core teaching of the church. So to be a faithful Catholic, according to the church, someone has to embrace this opposition to abortion. Is the Senator aware of that?

Mr. HATCH. Yes. I am so advised. I have studied the Catholic faith and I respect it deeply, as I do all religions.

Mr. SANTORUM. So according to what the Senator has just said, someone who considers oneself a faithful Catholic, faithful to the core teachings of the Catholic church, which leaves no leeway on the issue of abortion, under that understanding, someone who has a deep faith and understands that with deep faith as a Catholic comes the requirement to be against abortion, that as a result of that deep faith and as a result of that deep faith in Catholicism, having to subscribe to the church's teaching on abortion, would that not lead, in a sense, to a prohibition by some Members of having anybody who is a faithful Catholic as a member of the judiciary?

Mr. HATCH. I cannot speak to that. All I can say is that I will take the Senator's statement at face value, as I know he is a practicing member of the Catholic faith, and I respect him for that. I know he is very sincere, and I know he has even written about it. But I am concerned.

Three of the people we have been told will be filibustered are traditional pro-life, Catholic conservatives. Certainly, Pryor is one of them. Kuhl is another. Holmes is another. It is a matter of great concern. I have to say that these inside-the-Beltway outside groups will use anything; they will distort a person's record. It is abysmal what they are doing, and they are well heeled to the tune of millions of dollars, which they spend spreading this bile all over the Senate. Unfortunately, I believe there are some in this body who do not decry what they are doing.

Mr. SANTORUM. Mr. President, will the Senator yield for another question?

Mr. HATCH. I will be happy to yield for another question without losing my right to the floor.

Mr. SANTORUM. Mr. President, I just described what is my understanding as a Catholic of what the teachings of the church are and what the responsibilities as a faithful Catholic are as a member of the church. I also understand the oath of office you take and the role that you play as a civil servant in a government and that you have an obligation to serve and to adhere to the law, particularly when you are sworn to uphold that law.

Are there any examples where Attorney General Pryor upheld the law even though he, as a Catholic, as a person of deep beliefs, went ahead and followed the law even though his personal viewpoints may have been different?

Mr. HATCH. I think there are all kinds of examples. Let me go through a few, if I can. Hopefully, this will be helpful in what the good Senator has asked for.

General Pryor's record speaks with far more authority and with much greater eloquence than the fulminations against him. His record of enforcing the Supreme Court dictates on abortion is unquestioned. He has enforced them all. Despite criticizing them all as a traditional pro-life, Catholic conservative, he has criticized abortion but he has upheld the law.

Although he has been attacked for his federalism arguments before the Supreme Court, the Supreme Court sided with him in most of those cases. Arguing that Congress does not have the power that it has assumed through certain legislative acts is not activist or radical. It is principled, entirely consistent with our constitutional separation of powers, and it is General Pryor's duty as State attorney general.

In all the federalism cases he has argued, he advocated that only certain portions of Federal laws were unconstitutional. In all cases, remedies remained available for aggrieved parties or the Federal Government. I cited some of these cases earlier.

Let me give another illustration. His critics have also attempted to portray him as an official without the respect for the separation of church and State. Again, it is simply beyond dispute that his record proves his repeated ability to enforce the law regardless of his strong personal religious beliefs.

In an effort to defeat challenges to school prayer and the display of the Ten Commandments in the Alabama Supreme Court, both the government that appointed General Pryor and Alabama Chief Justice Roy Moore urged General Pryor to argue that the Bill of Rights does not apply to the States.

General Pryor refused, even though his personal beliefs were different, and he argued the case on much narrower grounds despite his own deeply held Catholic faith and personal support for both of those issues.

General Pryor has always been attacked for his statements urging modification or repeal of section 5 of the Voting Rights Act. However, despite General Pryor's well-documented concerns about section 5 of the Voting Rights Act, he has vigorously enforced all provisions of the act. He successfully defended before the Supreme Court several majority-minority voting districts approved under section 5 from a challenge by a group of white Alabama voters. He feels deeply about these issues.

He also issued an opinion that the use of stickers to replace one candidate's name for another on a ballot requires preclearance under section 5. Again, General Pryor enforced the law despite its conflicts with his beliefs.

Despite the distortions, half-truths, and outright falsehoods we have heard about him from the usual leftist inside-the-Beltway interest groups, General Pryor is a diligent, honorable, faithful man whose loyalties as a public servant have been to the law and its impartial administration.

He has told us under oath he will continue to follow the law, just as he has demonstrated in his distinguished career in Alabama. We should be proud to give his nomination an up-or-down vote.

Throughout his hearing, it was one question after another on abortion—one question after another—and he made it clear that as much as he thinks that the outcome of the case of Roe v. Wade is an abomination, because it has resulted in the death of millions of unborn children—and he was very straightforward about it, very honest about it, and was complimented by my colleagues for his honesty, yet they will not accept his honesty on this topic—he said he would enforce Roe v. Wade, which is the law.

Mr. SANTORUM. Mr. President, isn't there a case of the partial-birth abortion law in Alabama where he actually gave advice that would be contrary to what his personal beliefs are with respect to the issue of abortion?

Mr. HATCH. After the Supreme Court's decision in Stenberg v. Carhart, he upheld that law by ordering state officials not to enforce the conflicting Alabama partial-birth abortion law. Earlier, he had enforced Alabama's partial-birth abortion law narrowly, to ensure consistency with Supreme Court's dictates in Planned Parenthood v. Casey. Even though he disagrees violently with both of those cases from a personal religious standpoint, but he enforced and upheld those laws, in the face of criticism from many of his conservative friends in Alabama.

Let me read one other item. At his hearing, I asked him this question:

So even though you disagree with Roe v. Wade, you would act in accordance with Roe v. Wade on the Eleventh Circuit Court of Appeals?

This was his answer:

Mr. PRYOR. Even though I strongly disagree with Roe v. Wade, I have acted in accordance with it as attorney general and would continue to do so as a Court of Appeals judge.

Chairman HATCH. Can we rely on that?

Mr. PRYOR. You can take it to the bank, Mr. Chairman.

To be honest with you, that is the way he is, and he is being condemned for that.

I have to say that some of my colleagues on the other side have become tremendously annoyed and hurt by the issue of religion being brought up in this matter, but the attacks on personal beliefs came originally from these inside-the-Beltway groups. They are well heeled, with money coming out of their ears, hiring all kinds of far left liberal lawyers to make these smear attempts and, frankly, that is what is distorting this whole process.

I suggest to my friends on the other side, they are going to have to start some day standing up to these people, but they do not seem to be able to do it.

Frankly, during the Clinton years, I stood up to some of the right wing groups that were occasionally trying to distort somebody's record. We did not see anywhere near what we are seeing today but I stood up. I am not asking them to do something I did not do.

Mr. SESSIONS. Mr. President, will the Senator yield for a question?

Mr. HATCH. I will be glad to yield without losing my right to the floor.

Mr. SESSIONS. I remember a conservative group demanded of Senator HATCH, with regard to Clinton nominees, that he sign a Hatch pledge. I ask the Senator how he handled outside conservative pressure groups at that time?

Mr. HATCH. Mr. President, as my colleague knows, I had to stand up to some in my own caucus. Not many. There were some, one or two, who wanted to filibuster President Clinton's nominees. As the Senator will recall, I stood up to that and said we are not going to filibuster judicial nominees. It is not right, and I believe it is constitutionally unsound.

Some of the outside groups were sincere but they wanted to—I believed them to be sincere but wrong—distort some of these matters, and I refused to allow them to do it. They demanded to testify in a variety of cases, and I told them no, we are not going to denigrate the judicial process with that type of stuff.

Mr. SESSIONS. If the Senator will yield for a further question?

Mr. HATCH. I am happy to yield without losing my right to the floor.

Mr. SESSIONS. I note that the Senator made quite clear that elected Senators have the responsibility to decide matters, and they cannot be driven by forces outside. We have to do it on the facts and the law, and he has been honorable and consistent on that. He deserves great praise. Some of the criticism that has come his way from those who are now altering the historic ground rules of confirmation is unjust and wrong.

As a former attorney general of Alabama and knowing that the attorney general had the power in Alabama to direct district attorneys on how to enforce certain Alabama laws, I ask the distinguished chairman of the Judiciary Committee is he aware that even though Attorney General Pryor strongly believes that partial-birth abortion is one of the worst forms of abortion of all, that he wrote a letter directing district attorneys to narrowly construe an Alabama partial-birth abortion statute because he had concluded under the Supreme Court law that parts of it was unconstitutional?

Mr. HATCH. Well, the Senator is right.

He is a very serious practicing Catholic. He despises Roe v. Wade. He makes very strong and principled arguments against it. He did not mince any words when he was asked, Did you call it an abomination? And he said: Yes, I did, sir.

When they asked why, he said he called it an abomination because, words to the effect, he believes that it led to the deaths of millions of unborn children. Yet when it came down to enforcing the law on partial-birth abortion, that he despises, he enforced the law, and he directed his prosecutors in the State to do likewise.

I do not know whether we can find any better people than that. There are a lot of politicians who have been attorneys general who I do not think would have done that in the face of their personal beliefs, but he did because he is dedicated to the law. He knows if one does not uphold the law, even if they disagree with it, it would not be long until we would not have any laws. The Constitution would go itself, and he understands that. He is a brilliant man, graduated magna cum laude from Tulane, which is a fine law school, and was editor in chief of the Law Review, something that very few people have the privilege of doing, and that is because he was one of the best students in his class.

Frankly, he has more than shown an aptitude to the law and an ability to follow the law.

Mr. SESSIONS. If the Senator will yield for another question.

Mr. HATCH. Without losing my right to the floor, I will be happy to yield.

Mr. SESSIONS. Is the Senator aware, being an Alabama official myself and keeping up with these things, that when Attorney General Pryor, not required to do so but following what he believed was the proper procedure, directed the district attorneys who would be enforcing this partial-birth abortion law to construe the statute narrowly, that he was criticized by pro-life groups, sincere, wonderful people, and one went so far as to say that his decision had gutted the partial-birth abortion law?

Mr. HATCH. That is exactly right. He took a lot of flack for it and he believed the way they did, but he also made it clear that that is the law and that he was going to follow it. He followed it as an elected political official.

Now, if he can follow the law impartially as an elected political official, imagine the honor he would bring to the bench, where it's his job to be impartial. He did not have to do it as an elected political official, although I would not have respected him had he not, but as a judge, I think we have more than ample evidence that this man would follow the law regardless of his personal beliefs. Yet he has been smeared by the outside groups on his personal beliefs. It is just that simple.

Mr. SESSIONS. Mr. President, one more question.

Mr. HATCH. Without losing my right to the floor.

Mr. SESSIONS. I have researched his record and background. I find that even though he does firmly believe that abortion is an immoral practice, that other than the matter I just raised about directing on partial-birth abortion not to enforce parts of the law, he has not taken any action in any way to use the power of his office to undermine the law of the Supreme Court on that matter. I just wonder if the Senator would agree with that?

Mr. HATCH. I do agree with that. The Senator knows Bill Pryor better than anybody. He worked for the distinguished Senator when he was attorney general. I am absolutely amazed at how many Democrats and people of diversity and others in Alabama are supportive of him. The people who knew him best are the people who support him. The people of Alabama know him best. Yet we are going to second-guess that, for political reasons?

Mr. SANTORUM. Will the Senator yield?

Mr. HATCH. I am happy to yield, without losing my right to the floor.

Mr. SANTORUM. To get to the rest of this letter by Carl Anderson, who is the head of the Knights of Columbus nationwide, I want to read the concluding paragraph and ask the Senator to comment as to whether he agrees with Mr. Anderson in his conclusion as to what is going on with this nomination. He says this:

> As head of the world's largest Catholic fraternal organization and as a former member of the United States Commission on Civil Rights, I am dismayed that the course of Mr. Pryor's nomination compels me to make a point which by now should be obvious: a good Catholic can also be a good public servant. Much as I would wish otherwise, a continuation of the trend that critics of Mr. Pryor's nomination have set in motion will compel American Catholics to face religious bigotry of a kind many of us thought to be extinct in this nation.

Does the Senator agree that such continuation of activity could lead to such bigotry?

Mr. HATCH. Well, I believe it can be, and I believe there is some from the outside groups. I do not think there is any question. I would not want to attribute that to any of my colleagues on the Judiciary Committee, although I have to admit this issue of abortion is becoming a litmus test issue to Democrats, that is pro-abortion. I think that is wrong. I remember what the media did to Republicans during the Reagan administration, continually trying to say there was a litmus test. I know there was not because the person who vetted all the judges is a former staffer of mine who is now on the Michigan Supreme Court. I know it is not being done by this administration. But literally, Democrats are making abortion a litmus test issue.

The Democrats are fond of saying, yes, but we have passed all kinds of Bush judges, 140 of them so far. Well, they cannot stop them all. So they selectively pick people like General Pryor who clearly has very strongly held views but who clearly has abided by the law. They ignore that he abided by the law and attack him on his strongly held views. In large measure, it comes down to the issue of abortion because he differs with them on the policy issue of abortion.

Mr. SANTORUM. If the Senator will yield for an additional question.

Mr. HATCH. Without losing my right to the floor.

Mr. SANTORUM. Is the Senator familiar with a letter written by Austin Ruse, president of the Catholic Family and Human Rights Institute, which was sent yesterday?

Mr. HATCH. I just saw it tonight, so I am familiar. I have not read it in detail, but I am familiar with it.

Mr. SANTORUM. Mr. President, I ask unanimous consent that this letter be printed in the RECORD.

Mr. SANTORUM. I say to the Senator from Utah that I wanted to bring up this letter. This is not the only Catholic group that has expressed concern about what is code worded as ''deeply held beliefs'' but seems to be a little stronger than that. I will read the second paragraph of this letter and ask the Senator to comment again on this:

> I think of the young mother, struggling to raise her children in what is a challenging culture. She raises them to be good citizens and good Catholics. What should this mother tell her children? ''Sorry, in order to serve our government, you will have to shed your Catholic beliefs.'' Putting Catholics in this position is shameful and not a proper measure of our great land?

I ask the Senator if he has any thoughts on this issue?

Mr. HATCH. This is the first time I have seen this letter. To him, this is a very important issue. The views he expresses are drawn from what he's heard at the hearing and the markup. Reasonable people can draw these conclusions from the markup, from the debate.

It is coming down to where abortion is the be-all and end-all issue to my colleagues on the other side. Sure, they cannot vote against everyone. I don't know how many of these people are pro-life or pro-choice. I never ask anyone that.

The fact is, I can see why people are drawing this conclusion. I will give a

few other reasons they are drawing that conclusion before we are through here tonight.

Mr. SANTORUM. If the Senator will yield for another question, I ask unanimous consent to have printed an article by Bishop Charles J. Chaput, Archbishop of Denver, written as a result of this nomination. The article talks about a friend of his in Alabama and the fact there were not very many Catholics in Alabama in the 1960s when he was growing up and how Alabama has changed to the point where they can elect a Catholic as their attorney general.

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

[From www.archden.org, July 30, 2003]

SOME THINGS CHANGE, SOME THINGS REALLY DON'T

Some things change, and some things don't.

In the summer of 1963, a friend of mine—she was just 11 at the time—drove with her family to visit her sister, who had married and moved away to Birmingham, Ala. Stopping for gas in a small Alabama town on a Sunday morning, her father asked where they could find the local Catholic church.

The attendant just shrugged and said, ''We don't have any of them here.''

The family finished gassing up, pulled out of the station—and less than two blocks away, they passed the local Catholic church.

Most people my age remember the '60s in the South as a time of intense struggle for civil rights. Along with pervasive racial discrimination, Southern culture often harbored a suspicion of Catholics, Jews and other minorities. Catholics were few and scattered. In the Deep South, like Alabama, being Catholic often meant being locked out of political and social leadership.

Today, much of the old South is gone. Cities like Atlanta and Raleigh-Durham are major cosmopolitan centers. Time, social reform and migration have transformed the economy along with the political system. The South today is a tribute both to the courage of civil rights activists 40 years ago, and to the goodness of the people of the South themselves.

Most people, most of the time, want to do the right thing. And when they change, they also change the world they inhabit, which is one of the reasons why the Archdiocese of Atlanta can now draw thousands of enthusiastic Catholic participants to its Eucharistic Congress each year in a state where Catholics were once second-class citizens. It also explains how a practicing Catholic, William H. Pryor, can become Alabama's attorney general—something that was close to inconceivable just four decades ago.

I've never met Mr. Pryor, but his political life is a matter of public record. He has served the State of Alabama with distinction, enforcing its laws and court decisions fairly and consistently. This is why President Bush nominated him to the 11th U.S. Circuit Court of Appeals, and why the Senate Judiciary Committee approved him last Wednesday for consideration by the full Senate.

But the committee debate on Pryor was ugly, and the vote to advance his nomination split exactly along party lines. Why? Because Mr. Pryor believes that Catholic teaching about the sanctity of life is true; that the 1973 Supreme Court Roe v. Wade decision was a poorly reasoned mistake; and that abortion is wrong in all cases, even rape and incest. As a result, Americans were treated to the bizarre spectacle of non-Catholic Senators Orrin Hatch and Jeff Sessions defending Mr. Pryor's constitutionally protected religious rights to Mr. Pryor's critics, including Senator Richard Durbin, an ''abortion-rights'' Catholic.

According to Senator Durbin (as reported by EWTN), ''Many Catholics who oppose abortion personally do not believe the laws of the land should prohibit abortion for all others in extreme cases involving rape, incest and the life and the health of the mother.'' This kind of propaganda makes the abortion lobby proud, but it should humiliate any serious Catholic. At a minimum, Catholic members of Congress like Senator Durbin should actually read and pray over the ''Catechism of the Catholic Church'' and the encyclical ''Evangelium Vitae'' before the explain the Catholic faith to anyone.

They might even try doing something about their ''personal opposition'' to abortion by supporting competent pro-life judicial appointments. Otherwise, they simply prove what many people already believe—that a new kind of religious discrimination is very welcome at the Capitol, even among elected officials who claim to be Catholic.

Some things change, and some things don't. The bias against ''papism'' is alive and well in America. It just has a different address. But at least some people in Alabama now know where the local Catholic church is—and where she stands—even if some people in Washington apparently don't.

Mr. HATCH. This article reads in part:

I have never met Mr. Pryor, but his political life is a matter of public record. He has served the State of Alabama with distinction, enforcing its laws and court decisions fairly and consistently. This is why President Bush nominated him to the 11th U.S. Circuit Court of Appeals, and why the Senate Judiciary Committee approved him last Wednesday for consideration by the full Senate.

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He concludes with:

Some things change, and some things don't. The bias against ''papism'' is alive and well in America. It just has a different address. But at least some people in Alabama now know where he local Catholic church is—and where she stands—even if some people in Washington apparently don't.

I ask the Senator from Utah if he has seen that article.

Mr. HATCH. I had not seen it before tonight, that I was aware of. I had been told the Catholic bishop had written this article. I can see why he has drawn this conclusion. I can see why anyone would.

I hear the moaning and groaning and scheming, but I happen to be a member of the Church of Jesus Christ of Latter-day Saints. I belong to the only church in the history of this country that had an extermination order out against it, where our people were brutally murdered and driven from State to State leaving trails of blood.

I don't like religious discrimination in any way. I can see why people are drawing these conclusions from this debate. I can see why people draw such conclusions when you start attacking a man because he has deeply held beliefs. Earlier, I read one statement from Pryor's hearing, questioning his religious beliefs. It was made; and anyone with brains would say, what are his deeply held beliefs? He is a traditional pro-life Catholic conservative. And I guess that is not a good thing to be if you're before this body seeking confirmation to the federal bench.

I think it is a good thing to be. I don't think it is bad to be a liberal pro-life Catholic. I think it is important to live your religion, regardless of what religious persuasion you are. I understand religious discrimination. The name of my church is the Church of Jesus Christ of Latter-day Saints, yet I am unacceptable in certain groups because they don't think we are Christians. I will match my Christianity up against anyone's. I read the Bible all the time. I try to read it from beginning to end every year. I pretty well do that. It is the greatest book in the world. And it is the greatest literature. But I understand discrimination. Some people will not handle the music I write because they don't think I am Christian. I don't mean to bring that up here except that it applies. I understand that. I understand why people feel this way. If my colleagues on the other side don't understand it, I say shame on them.

When abortion becomes the be-all and end-all in the judicial nomination process—which is what these outside groups, almost every one of them, are committed to on the Democratic side—it is a serious issue. There are serious decent people on both sides of that issue. But when it becomes the be-all and end-all litmus test whether a person can serve—that's wrong. And don't give me the argument we have approved all kinds of people who may be pro-life. Of course, Members cannot vote against everybody.

But we are filibustering, for the first time in history, good people, judicial nominations to the Federal courts of the United States of America, for the first time in history. I know a lot of it comes down to abortion. I did not let that happen when I was chairman during the Clinton years. I don't think it should happen right now, especially somebody such as Pryor who has a reputation for obeying and standing up for the law even though he disagrees with it.

As a politician he has that reputation. I imagine if he can do it as a politician, he can do it and we can take his word on it that he would abide by the law and sustain the law of the land as a judge. Yet the principal argument against him is that he won't enforce the law regarding abortion. There are

other arguments used, all of which are false, in my opinion. This abortion issue is becoming the be-all and end-all issue for Democrats in the Senate. There is always somebody who wants to enforce an abortion litmus test, but we stopped it on our side. It ought to be stopped on their side.

Mr. SANTORUM. If the Senator will yield for another question, I sincerely thank the Senator from Utah for his yielding to me for these questions and for his very articulate defense of this nominee and the principle which I believe and I think the Senator believes in.

One of the reasons I brought the article up was, many people outside of this Chamber—not just Catholic, not just Christian, but of all faiths—are deeply concerned about what is going on in this Chamber. I thank the Senator for his willingness to stand up and to have the courage to articulate that. I make the point that he is not alone in coming to the conclusion he has come to, that many people in this Chamber have come to, that this litmus test that is being applied ultimately is a religious one.

Mr. HATCH. The practical application.

Mr. SANTORUM. Which is a very threatening thing.

I say for the record, as a pro-life Catholic, I voted for hundreds of Clinton nominees who I knew were not pro-life—hundreds of them—never voted against one of them, never filibustered any of them. I will match up my fervor in defense of human life against anyone in this Chamber. But not once did I vote against one.

Why? Because that is not my role as a Senator, as a civil servant. I know my duties under the Constitution. I know my role. I know what I am supposed to do. What we are experiencing here now is not, again, the separation of church and state but the separation from anybody who is faithful to their church from the state. That is turning separation of church and state that would cause any of the Founders to be spinning in their grave today. It is exactly what—you can call it anything you want—but that is exactly what is going on.

The greatest of the freedoms we have in this country, the greatest that any country can have, is the freedom to believe the freedom to think. Because if you don't have the freedom to think what you want and the freedom to do what you want, the freedom to speak, to assemble—the freedom to do anything else is meaningless. It is the first of all freedoms. That is under assault in this process.

I commend the Senator from Utah for standing up in defense of this.

Mr. HATCH. If my colleague will stay a few minutes longer, because I want to make one more point in this area and it needs to be made—a couple maybe.

I believe the Senator has put the letters and op-ed piece from the Catholic Leader into the RECORD.

I also ask unanimous consent to have printed in the RECORD—because these are people who are good people writing these letters. And they are just starting. An avalanche is coming. This is from the Union of Orthodox Jewish Congregations of America, July 23:

DEAR SENATOR HATCH: We write to you with regard to the Judiciary Committee's consideration of the nomination of William Pryor, the current Attorney General of the State of Alabama, to the U.S. Court of Appeals for the Eleventh Circuit.

The Union of Orthodox Jewish Congregations of America, the nation's largest Orthodox Jewish umbrella organization representing nearly 1,000 congregations nationwide, is a non-partisan, religious organization and—like most other organizations in the American Jewish community—it has been the UOJCA's longstanding policy neither to endorse nor oppose judicial nominees in the confirmation process. However, to our dismay, we have witnessed several of our community's organizations deviate from this shared policy in recent weeks and oppose the confirmation of Mr. Pryor.

Moreover, we are profoundly troubled by the manner in which this opposition has been framed. We thus feel compelled, unlike our fellow communal organizations, to remain faithful to our non-endorsement policy but express our view on a critical issue that has been raised in connection with this nomination—Mr. Pryor's personal religious faith and his capacity to serve as a federal judge in light of that personal faith.

As a community of religious believers committed to full engagement with modern American society, we are deeply troubled by those who have implied that a person of faith cannot serve in a high level government post that may raise issues at odds with his or her personal beliefs. There is little question in our minds that this view has been the subtext for some of the criticism of Mr. Pryor. We urge you and your colleagues to emphatically reject this aspersion and send a clear message that such suggestions, whether explicit or implied, are beyond the pale of our politics. In our view, Mr. Pryor's record as Alabama's Attorney General demonstrates his ability to faithfully enforce the law, even when it may conflict with his personal beliefs.

The role of religion and of religious citizens in American life was much discussed during the last presidential campaign. To our nation's credit, it was discussed in a serious and meaningful way, which revealed a national consensus favoring a society where citizens of many faiths are not only welcome in our society, but encouraged to bring their faith into our nation's ''public square.'' We urge you to ensure that the deliberations over William Pryor's nomination do not undermine the great progress we have seen on this issue so critical to America's civil society.

We pray your committee's deliberations will be fair and serve the nation well.

There are a lot of people concerned about this around here. Let me make this point. I want to respond to the concerns of my dear friend, Senator FEINSTEIN. She is one of my dearest friends in this body. I think the world of her.

She made comments about an ad that used the slogan, ''Catholics need not apply.'' I don't have a copy of it here on a poster.

She used that because she wants us to decry this ad.

Well, I am not happy with this ad.

But I can see why people have done this, because they believe that this—these debates are devolving to the point of attacking a person for his or her personal beliefs, in the case of Pryor, Kuhl, Holmes, others.

Let me respond to Senator FEINSTEIN's concerns about the ad that used the slogan ''Catholics need not apply.'' In fact, it was the liberal groups, the liberal inside-the-beltway groups, that used the slogan ''Catholics need not apply'' to argue against Republicans for supporting the Charitable Choice legislation in 2001.

Let me put one of these ads up, along with the words of the Americans United for Separation of Church and State. Here is the paragraph down here:

Ashcroft's Charitable Choice provisions allow a government-funded program to hang a sign that says ''Catholics need not apply.''

I will not read the rest of it. We will put it into the RECORD.

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

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

AMERICANS UNITED URGES SENATE TO REJECT ASHCROFT NOMINATION FOR ATTORNEY GENERAL

BUSH NOMINEE'S VIEWS ARE 'OUTSIDE THE MAINSTREAM,' SAYS AU'S BARRY LYNN

In written testimony submitted to the U.S. Senate Judiciary Committee, Americans United for Separation of Church and State today urged senators to reject the nomination of John Ashcroft for attorney general.

''[W]e at Americans United have come to the conclusion that Senator Ashcroft's policy positions and legal opinions are so far outside the mainstream that it is doubtful he could enforce the very laws and rights that the attorney general must protect and uphold,'' said Barry W. Lynn, executive director of Americans United. ''We call on this committee to reject his confirmation.''

In his statement to the Senate panel, Lynn noted that Ashcroft has frequently expressed contempt and disdain for the Supreme Court and its legal precedents. (Hearings on the nomination begin today.)

For example, Lynn pointed to Ashcroft's comments to the Christian Coalition in 1998, where the former Missouri Senator said, ''A robed elite have taken the wall of separation designed to protect the church and they have made it a wall of religious oppression.''

Responded AU's Lynn, ''Ashcroft's characterization of the Supreme Court as a 'robed elite' shows a lack of respect unbefitting a candidate for attorney general. It is a phrase more commonly associated with religious extremists and anti-government militias than our nation's chief law enforcer and protector of civil rights and liberties.''

Lynn also told the Senate committee that Ashcroft's legislative efforts reflect a disregard for constitutional principles.

''Senator Ashcroft's contempt for First Amendment case law is not merely rhetorical, but also took legislative form,'' Lynn said. ''During his sole Senate term, Ashcroft developed legislation called 'charitable choice,' a plan that allows religious groups to receive taxpayer funds to perform government services and then discriminate in the employment of staff people to run the program.

''Ashcroft's Charitable Choice provisions allow a government funded-program to hang

a sign that says 'Catholics Need Not Apply' or 'Unwed Mothers Need Not Apply,'" Lynn added. "Such a scheme amounts to no less than unconstitutional government-funded employment discrimination."

Lynn found Ashcroft's comments to students at Bob Jones University in 1999 particularly revealing about the attorney general nominee's commitment to government neutrality on religion. In the speech, Ashcroft said that America has "no king but Jesus."

"Such a statement shows a total lack of regard for the principle that it is the U.S. Constitution that serves as the basis for our laws and national life, not one faith tradition," said Lynn. "Our Constitution guarantees unqualified religious liberties for each of us, regardless of our beliefs."

Ultimately, Lynn argues that Ashcroft's hostility for our constitutional principles disqualify him for the position of attorney general.

"As the nation's top law enforcement officer, the attorney general must represent all Americans," Lynn noted. "He must stand for the rights of Christians, Jews, Muslims, Buddhists, and Hindus. He must advocate for those who are completely devout about religion as well as those who are totally indifferent toward it. He must understand certain things about America—that the nation was not founded on any one particular set of religious beliefs but rather was deliberately designed to extend freedom to them all. Our nation guarantees this freedom to all faiths by erecting a wall of separation between church and state.

"Senator Ashcroft views this wall as one that fosters oppression, not freedom," Lynn concluded. "By taking this position, he puts himself at odds with both the early American statesmen who built that wall—men like Thomas Jefferson and James Madison—and more importantly, the decisions of the U.S. Supreme Court. For these reasons, we respectfully ask this committee to reject John Ashcroft's confirmation as attorney general of the United States."

Americans United is a religious liberty watchdog group based in Washington, D.C. Founded in 1947, the organization represents 60,000 members and allied houses of worship in all 50 states.

Mr. HATCH. Let's go to People for the American Way. It is estimated that People for the American Way have between $12 and $30 million given to them, mainly by the Hollywood crowd and big business people, to do what they do in this town, which is to distort Republican nominees' records. This is People for the American Way. I will not read it all:

Charitable Choice, a bad choice for government and religion.

Here is the paragraph.

An Evangelical church running a government-funded welfare program could state that "Catholics need not apply," in a help wanted ad.

I do not recall any Democratic Senators expressing outrage about that. I did not see one comment about the fact that the liberals have used this language against the Charitable Choice legislation.

Whether you agree with that or whether you agree with General Pryor, or not——

Mr. MCCONNELL. Will the Senator yield for a question?

Mr. HATCH. I am happy to yield without losing my right to the floor.

Mr. MCCONNELL. I ask the chairman of the committee if he is aware of any time in which the Senate, having set a precedent, tended to unset it lately?

Mr. HATCH. I have no doubt that we have unset precedents in this body.

Mr. MCCONNELL. My fear, I say to my friend from Utah, is that we crossed the Rubicon on the issue of filibustering judges.

Mr. HATCH. No question about that.

Mr. MCCONNELL. I can recall as recently as the last year of the Clinton administration, the chairman of the Judiciary Committee and others and myself voting for cloture on judges that we personally opposed and subsequently did oppose, even though we knew there was a chance of killing them on filibuster. I think of Paez and I think of Berzon.

Does the chairman of the committee share my view that we may have gone so far now that this would be the pattern forever in the Senate, denying judges up-or-down votes because we find them unacceptably liberal or conservative or too steeped in personal beliefs that they are willing to express before the committee?

Mr. HATCH. I have no doubt, to answer the Senator's question, if we continue down this pathway we are going to devolve to where people with strongly held religious beliefs are not going to be able to serve in this country. That is what it comes down to. I have no doubt that if we continue to violate the Constitution by allowing filibusters against—under our advise and consent mandate in the Constitution, we are going to wind up with a mess on our hands that we will not be able to repair. So we have to get out of this. I call on our colleagues on the other side to get real here.

Mr. MCCONNELL. Further, I inquire of the Senator from Utah, the chairman of the committee, whether he thinks it will now be routine for every nominee to be asked their personal beliefs on a whole range of issues, personal and religious beliefs on a whole range of issues, and be expected to answer those kinds of questions.

Mr. HATCH. I do not think we will go that far. At least while I am chairman of the committee we are not going to do that. I did ask him what his religion was, after all of these questions that were asked in a very extensive hearing where religion was put squarely in issue by the other side. I did ask him that because I wanted to establish that this had gone too far.

I don't intend to ever ask that question again. I don't think my colleagues will. The distinguished Senator from Vermont said he will never ask that question, and he criticized me for doing so. But I think it was highly justified under the circumstances, and I think we made a pretty good case tonight that it was justified, although I am sure some of my colleagues will take umbrage.

But let them take umbrage. People all over this country are starting to say there is litmus test arising. Certainly there are outside groups that are trying to smear our nominees—especially Attorney General Pryor, Judge Kuhl, and Mr. Holmes.

Mr. MCCONNELL. Mr. President, I further ask the chairman of the committee. He may well have received—I know I did and other Members of the Senate did—a letter today from William Donohue, Ph.D., who is president of the Catholic League For Religious and Civil Rights. He said, among other things, in his letter:

Some of Pryor's critics are themselves Catholic and thus resist the contention that is being opposed because of his religion. But they do so by falsely claiming that on the subject of abortion, there is more than one acceptable position for Catholics to take. They are dead wrong. Catholic teaching on abortion is unequivocal: It is gravely sinful. This is not a matter of dispute—it is a matter of doctrine that all Catholics are expected to uphold. Especially public officials.

The danger, then, is that Bill Pryor may be rejected because of his religious convictions.

I think what is so disturbing here to many of us—I am personally not a Catholic—is that you could adhere to the teachings of your church and then in effect be penalized for it even though there is no evidence that in carrying out your duties as a public official you wouldn't follow the law.

I ask the chairman: Are we being penalized for our own personal religious convictions in seeking public positions?

Mr. HATCH. There are people all over this country who are coming to the conclusion that Bill Pryor is being treated that way. Personally, if you are going to apply abortion as a litmus test, and that is his deeply held personal belief, even though he has exhibited more than an effort to obey the laws no matter what they are, I can see why people arrived at that conclusion.

I see why Mr. Donohue feels that way. This is getting to be an avalanche. The new code words for some are that, well, I don't personally believe in abortion but I believe a woman ought to have a right to choose.

Give me a break. That is a nice excuse. But that certainly is not acceptable, it seems to me, to many religions, including the Catholic faith, as has been said by these letters.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that this letter to which I referred from Dr. Donohue be printed in the RECORD.

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

CATHOLIC LEAGUE
FOR RELIGIOUS AND CIVIL RIGHTS,
New York, NY, July 25, 2003.

DEAR SENATOR: You will soon be voting on the candidacy of Alabama Attorney General Bill Pryor for the federal appeals court in Alabama. As president of the nation's largest Catholic civil rights organization, I ask that you subject him to the same standards as you would any candidate. I am also asking that you challenge any colleague of yours who may attempt to subject Pryor to a de facto religious test.

I have plainly said there are no anti-Catholics in the U.S. Senate. But I have also said that this does not empty the issue.

Bill Pryor's deeply held opposition to abortion as a moral issue, as well as his deeply held opposition to the jurisprudential reasoning as evidenced in Roe v. Wade, have made him a lightning rod for abortion-rights advocates. In other words, it is precisely Pryor's religious convictions that are bring scrutinized. Given the cast of mind of some of his critics, it makes it virtually impossible for practicing Catholics to ascend to the federal bench.

Some of Pryor's critics are themselves Catholic and thus resist the contention that he is being opposed because of his religion. But they do so by falsely claiming that on the subject of abortion, there is more than one acceptable position for Catholics to take. They are dead wrong. Catholic teaching on abortion is unequivocal: it is gravely sinful. This is not a matter of dispute—it is a matter of doctrine that all Catholics are expected to uphold. Especially public officials.

The danger, then, is that Bill Pryor may be rejected because of his religious convictions. This would be outrageous and that is why I am asking you to do what you can to prevent this from happening.

Sincerely,

WILLIAM A. DONOHUE, Ph.D.,
President.

Mr. MCCONNELL. Mr. President, I ask the chairman of the committee, isn't the important thing whether there is demonstrable evidence that a nominee has been unwilling to follow established law and it is my understanding—I ask the chairman whether it is his understanding—that Attorney General Pryor has followed the law when it was very tough to do so as an elected official in Alabama.

I believe our friend from Alabama, the junior Senator from Alabama, Mr. SESSIONS, cited a number of cases upon which Attorney General Pryor, as an elected official and not insulated from the wishes of the voters, took very tough positions on various issues because he was following the law. Isn't that the fundamental question that we ought to ask of nominees, whether to the left or to the right? Will you follow the law? And if they have demonstrated examples where they have done so, that would be relevant to whether or not they ought to be confirmed.

Mr. HATCH. It certainly would. We have reached a point on the Judiciary Committee where a person who has always had an honorable reputation such as General Pryor is immediately told by my Democratic colleagues that he cannot follow the law because of his deeply held beliefs. Come on. He has more than shown that he follows the law even though sometimes it is totally in conflict with his religious beliefs because he is a great lawyer. He realizes that if you do not follow the law, pretty soon we will not have any laws. The quickest way to get rid of the Constitution is to not abide by it. Even though there are decisions by the Supreme Court that I abhor, and that I think are bad decisions to start with, the fact is that when it is the law, I believe we ought to abide by it.

He has more than amply shown that he would, even under severe criticism by his supporters—by his own Governor who appointed him, by the Supreme Court Chief Justice who begged him to make certain arguments, he abides by the law. Yet his assertions and his word as a man of integrity and honor all his life are given short shrift.

Democrats are playing this phony ''gotcha politics'' game, in which they ''investigate'' unauthenticated—and many believe, stolen documents—and we object but participate only to keep our side informed. After weeks of their ''investigation,'' they didn't find one thing inconsistent with Pryor's testimony. They called almost everyone named in these documents. I don't know if they got all of them on the phone. But they didn't find one thing wrong. Pryor made himself available twice, so they could ask any question they wanted to ask, but twice, they didn't ask a single question. Then they come here and said they haven't had the full investigation. Give me a break.

It is getting to be where it is hard for people of devout beliefs to not be criticized if those beliefs contradict abortion rights.

Look. We have people on our side who feel very deeply about that. Some of them—very few—wanted to filibuster. We stopped it because we knew it would be terrible for this body to go through filibustering nominees to the Federal judiciary.

But now Democrats are filibustering nominees. When a person of the integrity of Bill Pryor is constantly called into question because of deeply held beliefs, I can see why people from all over the country are starting to ask what his deeply held beliefs are. They are religious beliefs because he is a traditional pro-life Catholic—and God forbid conservative—and that is, frankly, behind this in the eyes of many people.

I don't want to attribute that to my colleagues on the committee but I believe they are letting this happen. I call on them to help stop it.

The reason I bring up these two posters tonight is because these liberal groups use these slogans that ''Catholics need not apply'' to argue against Republicans for supporting Charitable Choice legislation. When that slogan was used against Republicans, I did not hear any outcry from my friends on the other side. I did not hear any outcry. Specifically, Americans United for Separation of Church and State argued against John Ashcroft's nomination for Attorney General. Their press release stated that Ashcroft's Charitable Choice provisions allow a government-funded program to hang a sign that says ''Catholics Need Not Apply.''

That is ridiculous. But that is what they did. I did not hear any screaming about that. I did not hear any of this righteous indignation from our colleagues over here about that. We didn't dignify it; at least I didn't.

People for the American Way, which I think has a very checkered reputation in this town—I am getting so I don't believe anything they do—criticized the Bush administration for supporting Charitable Choice legislation. They said:

Charitable Choice opens the door to government approved discrimination. . . . An evangelical church running a government-funded welfare program could state that ''Catholics need not apply.''

I am sure some will say maybe they will do that. Maybe they will. I don't know. But they are saying a lot of the best welfare programs in this country, a lot of the best programs in this country—from the taking care of people standpoint—are done by religious organizations, including the Catholic Church.

Where was the outrage back in 2001 when the liberals were using the slogan ''Catholics Need Not Apply'' against the Bush administration and John Ashcroft?

My friends on the other side of the aisle were silent. I did not hear one of them complain about that.

I met with some 50 people yesterday from all over the country who believe we are devolving into an antireligious body because of what is going on here.

Again, it is all coming down to abortion.

All we have asked is for Senators not to filibuster judges. We think it is a dangerous, unconstitutional thing to do. Judicial nominees of any President deserve an up-and-down vote, especially once they are brought to the floor. There are all kinds of ways of stopping them before they get to the floor, and colleagues on both sides of the aisle understand those ways.

But I can tell you this, we can match the decency of our approach any day of the week to what went on during the Reagan and Bush 1 administrations, and now what is going on in this administration—any day of the week—statistically, number-wise, fairness, from a dignity standpoint.

All we want are up-and-down votes for these nominees, especially once they are brought to the floor. What is really bothering our friends on the other side is, we do have a right to bring people to the floor because we have this one-person majority. Can you imagine how much good work we could do if we had a few more in the majority? It would not be nearly this screaming and shouting and this bitterness that sometimes does arise, coming primarily from outside.

I think the public has a right to know exactly where their Senators stand on these issues. If you do not like Bill Pryor, vote against him. If you think that his religious views are going to color his decisions on the bench, vote against him. If I thought that, I would vote against him.

The public needs to know, how are you going to vote on these issues? Some of our colleagues are afraid to take on these outside groups. We did. I did. I have been condemned by some of them, even to this day, for having done

so. And I put through a lot of Clinton judges. The all-time champion was Ronald Reagan: 382 judges in his 8 years. He had 6 years of a Republican Senate to help him, only 2 years with Democrat opposition, and he got 382. It was remarkable. Guess how many Clinton got, with only 2 years of his own party in control of the Senate? In 6 years, where I was chairman, 377—5 less than Reagan. Had it not been for some of the holds on the other side—one Senator was not getting his, so he stopped another from getting his—I think Bill Clinton would have been the all-time confirmation champion, with 6 years of a Republican Senate. We treated him fairly. Now, you can always find something to complain about on both sides, but he was treated fairly under the circumstances. And I know it, and I know he knows it.

These people deserve an up-and-down vote, at least once they come to the floor. Justice delayed is justice denied. There are many of these cases, among the litany of people the Democrats have indicated they are going to filibuster—it is not just two. Pryor looks like he is going to be filibustered. Kuhl looks like she is going to be filibustered. Holmes looks like he is going to be filibustered. We have talked about Pickering being filibustered. You can go down through some others as well—Boyle from North Carolina, et cetera.

Our courts cannot work if we don't have judges to run them. What is really bothering some of our colleagues on the other side is that in relation to the American Bar Association, their gold standard during all my 6 years as chairman of the Judiciary Committee during the Clinton years has suddenly not been a gold standard but a tin standard to them, because people like Miguel Estrada, with the unanimously well-qualified highest rating of the American Bar Association, are stopped. For what reason? They do not even have a good reason.

The first Hispanic ever nominated to the Circuit Court of Appeals for the District of Columbia, and not even a valid reason—at least I have not heard one yet, and I have heard everything they have said.

Priscilla Owen, you can't find a better woman. Priscilla Owen became a top-flight partner in one of the major law firms, broke through the glass ceiling for women, has been a mentor for women, is unanimously well qualified, and a justice on the Texas Supreme Court. She has all kinds of Democrat support from Democrat co-justices right on through the State—the people who know her the best. And she is being filibustered.

Bill Pryor is as good a man as I have seen come before the committee; yes, a person with very deeply held views. He might be filibustered.

Judicial nominees' qualifications should matter most. And a person's judicial qualifications ought to be the sole criteria by which we judge them. You cannot find better people than the ones I have been mentioning. I don't understand it. I don't understand why the other side is doing this. But they are doing it. And I think they are hurting this process tremendously.

All I want—and all any reasonable person should want—and all the public wants—is to have an up-and-down vote. Let these people be voted upon. If they are defeated, I can live with that. But if they are not defeated, they should be able to serve without having their reputation smeared, which is what these outside groups are doing. I don't think outside groups of the left or the right should be doing that. And they are distorting this process like I have never seen it distorted before.

Now, Senator FEINSTEIN was not here when I showed that the left used this slogan ''Catholics Need not apply.'' I don't think it is a good idea, whether these ''Catholics need not apply'' signs or ads come from the left or from the right. And I would prefer them to be stopped.

I don't like my colleague from Vermont thinking that I think he has even an ounce of religious bigotry. I do not. He needs to know that. But he can't just slide off and not recognize that this is where we are being taken by some of the attitudes and some of the approaches that are going on in the Senate Judiciary Committee—at least that is what the people outside think, religious people.

I have to tell you something, some of the greatest judges in this country are Catholics—and from every other religion. And some of the greatest ones have deeply held beliefs. But they are honorable, decent, honest people, just like Bill Pryor.

Now, look, what really has offended me and got me going here today—and I knew we were not going to go any further on energy tonight because the Democrats brought this up. We have an hour scheduled for the debate early in the morning tomorrow for a cloture vote. They don't want this cloture vote. Why not? It takes 15 minutes. And they are trying to say that we are tossing energy over the hill. They brought it up. And I am not going to let them get away with it anymore.

I care a lot for my colleagues on the other side. There is not one I do not like. That is not the usual BS around here. I do like my colleagues, and they know it. I don't feel good pointing out to them that what they are doing is dangerous for this process, and that people all over this land are starting to get some wrong ideas—maybe right ideas. I think these church leaders are not too far off. In fact, they may very well be right. They took the time to let us know how they feel.

But to come out here tonight and start this mess, and make these points, and then say that we are not willing to get the Energy bill done—come on. We have been doing a slow-walk around here for weeks now on the Energy bill. My colleagues on the other side know that Senator DOMENICI has had some health problems and that it has been very difficult for him, but he is a gutsy, strong Senator, one of the greatest ones who has ever sat here. And he is never going to let you know that he has been hurting. But they know.

We can do this bill by the end of this week, and we can still have our votes on cloture, which need to be done because the Senate is capable of doing multiple things. If we were not, we would not have lasted for over 200 years. And we can do those trade bills, too, if we just have a modicum of cooperation from the other side. But, no, there is a slow-walk here. And some on our side—in fact, it is a growing number—are starting to believe that slow-walk is to try to make the Senate look bad. You can't make it look bad because we have had a lot of legislation go through this year. And we are going to keep plugging away until we get more that this country needs. But it sure is a chore every step of the way.

I don't want to hear these phony arguments that we can't have 15 minutes for a cloture vote, or even an hour debate beforehand. We can start at any time in the morning.

Most people do not even get moving around here until 10 o'clock. We can do that without interfering with the energy debate. Senator DOMENICI was willing to be here all night long, if he had to, to take amendments and move this along. I think we Republicans were ready to be here for as long as it took to support him and others on the Democrat side who believe we need an Energy bill.

But to come out here and make these points against Bill Pryor that are not only false but demeaning to this body is wrong.

I am going to yield the floor. I know my colleague would like to speak. I am tired of hearing these arguments how holy some on the other side are. But I tell you this, there are people all over this land who are starting to think this system is not fair to people of belief, to people who have deeply held beliefs. I want you to know I am one of them.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I thank so much the distinguished chairman of the Judiciary Committee. He has been a consistent defender of an independent judiciary. He takes those issues exceedingly seriously. He has defended them when there was a Democratic President and he was Chairman of the majority-Republican Judiciary Committee. He defended the President's legitimate prerogatives in nominations. He has been consistent on that and everybody knows it. There is no basis to criticize him.

Bill Pryor is a friend of mine. He is one of the finest, most decent people I have ever known. There is not a Member of this body or a member of any of these outside groups that has any more integrity, any more decency, any more

character than Bill Pryor. He is a sterling individual, an honest man. He tells the truth.

When asked, ''if you disagree with a law or a court opinion that goes against your values, will you enforce it?'', he said: ''Senator, you can take it to the bank.'' Not only did he say that, as so many of our nominees have and as we have accepted, he has demonstrated it time and time again as Attorney General of Alabama.

It is really extraordinary to me. I don't think there is a politician in America who has so consistently taken very difficult positions in a political environment—positions most people would say a politician was crazy to take—than Bill Pryor. He did it, and there is only one principle guiding him. What is that principle? It was required by the law. He is a man of the law.

Yes, he is a Christian gentleman. When he makes a statement, part of his religion teaches that it ought to be an honest statement. So when he said, ''if the courts rule on something I don't agree with, if it my contradicts my views on abortion, I will follow the law,'' you can take it to the bank. That is the kind of man Bill Pryor is.

There has been an awful lot of railing about this ad by the Committee for Justice. It has a courthouse chambers with a little sign on it, and the sign says ''Catholics need not apply.'' Isn't this a legitimate commentary on how people feel about what is happening here? You can agree or disagree, and say it is not a really an accurate statement if you want to. I say it is legitimate commentary.

My colleagues went into a conniption fit about it. The ranking member twice, in two separate hearings, called this ad despicable. Let me read for you what it says.

As Alabama Attorney General, Bill Pryor regularly upheld the law even when it was at odds with his personal beliefs. Raised a Catholic, those personal beliefs are shared by Mainers all across the Pine Tree State. But some in the U.S. Senate are attacking Bill Pryor for having ''deeply held'' Catholic beliefs to prevent him from becoming a Federal judge. Don't they know the Constitution prohibits religious tests for public office? Bill Pryor is a loving father, a devout Catholic, and an elected Attorney General who understands the law. The job of a judge is to uphold the law, not legislate from the bench. It's time for his political opponents to put his religion aside and give him an up-or-down vote. It is the right thing to do. Thanks Senators Snowe and Collins for making sure that the Senate stops playing politics with religion.

I think that is a legitimate ad. It represents the view of a lot of Americans. There is nothing despicable about that. But I will tell you what is despicable. It is despicable to lie and distort and misrepresent this fine man's reputation, to impugn his integrity, to suggest he did one thing wrong when he and a group of attorneys general raised money for the Republican Attorneys General Association. They are candidates for office. They raise money all the time. There is nothing wrong with that. But the Democrats insisted there be an investigation, even though they had the records for many weeks.

Parenthetically, let me just talk about how they got those records. The records came to Senator KENNEDY, not to the chairman of the committee, myself, or the senior Senator from Alabama. Senator KENNEDY had them for some time before anyone else knew they existed. The lady who gave them to him had been an associate of a certain Lannie Young in Alabama, who recently pled guilty to a bribery scheme investigated by the United States Attorney's Office and Attorney General Bill Pryor. So she leaks those documents to Senator KENNEDY, and then, at his staff's suggestion, to Senator LEAHY. And then the Democrats want to have an investigation. So the chairman's staff says, OK, let's get the attorney general on the phone. You can interview him, ask him any questions you want to ask him about this effort to raise funds for the committee.

The bipartisan investigative staff had the phone call. The chairman's staff asked many detailed questions, and Attorney General Pryor's answers corroborated his testimony before the committee during his hearing and in written questions. The Democrats refused to ask Attorney General Pryor any questions. Why? Because they wanted to stall his vote in committee. It was already the fourth time his hearing had been set. The time had come up for a vote to be cast on his nomination in committee. The Democrats didn't want a vote. So they dragged it out, partly by invoking a rarely used two-hour rule, cut off debate, and obstructed a vote.

The chairman then said we were going to continue the investigation again that night. He gave the Democrats another chance to call Attorney General Pryor on the phone. They again turned down this opportunity. So the investigation dragged on for over another week. They were given yet another chance to get Attorney General Pryor on the phone and ask him any questions they had about this alleged issue. Instead, they called 20 of the alleged contributors on the list. They called employees of the Republican Attorneys General Association. Not one contradiction was found. Nothing unethical was found. Yet the Democrats continue to sully his reputation by implying that the investigation proved that Pryor misled the Committee. This is wrong, because not one person in this body has the integrity of Bill Pryor, I would say. This is a fine, decent man who has lived his life doing the right thing. I feel strongly about that. I won't back down.

I will tell you some other things that are despicable in the attack on Bill Pryor. One of our Senators just said recently on this floor, with regard to Bill Pryor's participation in a certain Supreme Court case: He used his power as attorney general to obstruct the enforcement of the Violence Against Women Act in Alabama.

Now that is the kind of thing People for the American Way do. That is the kind of attack the Alliance for Justice puts out. I am sure some staff person put that language together for the Senator, and perhaps she made her speech and didn't really understand what she was saying.

That is a false and unfair statement. Let me tell you what he argued with respect to the Violence Against Women Act. He participated as amicus in an appeal to the Supreme Court questioning whether the part of that act creating a federal civil remedy for a purely intrastate act violated the Commerce Clause. Pryor argued his position to the Supreme Court, and the Supreme Court agreed with him.

This falsehood about Bill Pryor's indifference to violence against women is also ironic, because he has a tremendous reputation in the State of Alabama for standing up for the victims of domestic violence. Kathryn Coumanis is one of the leaders in the State in the movement to protect women against domestic violence. She heads the Penelope House. She has written on Bill Pryor's behalf and noted that the women's groups in the State involved in the issue of violence against women put Bill Pryor in their Hall of Fame. Yet we have people on this floor and we have outside groups saying Bill Pryor does not care about violence against women. That is flat-out wrong.

We have seen some outside groups attack Bill Pryor, saying that he was against the disabled. These groups should have been ashamed of themselves. Who are they? The ACLU, the People for the American Way, the National Abortion Rights Action League, Alliance For Justice. They work together and they have a tremendous amount of money. They created this supposed issue, sent out information to newspaper editors and made these allegations that Bill Pryor had gutted the Americans With Disabilities Act, and he didn't care about people with disabilities. They said so directly.

But what did he really do? He argued in the Garrett case against the constitutionality of one small part of the Americans With Disabilities Act that said a State employee could sue the State of Alabama, or any other State, for money damages in federal court for violations of the Act. It was a suit against the University of Alabama, a State institution; and the Attorney General of Alabama, charged with the responsibility of defending the State, said this in his brief: I believe in the Disabilities Act. I believe people with disabilities should be treated fairly. The State of Alabama believes that under the Federal statute this person can get his or her job back. The Federal court can issue an injunction against the State of Alabama to remedy a violation. But the Congress could not allow this State employee to sue the State for money damages because, under the Eleventh Amendment principle of sovereign immunity, a state

cannot be sued for money damages in federal court. This is because the power to sue is the power to destroy. A State always controls and limits the power of a suit against itself.

Bill Pryor took this argument to the Supreme Court. What did the Supreme Court do? The Supreme Court ruled Attorney General Pryor was correct. And in any event, this affected only 4 percent of all the cases that might be brought, because only 4 percent of the employees in America work for States. Most States have disability rights protections, anyway. They don't need to file under the Federal Act.

This is why it is wrong and despicable and dishonest to say Bill Pryor lacks sensitivity for the disabled simply because he legitimately defended the State of Alabama and won in the Supreme Court. This attack should not have been made.

Some say Bill Pryor is an activist. I would say he is an active attorney general. He is constantly working to preserve the rule of law and protect the legitimate interests of the people of Alabama. That is what he is paid to do. He is absolutely not an activist in the way Chairman ORRIN HATCH defines it. As Chairman HATCH defines it, an activist is a nominee for the bench who will not restrain himself or herself to the law, but in fact seeks to carry out and further their personal ideological agenda by twisting the meaning of words in statutes and the Constitution, and to otherwise act in a way that allows their personal views to dominate their legal requirements. An activist who seeks to be on the bench is someone who ought to be scrutinized carefully.

Bill Pryor is no activist. In fact, he is absolutely committed to the rule of law. His whole life and whole political philosophy has been built on the fact that judges should be true to the law whether they agree with it or not. That is the whole purpose of the rule of law. That is why this Nation is so wonderful, why we have so much freedom. We follow the law to an extraordinary degree. A lot of countries that have great potential never reach it because they don't have a rule of law that ensures predictability and justice.

As attorney general, Bill Pryor had to be an advocate. He proved to be a great one. As attorney general, he consistently has followed the law courageously, even when he knew he might face complaints from friends and allies. Members of the Senate should study his testimony carefully and evaluate his real record, not the trumped-up charges, not the bogus attack sheets being produced by outisde groups, and not mischaracterizations by these groups, some of which themselves have very out-of-the-mainstream positions.

Let me say, parenthetically, that a number of these groups have extreme views on the separation of church and State. Some of these groups believe there can be no drug laws, that we ought to legalize drugs. Some believe there can be no laws against pornography. The ACLU opposes laws against child pornography. Who is out of the mainstream here?

And let me ask you this: Why would leading African-American Democrats like our Congressman ARTUR DAVIS, a Harvard graduate and a lawyer himself, former U.S. Attorney; why would Representative Joe Reed, chairman of the Alabama Democratic Conference, a member of the Democratic National Committee, one of the most powerful political figures in Alabama for 30 years; why would Representative Alvin Holmes, Representative Holmes, a lieutenant with Dr. Martin Luther King, who has been beaten for his commitment to civil rights, all speak up for him? Why does the former Democratic Governor of Alabama speak so highly of him? Why does the Speaker of the Alabama House speak so admiringly of him?

All these people support him because he is not as Beltway attack groups have caricatured him. He has been a champion of liberty and of civil rights. Much has been changed in Alabama over the years. We have the highest number of elected African-American officeholders in the United States. On the day we had General Pryor's nomination hearing, it marked the anniversary of a sad day in which Governor Wallace stood in a schoolhouse door. But you must know that Bill Pryor was not part of that. He was a mere child at that time. Secondly, his parents were John F. Kennedy Catholic Democrats. I suspect this hearing might change some of their views. When he gave his inaugural speech after winning election as attorney general, with 59 percent of the votes, he opened that speech with these very telling words:

> Equal under the law today; equal under the law tomorrow; equal under the law forever.

Not segregation today, tomorrow, and forever, but equality. That is how he led off his speech, and that is the kind of man Bill Pryor is. Those words were a fitting response 40 years after a promise of another kind.

Bill Pryor is one of the good guys. He does the right thing. He frequently has refused pleas from his Republican friends when he thought the law didn't support their position. For example, those friends rightly believed the legislative district lines had been gerrymandered in the State, making it very difficult for Republicans to win legislative seats.

In fact, although we had in Alabama two Republican Senators, five Republican Congressmen, and a Republican Governor, only a third of the state legislature was Republican. Some Republicans felt that this was a redistricting problem. So they filed a voting rights suit arguing that the majority-minority legislative districts were improper. They asked for support from the Republican Attorney General. He would not take their side. He courageously led the case, as it turned out, for the African-American Democratic position.

He lost before the three-judge district court—and backed up by an amicus brief from the NAACP—won in the U.S. Supreme Court. His argument was plain and simple. He said the plaintiffs did not have standing to file a lawsuit. Whether the lawsuit had been meritorious or not, it was not a legitimate lawsuit because they did not have standing. Attorney General Pryor took it to the Supreme Court, and the Supreme Court ruled with him. Some of my friends and some of Bill's friends are still mad about that situation, but he believed that was the right thing to do under the law, and he made that call as the attorney general for the State of Alabama.

He had taken an oath to defend the State of Alabama. These gerrymandered districts were the laws of the State of Alabama, endorsed by the legislature. So he defended the districts even when it went against the interest of his political allies.

That is why Joe Reed and Alvin Holmes speak highly of Bill Pryor. They have seen him in action.

On one of the church-and-state issues that came up not long after he was appointed Attorney General by our former Governor, the Governor had a firm view about separation of church and State. Basically, he did not think there was much separation. He read the Constitution pretty plainly. The First Amendment says Congress shall make no law respecting the establishment of a religion, and the Governor thought that meant the United States Congress, not the State of Alabama. He did not adhere to the view that the 14th amendment incorporates the First and applies it to the States.

Then-Governor James said: What is wrong with coaches leading the players in prayer? He wanted Bill Pryor to file a lawsuit to vindicate him. Shortly after having been appointed Attorney General—at a very intense and emotional time in the State, with the Governor of the State speaking up for prayer in schools—Bill Pryor had to make a tough decision. He had to review the law carefully.

What did he do? He filed a respectable brief in court. He would not file the brief the Governor wanted, so the Governor got his own lawyer and he also filed a brief. As I know as a former Attorney General of Alabama, only the Attorney General is legally allowed to speak for the State in court. So Bill Pryor, as Attorney General, filed a brief saying that the Governor—who had just appointed him—did not speak for the State of Alabama.

Opponents said that Bill Pryor somehow is a tool of the chief justice of the Alabama Supreme Court, Roy Moore, who has deep convictions about how the Constitution and the laws ought to be applied with regard to separation of church and State, and who put in a monument in the court recently that had the Ten Commandments on it. The judge did not think anything was wrong with that. He met with the Attorney General, and they discussed legal actions against him to remove

the monument. They did not reach an accord. The attorney general did not agree with the Chief Justice on his views of what the law was. So eventually, the Chief Justice had to hire his own lawyer and file his own brief, and Attorney General Pryor filed a more limited brief pointing out that if you go to the Supreme Court of the United States, there are several different depictions of the Ten Commandments on the walls of the U.S. Supreme Court. He basically said: What is good for the U.S. Supreme Court ought to be good for the Alabama Supreme Court.

Opponents say Bill Pryor is extreme on religious issues. That is not true. For example, I mentioned earlier how he stood up and did what was right with regard to the pressure from the Governor on school prayer. After that decision, there was much confusion in the State. School boards did not know what to do; teachers were leading prayer; others said you cannot do that. What was the law?

To answer that question, Attorney General Pryor wrote guidelines for school systems in Alabama advising them on what they could legally do as teachers, principals, and coaches, and what they could not do, and what children could do and what they could not do.

The Atlanta Journal Constitution wrote an editorial praising him for stepping up in a tough, emotional time and providing good leadership. And, indeed, the Clinton Administration basically adopted verbatim Bill Pryor's guidelines, and sent them around the country to other schools.

This idea that he is some sort of extremist is absolutely false. This is a courageous lawyer who does the right thing day after day, time after time to a degree I have never seen before by any politician in my life.

On abortion, they say he has deeply held beliefs about abortion; he cannot be trusted to be a judge. The distinguished Senator from Kentucky a few moments ago hit it exactly correctly. When a nominee has taken a view that they believe abortion is wrong, then it is perfectly proper for the Senate to inquire about that. What should the inquiry be? Senators should not say: Mr. Pryor, we want you to grovel down here on the floor; we want you to renounce your views about abortion; we want you to say, ''I don't believe that anymore,'' as a price for being confirmed—that is absolutely wrong.

What should Senators say? They should say: Mr. Pryor, you have expressed your view that abortion is bad, that you do not think Roe v. Wade was rightly decided; but will you follow it? Then see what he says. Senators do not have to accept what he says; they can inquire further. To those inquiries, Bill Pryor said ''Of course, I will follow the law, Senator. You can take it to the bank.'' What is significant is that Bill Pryor has a record showing that he will live up to that answer.

As far as I can tell, there have been only two instances in his public life in which he has dealt with abortion. The first had to do with Alabama's partial-birth abortion statute, that severely restricted partial-birth abortion. Partial-birth abortion is a very horrible procedure. Overwhelmingly, Americans reject it. The American Medical Association said it is never justified as a medical procedure. And Alabama passed legislation to virtually eliminate it.

As Attorney General, he superintended the State's district attorneys who enforced this law. He sent them a directive in 1997 stating that parts of the partial-birth abortion bill were unconstitutional and could not be enforced. Isn't that proof that he will follow the law even if he disagrees with it?

The other example involving abortion was when Attorney General Pryor issued stern warning that those who threatened violence against abortion clinics, or against those who sought to exercise the constitutional right to abortion at those clinics, would be fully prosecuted.

So outside groups attack him on his deeply held beliefs, even deeply held religious beliefs, and they suggest that somehow he is an extremist because he personally thinks that abortion is a taking of innocent human life.

Bill is a thoughtful person. He is not some automaton for any church or any person. He thinks about these issues carefully. He has shared his views about it. He believes that the life that is in the womb has all the characteristics of what that life will be as an adult. There is no doubt that it is going to become a human being. He believes that we ought not to withdraw the law's protection from that life. That is his view.

But the Supreme Court has not bought it. In Roe v. Wade and Planned Parenthood v. Casey they held differently. Bill Pryor said: I understand that. I will follow the Supreme Court precedents.

How do we know he will? Because he did it even with respect to the partial-birth abortion statute in Alabama. So I do not know what more a person can do to prove his fidelity to the rule of law.

Bill has gained great support in the State. He is a man who is respected across party lines, across racial lines. Representative Alvin Holmes wrote this powerful letter on his behalf, and he told the story about Alabama's old constitutional provision that prohibited interracial marriages. Of course, that had been struck down some time ago by the United States Supreme Court. It was unconstitutional, but it remained in the constitution.

Alvin Holmes, as a lieutenant for Dr. Martin Luther King, and still a vibrant battler for civil rights in Alabama, said it ought to come out of the constitution. Attorney General Bill Pryor, as Alvin Holmes said, was the only white politician in the State, Democrat or Republican, who supported him. They got it out of the legislature, put it on the ballot, and the people of Alabama eliminated it from our constitution. Bill Pryor campaigned for that elimination throughout the State because he thought it was wrong that our constitution would have those words still in it.

This is a man of quite extraordinary character, a man of great skill and ability, who has taken cases to the Supreme Court and won them to an extraordinary degree.

So I submit there is nothing wrong with the ad that that group put out to defend Bill Pryor. It is basically an honest evaluation of the situation. Somebody might disagree with it, but it is honest.

In contrast, many of the attacks on Bill Pryor have not been honest. Outside groups have been unfair and have deliberately twisted his record. What they have done is not right.

Some in this chamber say we need collegiality. They say Republicans should renounce this outside ad about ''Catholics need not apply.'' I would say this to my friends: Let's see you renounce some of these ridiculous, obscene, despicable misrepresentations of Bill Pryor's record and his character. I would like to see that.

Yes, we do have a problem with collegiality, but I do not think it is the result of Chairman HATCH's leadership. When he was Chairman of the Committee, we moved 377 Clinton nominees. Only one was voted down. When he was Chairman of the Committee, not one time did we vote down a Clinton nominee on a party-line vote. During that short time, a year and a half or so, that the Democrats had a majority in the Senate Judiciary Committee, they voted down in committee, on a party-line vote, two President Bush nominees.

In May, President Bush nominated 11 judges for the court of appeals. He renominated one Democrat who had been nominated by President Clinton, but not confirmed, and two Democrats overall. The Democratic Judiciary Committee promptly moved the 2 Democrats and confirmed them. Almost 2 years later, several of the remaining nine had not even had a hearing in committee. This was an unprecedented slowdown of the confirmation process.

The Democrats met and decided deliberately and consciously to change the ground rules for confirmation. There is no doubt about that. Who is changing the ground rules? I submit it is the Democratic members of the Judiciary Committee, by some of their tactics. They started an effective filibuster in the committee, creating a situation in which 9 out of the 19 members of the committee could withhold a vote by relying on a misinterpretation of Rule IV. I have never heard of that.

The chairman properly ruled under Rule IV that the chairman has the prerogative to bring a matter up for a vote.

Their citation of rule IV ignores what it says the purpose of that rule.

The first sentence says to bring a matter up for a vote and to deal with a recalcitrant chairman who will not allow a matter to be voted on, if you get one member of the other party and a majority vote, then you can bring a matter up for a vote even if the chairman does not agree. But the rule does not give a group a right to filibuster and keep a vote from occurring, which is what they wanted to do.

We have had two open, notorious and unprecedented filibusters on the floor against superb circuit court nominees, Miguel Estrada and Priscilla Owen. Both received the highest rating by ABA, and both have extraordinary records. In the history of this country, we have never had filibusters of circuit and district judges, but the Democrats have started two now because they decided to change the ground rules.

Now we have these Members come down on the Senate floor and act all upset that somehow collegiality is being upset here. They do not know why the chairman has determined to move nominations forward and not let them be obstructed and delayed. I call on the Democratic leader, Senator DASCHLE who speaks for this party. There would not be a filibuster of these nominations if he did not approve it. He needs to remember the history of this body. It is a mistake for him to lead the Democrats into an unprecedented period in which we filibuster Presidential nominees for the federal courts.

I firmly believe a fair reading of the Constitution is that nominations for judgeships should be confirmed based on a majority vote. Any fair reading of the Constitution will show that. That is why we have never filibustered in the history of the country, but the Democrats have now created what in effect is a supermajority requirement to block the right of nominees to an up-or-down vote.

There are many more things I could say about Bill Pryor. But I will not do that tonight. I appreciate the indulgences of my colleagues and the staff. This battle to allow people to have honest personal views, so long as those views do not influence their official interpretations of existing law, is an important battle for America. I intend to be a part of it and a lot of others do, too. It is not going away. We are not backing down.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, to those of us who have been given this great honor to serve in the Senate, there is a moment when we are asked to take the oath of office. In taking that oath of office, we swear to uphold one document. That document, of course, is the Constitution of the United States of America.

We are not asked our religion, nor our beliefs in our religion. We are only asked if we will take an oath to God that we will uphold this Constitution. All of us take it very seriously and all of us take the wording of this Constitution very seriously because within this small document are words that have endured for more than two centuries. There was wisdom in that Constitutional Convention which America has relied on ever since.

Sometimes people say, times have changed. And we do amend the Constitution from time to time. By and large the principles that guided those men who wrote this Constitution have guided this Nation to greatness. I am honored to be a small part of this Nation's history and to serve in the Senate.

I looked to this Constitution for guidance for this debate tonight, and I find that guidance in Article 6 of the Constitution. Let me read a few words from that book.

. . . no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

Most of the men who wrote this Constitution were religious people. They had seen the abuse of religion. They had seen leaders in other countries using religion for political purposes and against other people. They came to this land and said, it will be different in America. We are going to protect your right to believe. We are not going to establish a government church and we will say in our Constitution that no religious test will ever be required of a person seeking a nomination for public office in our land.

Those are very absolute and clear words. I am a Catholic, born and raised. My mother and father were Catholics. My children have been raised in the Catholic faith. In my lifetime, I have seen some amazing things happen. In 1960, I was about 15 or 16 years old. There was a Presidential race with a candidate by the name of John Fitzgerald Kennedy of Massachusetts. That may be the first Presidential election I followed closely. I remember watching the Los Angeles convention on my black-and-white television at home in East St. Louis. I took a special interest because I had a stake. The John Fitzgerald Kennedy candidacy was the first opportunity since Alfred Smith for the election of a Catholic to be President of the United States. We do not think twice about that now, but in 1960 it was a big deal. And a big problem for John Kennedy. So much so that he feared he might lose the election over that issue.

He did something that was historic and I guess unprecedented. He went to Texas and addressed a Baptist convention to explain his view of the relation of church and State because there were real concerns. Many people felt that those who were believers of the Catholic church were so connected and so committed to the teachings of the church and to the leader of the church, the Pope in Rome, that they could not make objective decisions on behalf of the United States; they would be clouded in their judgment because of the demands of their faith.

John Kennedy, a Catholic, went to Texas to a Baptist convention to tell those gathered that his first allegiance as President was to the United States and not to any religion. He said: I believe in America where the separation of church and State is absolute.

Many people think that statement and that visit turned the election for John Kennedy, an election which he won by just a very small margin. It dispelled the fears and concerns of many people across the country that a Catholic would be first loyal to Rome and then loyal to the United States.

It is an interesting thing to reflect on the view of Catholics in public life in 1960 and the debate which is taking place tonight. The issue has come full circle. Now there are those who argue that because a nominee comes before the Senate and professes to be a Catholic that we cannot ask that nominee questions about his political beliefs. There are many religious beliefs that are also political beliefs. There are some religious beliefs that are not. You can be an adherent to the Jewish religion, keep kosher, and I cannot imagine how that becomes a political issue. What is the purpose of asking a question about that? But whether you are Jewish, Catholic, Protestant, or Muslim, it is appropriate to ask any nominee for a judicial position, Where do you stand on the death penalty? That is a political issue. It is a social issue. And yes, it is also a religious issue.

Some have argued tonight if a person comes before the Senate with strong religious convictions that somehow we are disqualified from asking questions about political issues. I see it much differently. I think the Constitution makes it very clear we should never ask a person their religious affiliation. Article 6 of the Constitution says that is not a qualification for public office.

So what business do we have asking that question? But to say that because a person's political beliefs also happen to be their religious beliefs, that for some reason we cannot ask questions about them, goes entirely too far.

Consider a so-called church in my State, the World Church of the Creator in Pekin, IL. A deranged individual named Matt Hale—who could not be approved by the committee on character and fitness after he had passed law school and therefore was never licensed to practice law—decided to create a church and an Internet Web site in the name of that church, the World Church of the Creator, and started peddling the most venomous beliefs imaginable—bigoted, hateful, racist, anti-Semitic beliefs in the name of religion. This church and its so-called teachings drew some demented followers. It culminated one day when one of those followers went on a shooting spree, killing a basketball coach of Northwestern University, Ricky Birdsong, and then driving over to the University of Indiana and gunning down an Asian student, and was finally apprehended.

When Matt Hale was asked about the activities of this individual, he said, that is just our religion. Their religion.

If someone who comes before us with unusual beliefs and political issues says, stop, you cannot ask me about those beliefs because they are my deeply held personal religious convictions, are we then disqualified? If we are, imagine where that can lead.

In this case we have an individual, William Pryor, Attorney General of Alabama, who is a Catholic. The reason I know that is the chairman of the Senate Judiciary Committee, ORRIN HATCH, asked him. That is the first time I can recall in the 4½ years I have served on this committee that it has ever been asked of any nominee. Tonight Senator HATCH said he would never do it again. I am glad to hear him say that. I hope he never does that again and I hope no committee chairman of any committee ever asks any nominee for office their religion. The Constitution makes it clear we should not. But the exception was made by Senator HATCH and he asked Mr. Pryor his religion.

That triggered this ad campaign which we have discussed tonight and this heated debate which many have followed in the Senate. We have had Members come to the Senate, one who is a Catholic, saying, This is what good Catholics believe.

I guess I was raised in a little different branch of the Catholic church, maybe a branch that believes there ought to be a little more humility in religious belief. I don't like to stand in judgment of my peers as to whether they are good people or not; let their lives speak for themselves. And I certainly would never stand in judgment of someone's adherence to a certain religious belief. That is personal, as far as I am concerned. But not personal to some of my colleagues.

They come to the floor and make pronouncements about who is a good religious person and who is not. I am not comfortable with that. In fact, I am a little bit uncomfortable discussing this issue of religion in the Senate, but I have no choice. It has been brought before us.

What I believe is this: Within the Catholic church there are many differences of opinion, even within the church members who serve in the Congress. I know of one or two who I think are really close to adhering to all of the church's beliefs in the way that they vote, but only one or two, because although those who come to the floor want to argue to you that the Catholic Church is only about one issue, abortion, there are many of us who believe it is about a lot of issues.

It is about the death penalty—the death penalty, where the church has been fairly clear in its position. Again, I am troubled that I would even read this and put it into the CONGRESSIONAL RECORD, but I have no choice, based on what has been said over the last 3 hours. This is a statement by Pope John Paul II, St. Louis, MO, January 22, 1999:

The new evangelization calls for followers of Christ who are unconditionally pro-life, who will proclaim, celebrate, and serve the Gospel of life in every situation. A sign of hope is the increasing recognition that the dignity of human life must never be taken away, even in the case of someone who has done great evil. Modern society has the means of protecting itself without definitively denying criminals the chance to reform. I renew the appeal I made most recently at Christmas for a consensus to end the death penalty, which is both cruel and unnecessary.

The words of Pope John Paul II. You didn't hear much reference to the Catholic Church's position on the death penalty tonight by those who were saying that William Pryor is being discriminated against because of his Catholic beliefs. Perhaps it is because Mr. Pryor not only supports capital punishment, he fought State legislation in Alabama which sought to replace the electric chair with lethal injection.

I am not going to stand in judgment as to whether or not he is a good Catholic. That is not my place. But I bring this issue before my colleagues so they can understand that the Catholic Church is about more than one issue. There are those who hold beliefs which may or may not agree with all the teachings of that church, and that is within their conscience and their right to do. It is not mine to judge.

But for us to be told repeatedly by the other side of the aisle that to oppose William Pryor is to be against him because he is Catholic is just plain wrong, and I resent it. I resent it because, frankly, there are many reasons to oppose his nomination—because of his political beliefs.

Oh, yes, some relate to his religion and some don't. But what we are told in the Constitution is that distinction makes no difference; whether they are religious or not, stick to political beliefs. And I believe my colleagues have really tried to do that on the committee.

Let me also say I was disappointed that the Senator from Pennsylvania, Mr. SANTORUM, earlier quoted, I believe out of context, the statement made by Senator FEINSTEIN of California. It was unfair to her because she had left the floor and he characterized some of her remarks in ways that I don't believe she intended. To make certain that the record is clear, I asked her staff to provide me with a copy of the speech which she gave, and I would like to read an excerpt of that speech given on the floor this evening by Senator FEINSTEIN to clarify and make certain the Senate understands that the quote which was referred to earlier by the Senator from Pennsylvania was inaccurate.

I quote what Senator FEINSTEIN said:

Each time the Democrats oppose a nominee, we are accused of some sort of bias unrelated to the merits. With Miguel Estrada, we were accused of being anti-Hispanic. With Priscilla Owen, anti-woman. With Charles Pickering, anti-Baptist. And now, with William Pryor, anti-Catholic.

These charges have been described by some as ''scurrilous,'' and I agree. To describe Democrats as anti-Hispanic after the many Hispanic Clinton nominees that were stopped in their tracks by a Republican majority is disingenuous at best.

To call us anti-woman, well, [as Senator Feinstein said] I don't have to tell you how bizarre it is for me to be called anti-woman.

And to say we have set a religious litmus test is equally false.

Many of us have concerns about nominees sent to the Senate who feel so very strongly about certain political beliefs, and who make intemperate statements about those beliefs that we raise questions about whether those nominees can be truly impartial.

And it is true that abortion rights are often at the center of those questions. As a result, accusations have been leveled that anytime reproductive choice becomes an issue, it acts as a litmus test against those whose religion causes them to be anti-choice.

But pro-choice Democrats have voted for many nominees who are anti-choice and who believe that abortion should be illegal—some of whom may have even been Catholic. I don't know, because I have never inquired.

So this is not about religion. This is about confirming judges who can be impartial and fair in the administration of justice. And when a nominee like William Pryor makes some fairly inflammatory statements and evidences such strongly held beliefs on such core issues, it is hard for many of us to accept that he can set aside those beliefs and act as an impartial judge.

Somehow, that was characterized as questioning General Pryor's religious beliefs. I do not think any fair reading would reach that conclusion. In fact, I think Senator FEINSTEIN was as careful as we all have been to draw that clear and bright line that the Constitution requires us to draw.

She said at one point there—and it may come as curious to people following the debate—that she is not certain about how many Catholics we voted for because, you see, that is not one of the required questions when a person applies for a judgeship in this country. We do know, though, just by taking a look at some of their resumes, that they belong to some organizations which suggest that they might be Catholic. So I would like to say for the record that the argument that we have somehow discriminated against Catholics who are opposed to abortion is not supported by the evidence.

We have, for example, confirmed a circuit judge who was active in the Knights of Columbus and the Serra Club and sits on the board of a Catholic school—Michael Melloy.

We confirmed a district court judge who is a member of the parish council of his Catholic church, the president's advisory board of a Jesuit High School Parents' Club, the St. Thomas More Society for Catholic lawyers, and his State's chapter of Lawyers for Life—Jay Zainey.

We confirmed a district court judge who was the former president of Catholic Charities of her city's diocese and a member of both the Catholic League

and of the St. Thomas More Society—Joy Flowers Conti.

This serves as clear evidence that Democrats do not have an abortion litmus test for judicial nominees. There have been many we have confirmed who were opposed to Roe v. Wade and have made it very clear that they are opposed to it.

Some names that I can refer to very quickly: John Roberts, DC Circuit; Jeffrey Howard, First Circuit; John Rogers, Sixth Circuit; Deborah Cook, Sixth Circuit; Lavenski Smith, Eighth Circuit; Timothy Tymkovich, Tenth Circuit; Michael McConnell, Tenth Circuit; and the list goes on.

So for colleagues to stand before us and say we discriminate against Catholics, the record doesn't show it. There are people who clearly have Catholic affiliations in their background who have been approved by this committee and are supported by Democrats. For them to argue that we have a litmus test and turn down judges just because they oppose abortion denies over 140 nominees coming out of the Bush White House, most of whom are pro-life and most of whom disagree with Roe v. Wade personally and still have won our approval. I read a partial list.

In my own situation, I am pro-choice. I have personal feelings against abortion but believe that in my public capacity women should have the right to choose. And yet in my own home State of Illinois, of the 12 judges I have had the privilege to appoint to the Federal bench, at least 3 I have come to learn afterward were pro-life. I learned it afterward because I didn't ask them in advance. It really wasn't a condition for their appointment as far as I was concerned. I just want them to be fair minded and balanced. Whether they disagree with me on that issue or one other issue is really secondary.

So what we have before us today is an effort by the proponents of William Pryor to ask us to look beyond his political beliefs and really turn this into a debate about religion. I hope we don't do that. I hope we don't do it for his sake and I hope we don't do it for the sake of the Senate.

The Senate Judiciary Committee meeting of last week was one of the saddest times I have spent as a Senator. I saw things happen in that committee that I hope will never be repeated. I saw members of the committee raise the issue of religion in a way which the Constitution has never countenanced and I hope and pray has never happened before in that committee. I hope it never happens again.

The nomination of William Pryor is fraught with controversy. This whole question about his involvement with the Republican Attorneys General Association—we haven't even completed that investigation. This man's nomination comes to the floor before questions have been asked and answered that are serious questions about possible ethical considerations.

I won't prejudge the man as to whether he will be cleared of any suspicion or not. But in fairness to him, in fairness to the process, in fairness to the Senate, should not we have completed that investigation before he was reported from committee?

When it comes to critical issues involving Mr. Pryor's background, a lot of different groups have raised questions about him. The argument is being made on the other side that the only reason you can possibly oppose William Pryor is if you are anti-Catholic.

How then do you explain the editorials in opposition to his nomination? Editorials from Tuscaloosa, AL; editorials from Huntsville, AL; the Washington Post; Charleston, SC; St. Petersburg, FL; Arizona; the Atlanta Journal-Constitution; Honolulu Adviser; Pittsburgh newspapers—the list goes on.

Are we to suggest that all these newspapers that oppose his nomination are anti-Catholic? Not if you read the editorials. They have gone to his record and they have come to the conclusion that he is not the appropriate person to serve in this circuit court capacity.

Let me tell you some of the issues they raise. Mr. Pryor's zeal to blur the lines between church and state, a line that was clearly drawn in our Constitution and clearly drawn by John Kennedy, Presidential candidate, is a problem. He is so ideological about the issue that he has confessed, ''I became a lawyer because I wanted to fight the ACLU.'' He then derided that organization as standing for ''the American 'Anti-Civil' Liberties Union.'' I asked him if he would recuse himself in cases involving the ACLU. He said no, but he pledged:

> As a judge, I could fairly evaluate any case brought before me in which the ACLU was involved.

Mr. Pryor and I are just going to have to disagree on that particular statement.

He has been a staunch supporter of Alabama Chief Justice Roy Moore and his midnight installation of a 6,000-pound granite Ten Commandments monument in the middle of the State courthouse. The Eleventh Circuit Court recently ruled that the display was patently unconstitutional and had to be removed.

At his confirmation hearing, Senator FEINSTEIN asked him to explain his statement that:

> . . . the challenge of the next millennium will be to preserve the American experiment by restoring its Christian perspective.

He ducked the question.

I think if you are going to serve this Nation and you are going to serve this Constitution, you have to have some sensitivity to the diversity of religious belief in this country. To argue that this is a Christian nation—it may have been in its origin but today it is a nation of great diversity. That diversity is protected by this Constitution. Obviously, Mr. Pryor has some problems in grasping that concept.

On the issue of judicial activism, not only does Mr. Pryor have problems with separation of church and state, he also has problems separating law and politics. He believes that it is the job of a Federal judge to carry out the political agenda of the President. How else could you interpret his comments about the Bush v. Gore case in the year 2000 when he said:

> I'm probably the only one who wanted it 5 to 4. I wanted Governor Bush to have a full appreciation of the judiciary and judicial selection so we can have not more appointments like Justice Souter.

That is a statement by William Pryor.

On another occasion, he said:

> [O]ur real last hope for federalism is the election of Gov. George W. Bush as President of the United States, who has said his favorite Justices are Antonin Scalia and Clarence Thomas. Although the ACLU would argue that it is unconstitutional for me, as a public official, to do this in a government building, let alone at a football game, I will end my prayer for the next administration: Please God, no more Souter.

I ask Mr. Pryor, a member of the Federalist Society, whether he agrees with the following statement from the Federalist Society mission: ''Law schools and the legal profession are currently strongly dominated by a form of orthodox liberal ideology which advocates a centralized and uniform society.'' I have asked this question of almost every Federalist Society member that has been nominated by President Bush. Mr. Pryor is the only person who gave me a one word answer. He said, ''Yes.''

On the issue of federalism, Mr. Pryor has been a predictable, reliable voice for entities seeking to limit the rights of Americans in the name of States' rights. He has filed brief after brief with the Supreme Court arguing that Congress has virtually no power to protect State employees who are victims of discrimination.

Under his leadership, Alabama was the only State in the Nation to challenge the constitutionality of parts of the Violence Against Women Act, while 36 States filed briefs urging that this important law be upheld in its entirety—the exact opposite position of one Attorney General William Pryor.

He also filed a brief in the recently decided case of Nevada v. Hibbs. He argued that Congress has no power to ensure that State employees have the right to take unpaid leave from work under the Family and Medical Leave Act. A few months ago the Supreme Court rejected his argument and said:

> Mr. Pryor, you have gone too far this time.

The issue of women's rights has been well documented. I will not go into those again.

On the issue of voting rights, Mr. Pryor urged Congress to eliminate a key provision in the Voting Rights Act which protects the right to vote for African Americans and other racial minorities. While testifying before this committee in 1997, Mr. Pryor urged Congress to ''seriously consider . . . the repeal or amendment of section 5 of

the Voting Rights Act'' which he labeled ''an affront to federalism and an expensive burden that has far outlived its usefulness.''

Given the importance of section 5 of the Voting Rights Act to the ability of African Americans and other racial minorities to achieve equal opportunity in voting, this call for its repeal is deeply disturbing. Thankfully, the Supreme Court and Congress disagreed with Mr. Pryor about the importance of section 5 of the Voting Rights Act.

There was one case involving inmates' rights which I thought was particularly noteworthy. He has been a vocal opponent of the right of criminal defendants. In Hope v. Pelzer, Attorney General Pryor vigorously defended Alabama's practice of handcuffing prison inmates to outdoor hitching posts for hours without water or access to bathrooms. The Supreme Court rejected Mr. Pryor's arguments citing the ''obvious cruelty inherent in the practice,'' and calling the practice ''antithetical to human dignity'' and circumstances ''both degrading and dangerous.''

In a July 2000 speech, Attorney General Pryor was outspoken in his disdain for the Supreme Court's reaffirmation in Dickerson v. United States of the constitutional protection of self-incrimination first articulated in Miranda. He called the Dickerson decision, authored by Chief Justice Rehnquist an ''awful ruling that preserved the worst example of judicial activism.''

The list goes on.

In the case called United States v. Emerson, Attorney General Pryor filed an amicus brief to argue that a man who was the subject of a domestic violence restraining order should be allowed to possess a firearm.

Let me repeat that.

The man who was the subject of a domestic restraining order should be allowed to own a firearm.

Mr. Pryor called the Government's position a ''sweeping and arbitrary infringement on the second amendment right to keep and bear arms.'' He was the only State attorney general in the United States of America to file a brief in support of that position.

When it comes to tobacco, he has been one of the Nation's foremost opponents of a critical public health issue—compensation for the harms caused by tobacco companies. He has ridiculed litigation against companies stating:

This form of litigation is madness. It is a threat to human liberty, and it needs to stop.

Mississippi Attorney General Michael Moore said:

Bill Pryor was probably the biggest defender of tobacco companies of anyone I know. He did a better job of defending the tobacco companies than their own defense attorneys.

Arizona Attorney General Grant Woods, a Republican, said of William Pryor:

He's been attorney general for about five minutes, and already he's acted more poorly than any other attorney general.

On the issue of environmental protection, time and again he has looked the other way when it comes to protecting our environment.

For people to argue that the only position against William Pryor is based on his religion ignores the obvious. When it comes to his political beliefs, when it comes to his actions as attorney general of Alabama, time and time again he has taken extreme positions.

Should this man be entrusted to a lifetime appointment to the second highest court of the land? I think not. Many others agree with that conclusion.

I certainly hope that when this debate ends, however it ends, that we will call an end to the involvement of religion in this debate.

It has been a sad night for me to listen to what some of my colleagues have said in an effort to promote the political agenda of a certain part of America in an effort to promote the candidacy of an individual. I am afraid many of my colleagues have crossed a line they should never have crossed.

I hope and pray that before we utter the next sentence in relation to the Pryor nomination that each of us who has taken an oath to uphold this Constitution will stop and read article VI:

No religious test shall ever be required as a qualification to any office or public trust in the United States.

Those words have guided our Nation for over 200 years. They should guide each of us in good conscience.

I yield the floor.

Mr. REID. Mr. President, I served in the Congress since 1972. I have had the good fortune to listen to some brilliant statements made on various subjects over 21 years. But I have to say that the statement by the senior Senator from Illinois tonight is the finest statement I have ever heard in some 21 years. I hope the people of Illinois know what pride we have in DICK DURBIN.

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

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). Without objection, it is so ordered.

ENERGY POLICY ACT OF 2003—Continued

Mr. FRIST. Mr. President, obviously we have not had the progress we had hoped for on the Energy bill over the course of the last several days. I know that Senators have indicated they still have amendments to the electricity amendment. And it is clear to me there is not a definite sign as to when we might finish that issue.

Members have the ability to slow down this bill. With the lengthy amendment list that is before us, there are many options to do that. After numerous discussions today, it is clear to me we are not on a course to complete this bill over the next couple of days.

It is important to do. I set out several weeks ago—actually 2 months ago—stating that the objective would be to work aggressively over the course of this final week, having had the bill before us in May, spending a number of days before this week on this bill.

In spite of that commitment on my part to plow ahead, it appears to me now—Wednesday night at 10 o'clock—that the writing is on the wall: We are not going to be able to complete the bill.

Having said that, I think it is important that Members have an opportunity to really prove their commitment to this underlying bill. Again and again, I have heard: Yes, we want to pass a comprehensive national energy policy. Although I hear that, and I express this willingness—and I think that is probably right—it is important, before we leave for this August recess, to see what that commitment really represents. Thus, I will shortly file cloture, and the Senate will have the opportunity to go on record for completing a bill which will accomplish just that—establishing a national energy policy.

Mr. President, in that regard, I now ask unanimous consent to set aside the pending amendments in order for me to offer an amendment.

The PRESIDING OFFICER. Is there objection?

Mr. REID. I object.

The PRESIDING OFFICER. Objection is heard.

MOTION TO COMMIT

Mr. FRIST. Mr. President, I send to the desk a motion to commit the pending legislation with instructions.

The PRESIDING OFFICER. The clerk will report the motion.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST] moves to commit S. 14 to the Committee on Energy and Natural Resources with instructions to report back forthwith with the following amendment numbered 1432.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

AMENDMENT NO. 1433

Mr. FRIST. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST] proposes an amendment numbered 1433 to instructions of the motion to commit S. 14.

Mr. FRIST. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of the amendment add the following: ''All provisions of Division A and Division B shall take effect one day after enactment of this act.''