Referencing an amicus brief filed by dozens of retired U.S. military leaders—including Generals Norman Schwarzkopf, John Shalikashvili, Hugh Shelton, Anthony Zinni, and Wesley Clark—the Court wrote that ''high-ranking retired officers and civilian leaders of the United States military assert that, 'based on their decades of experience,' a 'highly qualified, racially diverse officer corps . . . is essential to the military's ability to fulfill its principle mission to provide national security' ''.

In addition, the Court brought the issue of diversity close to home. Noting that law schools represent ''the training ground or a large number of our Nation's leaders,'' the Court observed that individuals with law degrees occupy more than half the seats in the United States Senate (59), a third of the seats in the House of Representatives (161), and roughly half the state governorships.

A third important aspect of yesterday's decision is the rejection of the Bush Administration's position that both Michigan programs were unconstitutional and should be struck down. It gives you an idea of how conservative the Bush Administration is. Even this Supreme Court—in which 7 of 9 members were appointed by Republican Presidents—rejected its arguments.

Contrary to the misleading assertions of President Bush and other opponents of affirmative action, the Court held that Michigan Law School's policy of seeking a ''critical mass'' of minority students did not as a de facto quota.

Between 1993 and 2000, the number of African Americans, Native Americans, and Latinos in each class varied from 13% to 20%. As the Court noted, diminishing stereotypes about ''minority viewpoints'' is ''a crucial part of the Law School's mission, and one that it cannot accomplish with only token numbers of minority students.''

The Court also rejected the Bush Administration's position that you could attain diversity through race-neutral means, such as the ''percentage plans'' in Texas, Florida, and California, which guarantee admission to all student about a certain class-rank threshold in every high school in the state.

The Court rejected this argument for two main reasons: 1, percentage plans don't work for graduate and professional schools, and 2, they are, ironically, even more mechanical and inflexible than the Michigan undergraduate program.

The Court shot down another central argument of the Bush Administration—that affirmative action programs were invalid unless they had a definitive end date. As Justice O'Connor observed: ''It has been 25 years since Justice Powell first approved the use of race to further an interest in student body diversity in the context of public higher education. Since that time, the number of minority applicants with high grades and test scores has indeed increased. We expect that 25 years from now, the use of racial preferences will no longer be necessary to further the interest approved today.''

I hope that Justice O'Connor is right.

The Michigan case is yet another reminder of the fragile balance on the Supreme Court, and how high the stakes will be if a Justice retires.

If there were a switch of a single Justice in yesterday's case, things would be dramatically different today. If there had been a fifth vote to end race-conscious affirmative action in America's universities, we would face a sudden reduction in minority students on our Nation's college campuses, especially at the elite ones.

The dean of Georgetown Law School—my alma mater—speculated yesterday that if the decision had gone the other way, Georgetown's minority enrollment would have been cut in half.

America cannot afford to turn back the clock on opportunity for all of our citzens and—by a 5–4 margin—the Supreme Court agrees.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred on October 8, 2001. In Hyannis, MA, a 31-year-old man attacked two convenience store clerks from Pakistan. The suspect walked into the store, approached the two clerks and asked them if they were from Pakistan. The two men responded affirmatively, which further enraged the suspect. The perpetrator began cursing and accusing the pair for ''almost killing'' his family and attacking the United States. One of the clerks attempted to calm the man down and led him outside. Once outside, the man punched the clerk, sending him to the ground. The attacker proceeded to kick him until the second clerk rushed outside to halt the attack. The man was later arrested by police.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

VIOLENCE AGAINST WOMEN OFFICE

Mr. BIDEN. Mr. President, I rise to speak today to mark several important developments in our Nation's fight to end domestic violence, sexual assault, and stalking. First, I recently had the honor of addressing domestic violence advocates from across the country who have convened in Washington, DC, to attend the annual meeting of the National Network to End Domestic Violence. These are the women and men on the front lines, transforming the Violence Against Women Act from words on a piece of paper into real solutions for battered women and children.

These advocates witness the terrible toll of family violence. They, in essence, know the statistics by heart. Statistics like 20 percent of all nonfatal violence against females over 12 years of age were committed by intimate partners, according to government statistics released in February 2003. Or the statistics that tell us that in 2000 alone, 1,247 women were killed by an intimate partner. These advocates experience what the studies confirm; that is, in almost half of the households with domestic violence, there are children under the age of 12.

In the face of such daunting numbers, I was pleased to tell these advocates that our fight for an independent and separate Violence Against Women Office is over. I have been assured by Attorney General Ashcroft that his department will comply with the directive for an independent office that was in the law passed by the Congress last session. I want to make clear that my Violence Against Women Office Act and subsequent push to ensure compliance was not a fight about office space or bureaucratic in-fighting. I introduced this legislation because I know that a separate office means that the office's leadership and agenda cannot be marginalized or pushed to a back office. A separate office means that violence against women issues stay at the forefront and that its director appointed by the President and confirmed by the Senate will have an office with the stature and status to use it as the bully pulpit on domestic violence issues that I intended when I authored the Violence Against Women Act.

Nor is the independent office simply a Joe Biden issue. The Violence Against Women Office Act was voted on favorably—with no objections—in the Senate Judiciary Committee. The act passed unanimously in the Senate and passed overwhelmingly in the House. The mandate for freestanding Violence Against Women Office is Congress' law, not a whim.

Despite the law's clear language and intent, the Department of Justice formally announced in February 2003 that it ''interpreted'' the new law to permit the office to remain as a part of the Office of Justice Program, the arm of the Justice Department which handles grant making, rather than implementing significant policy decisions. I vigorously protested this ''interpretation,'' informing the Justice Department that it was inconsistent with both the plain letter of the law, as well as congressional intent. In fact, I personally called Attorney General

Ashcroft on February 13 to discuss this issue and to urge him to reconsider the Department's position.

On March 24, the Attorney General called to inform me that he had personally reviewed this issue and that he was reversing the Department's February decision. More specifically, he pledged to me that the Office would be moved outside of the Office of Justice Programs to become an independent and distinct office, as called for by the law. He also pledged that the Director of the Office would have a direct line of report to him, and not be required to report through the Assistant Attorney General for the Office of Justice Programs, as the Department had previously required. I am grateful that Attorney General Ashcroft took the time to turn his full attention to this matter, to examine the law and legislative history, and to ensure that his Department correctly implemented the act. I commend the Attorney General for doing ''the right thing'' with respect to the office.

The strength and stature of the Violence Against Women Office will be matched by the strength and stature of its director, Diane Stuart. Pursuant to the new law that requires Senate confirmation, Ms. Stuart testified before the Judiciary Committee earlier this month, and the committee will vote on her nomination on Thursday. Ms. Stuart has been acting director of the office for almost 2 years, and during that time has done terrific work. I am particularly impressed with the extraordinary outreach Ms. Stuart has done thus far, meeting with law enforcement, prosecutors, and service providers from Montgomery County, MD, to Portland, OR. She is truly an expert in the areas of domestic violence, sexual assault, and stalking, and I look forward to working with her as we fight to end family violence in our communities.

REACH-BACK TAX

Mr. COCHRAN. Mr. President, I am concerned about an unfair tax on coal companies and other businesses which is sometimes referred to as the ''reachback tax.'' It was enacted as part of the Coal Act in the 1992 Energy bill. The Coal Act requires companies to pay a tax on the retirement benefits of miners. The tax applies not only to companies active in the coal mining business but also to companies that are no longer in the coal mining business.

There is one company in the State of Washington that has not employed any miners since the 1950s and is still obligated to pay. Another company that is subject to the tax is the Mississippi Lignite Mining Company, which operates a powerplant at Red Hills near Ackerman, MS. It is time for the Congress to repeal this unfair tax.

If we do not act soon, the combined benefit fund, which provides the money for the retirement benefits, will be bankrupt. I understand that the distinguished chairman of the Senate Finance Committee, Mr. GRASSLEY, and the Senator from Oregon, Mr. SMITH, have asked the House Ways and Means Committee to send a bill to the Senate to resolve this issue. I join them in this request and hope the Finance Committee will act with favor on such a bill when it comes over from the House.

NATIONAL MUSEUM OF AFRICAN AMERICAN HISTORY AND CULTURE ACT

Mr. KENNEDY. Mr. President, I strongly support S. 1157, the National Museum of African American History and Culture Act. The story of African Americans is a major part of the story of the United States. From the dark times of slavery, civil war, and reconstruction, to the extraordinary accomplishments of the civil rights movement of the past half century, it is essential for all Americans to know and understand that story in all its aspects, and this new museum in the Nation's Capital will be an especially valuable resource in achieving that goal. It will be a valuable cultural and educational experience for every visitor to Washington and for every student of American history in communities across the country.

Our Nation was founded on a promise of equality and opportunity for all, and for more than two centuries, we have struggled to fulfill that great promise. The struggle goes on today, on critical issues, such as guaranteeing that all our citizens are free from hate crimes and racial profiling, and are free to go to the polls and vote without intimidation or attempts to suppress their votes.

We know that civil rights is still the great unfinished business of America. As Robert Kennedy told the students at the University of Cape Town, at a time when the specter of apartheid hung heavily over South Africa:

> We must recognize the full human equality of all our people—before God, before the law, and in the councils of governments. We must do this, not because it is economically advantageous—although it is; not because the laws of God and man command it—although they do command it; not because people in other lands wish it to. We must do it for the single and fundamental reason that it is the right thing to do.

It is especially appropriate that this new museum dedicated to African-American history and culture will be part of the Smithsonian Institution in Washington. It is long overdue, and this legislation will help advance the cause.

This museum will be renowned as a source of African-American history throughout the United States. In cooperation with other museums, with historically black colleges, and with many other historical, cultural, and educational institutions, it will make this part of the Nation's history as widely available as possible. And millions of visitors who come here from throughout the world will be inspired by what they see and learn.

It is an honor to be a sponsor of this legislation, and I urge my colleagues to support it.

HONORING OUR ARMED FORCES

IN MEMORY OF STAFF SERGEANT AARON WHITE

Mr. INHOFE. Mr. President, I rise today to honor the memory of a remarkable man. SSG Aaron Dean White was an Oklahoman through and through. People say he was a hard worker, dedicated, friendly, and that he loved his family and country. Those who knew him best remembered him as being always willing to help others. He even served alongside his father as a volunteer firefighter for the town of Sasakwa, OK. A former resident of both Sasakwa and Shawnee, OK, he graduated from Shawnee High School in 1994. He entered the U.S. Marine Corps shortly thereafter, gladly serving his Nation for 9 years, and eventually moving up to the position of crew chief on a CH–46 Sea Knight Helicopter.

Staff Sergeant White was passionate about his job—excited to serve—proud to be a marine. After being deployed to Iraq in January of 2003, he was upset because he was not as close to the action as he had hoped. A passionate lover of flying who had earned his pilot's license, he volunteered to be a gunner on a helicopter, just so he would have the opportunity to fly more often.

On Monday, May 19, Staff Sergeant White was one of four individuals on board a helicopter on a resupply mission when the chopper went down into the Shat Ahilala River in Iraq. Tragically he, along with four other marines, did not survive the incident. This courageous man who was living out his dreams lost his life while defending his country.

Staff Sergeant White's remarkable life of helping others was commemorated at his funeral ceremony in Wewoka, OK, at which friends and family filled the chapel. His many loved ones grieved, including his parents, Shawnee, OK, residents Darrell and Karen White; his wife Michele; his daughter Brianna Nicole; and his sister, Sergeant Patricia LaBar, who was serving with the U.S. Army in Germany when her brother passed into the next life. However, I know they are incredibly proud of this man—son, husband, father, and brother—lover of life and soldier of freedom. He is a man who has set a higher standard for all of us to follow. We will never forget him, SSG Aaron Dean White.

IN MEMORY OF PETTY OFFICER BOLLINGER

Mr. INHOFE. Mr. President, no one can truly put into words the magnitude of respect and admiration we feel for those who sacrifice their lives so that we might continue to live in freedom. However, I am honored today to try, since the young man whom I pay tribute to was a proud son of my home State the great State of Oklahoma.