

Testimony of

The Honorable Orrin Hatch

March 7, 2002

Mr. Chairman, I would like to take just a few minutes to speak about Judge Pickering's nomination.

It is no secret that two very different pictures of Judge Pickering have emerged from his confirmation battle. One picture is that of a man who has taken courageous stands against racism at times when doing so was not merely unpopular, but also when it put him and his family at great personal risk. This man endured political and professional sacrifice to stand up for what he believed was right. And, in his more than a decade on the federal bench, this man has demonstrated an ability and willingness to follow the law even when he personally disagrees with it. This is the picture of Charles Pickering that I know and the picture I am convinced is accurate.

The other picture of Charles Pickering that has emerged is far less flattering. But I am just as convinced that this picture is groundless. It is the product of engineering by extreme left Washington special interest groups who are out of touch with the main stream and have a political axe to grind. Make no mistake about it - these groups have their own political agenda, which is to paint President Bush's nominees as extremists and block them from the federal bench. These are the same groups who came out against General Ashcroft, Justice Rhenquist and even Justice David Souter, when he was nominated to the Supreme Court. They were all then, as they are now singing the parade of horrors.

In order to do their lynching, the groups are committed to changing the ground rules for the confirmation process. And there is a new war over Circuit nominees, and they demand that the Democrats do whatever possible to stop or slow the confirmation of these fine nominees. For them, the means justify the ends at whatever the cost - including the gross distortion of a man's record and character.

The overwhelming bipartisan support we have received for Judge Pickering's nomination from his home state of Mississippi speaks volumes about him. It is very telling that those who know Judge Pickering best, including prominent members of the African-American community in Mississippi, have come out in droves to urge his confirmation. In contrast, those who have most vociferously opposed his confirmation do not know him, but rather have spent the past seven months combing through his record for reasons to oppose him. Developing chain letters, mass faxes, and Washington position papers. They have even enlisted the services of powerful Washington law firms, who are aiding the smearing campaigns on a pro-bono basis with young lawyers. Why? In the words of the leader of one liberal interest group, "We think he (Judge Pickering) is an ideologue." It doesn't matter to these groups that Judge Pickering has the qualifications, the capacity, the integrity, and the temperament to serve on the federal bench.

He is a judge that will follow the law and leave the politics to the people. He has committed to that. And I know that is not what the groups want. They want activists on the bench that support their political views regardless of the law. That is wrong. What matters to them is that he does not meet their litmus test of supporting the right causes, regardless of his demonstrated commitment to following the law.

Although I am deeply troubled by the smear campaign that has been waged against Judge Pickering, I am convinced that the accurate picture of Judge Pickering is the one of a man who is committed to upholding the law and who will be a sterling addition to the Fifth Circuit. I support his confirmation without reservation, and I urge all of my colleagues to vote on the basis of their knowledge and consciences rather than on the inaccurate and unfair portrait painted by people whose purpose is to obscure the truth rather than to reveal it.

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