

nominee's testimony last week and having reviewed and considered the information that has been provided to the Committee by law enforcement officials about her conduct on the bench, her alleged bias against law enforcement, her flawed judicial rulings, and, above all, her apparent lack of candor with the Committee, I cannot in good conscience continue to give her the benefit of the doubt. I have the highest personal regard for Senator SPECTER, who has ably promoted her candidacy, but I now do not believe that Judge Massiah-Jackson should be confirmed to a position on the federal bench. I take no pleasure in voting against this nominee. She has obviously accomplished much in her life. Nevertheless, the Constitution obligates me to evaluate this nominee with an eye toward determining whether she will uphold the Constitution and whether she will abide by the judicial oath to "administer justice without respect to persons . . . And impartially discharge all the duties incumbent [upon a federal judge]." I am not now convinced that she can abide by that oath and thus I feel obligated to cast my vote against her.

Mr. HATCH. I yield the floor.

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Madam President, I thank the distinguished Senator from Utah, the chairman of the Senate Judiciary Committee, for his leadership in this matter and in so many other matters. He is an outstanding legal scholar, an outstanding lawyer, a man of integrity, ability, and fairness who works extraordinarily hard to make sure everyone who comes before the committee has a thorough opportunity to express themselves and to defend themselves, and that others who have information to share are allowed to do so.

I think it was an extraordinary event that he allowed a second hearing to be held for the Massiah-Jackson nomination. That was a very fair thing to do. I agree with the distinguished chairman that it is a good idea and a good thing that this nomination has been withdrawn.

Ms. Frederica Massiah-Jackson has a number of problems with her nomination. I would just like to make a few points about the process and about her nomination.

District Attorney Lynne Abraham, a Democrat in Philadelphia, who has served a number of years, and has also served on the judicial bench in Pennsylvania with Judge Massiah-Jackson, wrote us a letter saying that she had not opposed or commented on nominees of any kind before, but she wrote a letter stating she felt that she should do so on this occasion.

Among other things, she said:

This nominee's judicial service is replete with instances of demonstrated leniency toward criminals, an adversarial attitude toward police and disrespect toward prosecutors unmatched by any other present or former jurist with whom I am familiar.

That was a letter written reluctantly and in sadness, but a letter I think she felt she had to share with us. Her opinion was shared by the District Attorneys Association in Pennsylvania, the Fraternal Order of Police, and the National Fraternal Order of Police.

We were also presented a list of 50 cases in which we were given detailed statements of sentences and judicial rulings by this judge, prepared by district attorneys who had no obligation to do that but did so because they were concerned about it. Those cases have been around here for well over a month and have never really been effectively rebutted. So I think to say the newly uncovered twenty cases were somehow critical in this matter is not really accurate. I think the new cases were additional troublesome matters, but the whole list of cases previously submitted were quite troubling also.

Just briefly, Madam President, while I am relieved that this nomination has been withdrawn, I think it shows fully why the Senate should carefully and thoroughly examine judicial nominees. Specifically, I thank Senator JOHN ASHCROFT, who is here today, and Senator STROM THURMOND for placing a temporary hold on this nomination after it was voted out of the Judiciary Committee by a 12-to-6 vote last fall.

At that time, this nomination was moving toward confirmation last fall. It is a classic example of why the Judiciary Committee and the Senate as a whole should deliberately screen judicial nominees. President Clinton has suggested that the Senate should speed up confirmation of Federal judges. With all due respect, the Massiah-Jackson nomination demonstrates why the Senate should confirm Federal judges at a fair but careful pace.

Judge Massiah-Jackson's nomination was reported out of the Judiciary Committee with approximately a dozen other judicial nominees at the end of last year. There was an effort to confirm these judges quickly before the year ended. Without Senator ASHCROFT's and Senator THURMOND's temporary holds, this nominee would have been confirmed, I have no doubt. If this had happened, it would have been unfortunate, because many of Judge Jackson's unacceptable decisions had not yet been uncovered.

In addition, as of last fall, the above-mentioned law enforcement organizations had not studied this nominee's record in detail. In fact, when Judge Massiah-Jackson's nomination was reported out of committee, none of these groups formally opposed the nomination. In fact, Senator SPECTER held a hearing in Pennsylvania to allow people to state objections. He gave them an opportunity to do so, but none came forth at that time. Without Senator ASHCROFT's and Senator THURMOND's hold, this nominee would have been confirmed, in all probability, before her record had been adequately examined.

A Federal judgeship is a lifetime appointment. The confirmation process is the only chance to review a judicial nominee's qualifications. The confirmation process is literally the point of no return. Unlike State judges, Federal judges cannot be recalled or voted from office. This is why it is so vitally

important for the Senate to carefully fulfill its constitutional duty to advise and consent to the President's nominees. Judge Learned Hand, referring to the lack of control over federal judges, once said, "They can't fired us. They can't even dock our pay."

A Federal judge has extraordinary power. Many of those powers involve decisionmaking authority that is absolutely unreviewable on appeal. For example, if a judge, at the conclusion of a prosecutor's case, dismisses the case and grants a judgment of acquittal to a defendant, that is the same as a jury verdict of acquittal, and the Government cannot appeal. Such directed verdicts simply cannot be appealed. So I think it is important that this process be allowed to work, and it did work. I believe that Judge Massiah-Jackson will have the opportunity as a State judge to demonstrate her abilities and skills there, to continue to serve the people of Pennsylvania.

I was impressed with her demeanor and courtesy and the way she handled herself at her hearing, but I do feel like the just conclusion was reached.

Madam President, that is the conclusion of my remarks. I yield the floor.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. ASHCROFT. May I inquire as to the state of the proceedings.

The PRESIDING OFFICER. We are in a period for morning business, with statements limited to 10 minutes.

Mr. ASHCROFT. I ask unanimous consent that I be able to speak for up to 15 minutes.

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

Mr. ASHCROFT. Thank you.

#### CRISIS AT THE WHITE HOUSE

Mr. ASHCROFT. Madam President, the events surrounding the President of the United States and the White House of the United States find us in a peculiar and uncomfortable situation. It is, however, more than peculiar, and it is more than disconcerting. It may, in fact, be disabling. The President has sought to defend his conduct and to defend his circumstance by saying it's OK to be able to become compartmentalized or to segment his personal life from his public life. At least this is the spin which comes from the White House. I perhaps should not say that that comes from the President's own mouth.

I think the Congress has sort of bought into the compartmentalization of this crisis at the White House. We discuss it on the talk shows, we discuss it in the cloakrooms, but we don't discuss it on the Senate floor.

The new allegations against President Clinton are grave. They carry serious implications, not just for the President but for the Nation as a whole, and it is time for us to consider them in the U.S. Senate.

Kathleen Willey is a longtime friend of the President. She was a strong Clinton supporter. She was his employee in

the White House. She accused this President of sexual assault just outside the Oval Office and of lying under oath. The President's response has been to tell us only that he is "mystified" and "disappointed."

Mystified and disappointed? My thoughts exactly. I am mystified that the President has refused to account fully for his actions and disappointed that President Clinton would sacrifice the Office of the Presidency in order to promote his own personal concerns or save himself.

Back in January when the Monica Lewinsky scandal erupted, I said if the allegations were true, the President had disgraced himself and his office and should resign. I stand here this afternoon to renew my call. If Mrs. Willey's charges are true, then the President should resign.

Permit me to make three observations about Mrs. Willey's accusations or charges.

First, the Willey allegations increase the likelihood that the House will be forced to open impeachment proceedings. The Clinton-Willey conflict brings the murky details of this sordid affair into the light of open day. The President is accused of committing sexual assault and lying under oath. Mrs. Willey and the President have sworn to irreconcilable versions of the facts. These charges are serious, and they must be resolved. They cannot both be telling the truth. And America cannot walk away.

The Congress, for our part, must have the courage to do what we know to be right. The alleged conduct, if true, I believe constitutes an impeachable offense. Congress should stop looking at the polls and start looking at the Constitution, stop thinking about self-preservation and start thinking about how justice can best be served. Madam President, justice should never be denied simply because it is uncomfortable.

Second, the White House must drop the myth that the President is not distracted by the maelstrom of allegations which are surrounding him. The President has lost control of his personal legal problems. Let us dispense with the fiction that the President is able to work in "compartments," all the while hacking and clubbing at Ken Starr and the officials charged with learning the truth. Instead, he has chosen to stonewall. He now stands accused of an impeachable offense by a person who was his friend, political supporter, and employee.

Here is the truth. It is not possible for the President to do his job while dealing with this tide of accusations and innuendo. No one could do the job well. And neither can he. Already, the Washington Post has reported that the President behaves like a person overtaken with anger at Kenneth Starr. Already, David Broder and other respected commentators have suggested that the growing scandal is damaging the President's ability to lead.

Finally, President Clinton's moral leadership has been destroyed. It can be regained only if he proves that these charges are false, if he clears the air here, if he makes a complete statement understanding to the American people, and assures them of his situation.

I had hoped that Bill Clinton would address these charges through a direct and candid accounting to his employers, the American people. But, yes, he did choose to stonewall. He cannot hope to regain his moral authority to lead unless he makes a full and candid accounting to the people, and he does so immediately. It is inevitable that the truth will prevail. And I would prevail on the President to account fully for his actions without further delay.

A final point. These allegations are serious. They deal with charges of perjury, obstruction of justice, and sexual assault. For Kathleen Willey's sake, conservatives ought not be rejoicing, and we ought not to be laughing. I deeply regret having joked about the Lewinsky affair in remarks that I made earlier. It was inappropriate, and I was wrong. There is nothing funny here. The allegations of Kathleen Willey make clear to all of us that there is nothing funny here. This is not comedy; this is tragedy.

Mrs. Willey's appearance last night on the CBS program "60 Minutes" I think exposed America to an individual who was vulnerable, who was in distress, who was in need, and trusted the President of the United States. And it is very clear that she thoroughly believes that her trust was betrayed in a substantial and significant way.

A betrayal of trust by the President of the United States is an important matter, particularly if it relates to the way in which his office is conducted, particularly if it relates to an individual who is particularly vulnerable, an employee, particularly if it relates to an incident that takes place in the context of the White House and the Oval Office. And I found her testimony to be compelling and convincing. I believe it makes, again, the clear case for the necessity of the President to explain fully his situation to the American people.

#### NOMINATION OF FREDERICA MASSIAH-JACKSON

Mr. ASHCROFT. Madam President, I want to take just a few minutes to speak about the nomination of Frederica Massiah-Jackson to be a U.S. district judge for the Eastern District of Pennsylvania, a nomination that was withdrawn earlier today. I think this is the right move at the wrong time. It should have been clear to the administration over a month ago when we debated this nomination on the floor that this individual was not fit to serve as a Federal judge appointed for life.

At that time, I called for the President to withdraw the nomination. And I am glad that he has finally seen fit to do so, or that the administration finally saw fit to follow that course, al-

though the letter is really a withdrawal request from the nominee herself. I remain troubled that this individual was nominated for a lifetime appointment in the first place, and, once nominated, did not withdraw sooner.

One enduring lesson of this nomination is that it is critical for the Senate to take its constitutional advice and consent role seriously. We have heard much in recent weeks about the so-called "vacancy crisis" in the Federal courts and that the Senate needs to speed up its processes to give judicial nominees a quick up-or-down vote. Today's action by the administration agreeing to withdraw this nomination demonstrates the danger of worrying more about filling the courts than fulfilling our constitutional obligation to screen judicial nominees.

Last November, this nomination was on the verge of confirmation. At the end of the last session, there was a tremendous effort to rush a number of nominations, including this one, through the Senate along with others in a series of confirmations at the close of business. I resisted those efforts because I felt this nomination had serious defects that demanded complete examination in the light of day. Once this nominee's record was examined in the open, it became clear—including clear, I think, ultimately to the President—that this nominee was not fit. I also resisted those efforts because law enforcement officials in Philadelphia informed me that they were gathering additional information concerning the nominee. In the light of these concerns, I placed a hold on this nomination, and I refused to lift it despite the insistence of several.

Some would point to this as an unnecessary delay that has contributed to the so-called "vacancy crisis." But we would be creating an actual crisis, not solving an imagined one, by giving individuals confirmation when they do not deserve it. We would have been creating, in my judgment, a crisis by confirming Judge Frederica Massiah-Jackson with a lifetime appointment.

The Senate has a constitutional obligation to give its advice to the President with respect to judicial nominees and, in a case like this, to withhold our consent. I take this responsibility seriously, and we must all take this responsibility seriously, in the light of the nominees the President has sent to the Senate.

This nominee demonstrates the caliber of nominee the President has sent to the Senate. Notwithstanding his elaborate vetting process and the ABA screening, this is the nominee whom President Clinton chooses for a lifetime appointment. One has to wonder about any vetting process that raises no objections to a nominee like this one. And one has to wonder what kind of evaluation process the American Bar Association conducts that it deems Massiah-Jackson "qualified."

But the truth of the matter is this: The Constitution does not give the Justice Department, nor does it give the