for the end to which it directs men is higher than the end of the political order.

That is what they say. He quoted him, so he must not believe in the separation of church and State. But what did he say? Holmes was contrasting Christianity with the pagan religions about which Aristotle wrote in which religious activities are political concerns. The speech makes the point that Christianity looks to an ultimate source of authority beyond Earthly authority, and that is God.

I mean, give him a break.

Holmes notes that the model of assigning religious and political matters to separate spheres is favored by modern liberalism, including John Locke, Thomas Jefferson, and Alexis de Tocqueville, and the modern Catholic Church. He urges us not to miss the strengths of de Tocqueville's argument that the church is stronger when separate from the State. Holmes offers his own theological grounds for the separation of church and State, and yet one would think he was not.

Another charge is that Holmes is unwilling to recuse himself from cases involving anti-abortion organizations or abortion matters. He has pledged that:

In any case in which litigants were concerned about my fairness and impartiality, or the appearance of impropriety, I would take those concerns seriously. I would follow 28 U.S.C. Section 455 and the Code of Conduct for United States Judges when making recusal decisions.

He would follow the law. He will abide by the same standards of conduct that govern every Federal judge.

Since the issue of natural law has been raised in discussing Mr. Holmes' nomination, I want to set the record straight.

Some have expressed concern that Mr. Holmes seems to be a believer in natural law and will allow those beliefs to influence his rulings on the bench. The facts show otherwise.

When asked if he believes that the Declaration of Independence establishes or references rights not listed or interpreted by the Supreme Court to be in the Constitution, Mr. Holmes wrote:

I do not believe the Declaration of Independence establishes judicially enforceable rights.

Instead, he wrote:

The Constitution as a whole is aimed at securing the rights described as unalienable by the Declaration of Independence.

Mr. Holmes noted that:

Working all together, the entire system of government should . . . result in a free country, a country without tyranny, which, in the terms that the founders used, is equivalent to saying a country in which natural rights generally are respected.

Mr. Holmes, however, cautions:

[T]here is no constitutional authority for the courts to use the Declaration of Independence to overrule the Constitution. The authority of the courts is granted by the Constitution, not the Declaration.

He also wrote:

No one branch of government can appeal to natural rights as a basis for exceeding or altering its authority under the Constitution.

Rather, he writes:

[w]hen citizens believe that natural rights are not safeguarded adequately by the present system of government, they may express that view in the electoral process, or they may seek to amend the Constitution pursuant to Article V.

Mr. Holmes has demonstrated, and his record demonstrates, that once he dons the robes of a judge, he will set aside those beliefs and follow the law as it is stated. Mr. Holmes understands key differences between an advocate and a judge, and that personal views play no role in the duty of a judge to abide by stare decisis and apply the precedent of the Supreme Court and Eighth Circuit. For those reasons, I believe that Mr. Holmes will make an outstanding Federal district judge.

I close by yielding my last few minutes to Senator PRYOR, a Member of the Senate who knows Mr. Holmes the best. I believe we ought to listen to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 1 minute.

Mr. PRYOR. Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. There is 58 seconds remaining.

Mr. PRYOR. I will be brief.

Earlier today, I read from 23 different letters of people from Arkansas, lawyers who practice with him, who support him. Many of these statements are inflammatory. I admit that. He admits that. He has apologized. Many of these were done 15, 20, in one case 24 years ago.

I hope we will tone down the rhetoric. If Senators vote for Leon Holmes, they are not antiwoman. If Senators vote against him, certainly they are not anti-Catholic. Let us have a straight up-or-down vote.

I encourage all of my colleagues to vote for Leon Holmes. Over and over, people in Arkansas who know him, who repeatedly say they do not agree with him on many of these issues, think he will be a fair, impartial, and an excellent member of the bench.

I ask my colleagues for their consideration.

The PRESIDING OFFICER. All time has expired.

Mr. HATCH. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of J. Leon Holmes, of Arkansas, to be United States District Judge for the Eastern District of Arkansas?

The clerk will call the roll. The legislative clerk called the roll.

Mr. McCONNELL. I announce that the Senator from Alaska (Ms. MURKOWSKI), is necessarily absent.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The PRESIDING OFFICER (Mr. ALEXANDER). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 51, nays 46, as follows:

[Rollcall Vote No. 153 Ex.]

YEAS—51

Alexander	Dole	McCain
Allard	Domenici	McConnell
Allen	Ensign	Miller
Bennett	Enzi	Nelson (NE)
Bond	Fitzgerald	Nickles
Breaux	Frist	Pryor
Brownback	Graham (SC)	Roberts
Bunning	Grassley	Santorum
Burns	Gregg	Sessions
Campbell	Hagel	Shelby
Chambliss	Hatch	Smith
Cochran	Inhofe	Specter
Coleman	Kyl	Stevens
Cornyn	Landrieu	Sununu
Craig	Lincoln	Talent
Crapo	Lott	Thomas
DeWine	Lugar	Voinovich

NAYS—46

Akaka	Dodd	Levin
Baucus	Dorgan	Lieberman
Bayh	Durbin	Mikulski
Biden	Feingold	Murray
Bingaman	Feinstein	Nelson (FL)
Boxer	Graham (FL)	Reed
Byrd	Harkin	Reid
Cantwell	Hollings	Rockefeller
Carper	Hutchison	Sarbanes
Chafee	Inouye	Schumer
Clinton	Jeffords	Snowe
Collins	Johnson	Stabenow
Conrad	Kennedy	Warner
Corzine	Kohl	Wyden
Daschle	Lautenberg	
Dayton	Leahy	

NOT VOTING—3

Edwards	Kerry	Murkowski

The nomination was confirmed.

Mr. GRASSLEY. I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

CLASS ACTION FAIRNESS ACT OF 2004

The PRESIDING OFFICER. The clerk will report S. 2062.

The legislative clerk read as follows:

A bill (S. 2062) to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, and for other purposes.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I rise today to express my strong support for the Class Action Fairness Act of 2004, which is now renumbered S. 2062, to accommodate the bipartisan compromise we reached last November with Senators DODD, SCHUMER, and LANDRIEU. This improved bill embodies a carefully balanced legislative solution that responds to some of the most outrageous abuses of the class action litigation device in some of our State courts.

As anyone who has read the bill knows, it restores fairness to the class