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Ashcroft Nostalgia

By Ruth Marcus
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Alberto Gonzales is achieving something remarkable, even miraculous, as attorney general: He is making John Ashcroft look good.

I was no fan of President Bush's first attorney general, who may be best remembered for holding prayer breakfasts with department brass, hiding the bare-breasted statue in the Great Hall of Justice behind an \$8,000 set of drapes, and warning darkly that those who differed with administration policy were giving aid to terrorists.

But as I watched Gonzales testify before the Senate Judiciary Committee last week, it struck me: In terms of competence (the skill with which he handles the job) and character (willingness to stand up to the president), Gonzales is enough to make you yearn for the good old Ashcroft days.

Gonzales is an amiable man, not nearly so polarizing or ideological as his predecessor. If you were given the old desert-island choice between the two, he would be the better option -- more likely to share the rainwater, less likely to make you listen to him sing. (If you've ever heard Ashcroft's "Let the Eagle Soar," you know what I mean.)

Where Ashcroft was hard-edged and combative, Gonzales is pleasant and seemingly imperturbable. He's always reminded me a bit of the Pillsbury doughboy: No matter how hard he's poked, he springs back, smiling.

At the start of last week's hearing, Senate Judiciary Committee Chairman Arlen Specter (R-Pa.), sounding like an exasperated high school English teacher, chastised Gonzales for failing to turn in his prepared statement on time. The attorney general sat silent, then calmly delivered the tardy testimony.

The next three hours and 40 minutes illustrated just about everything that is wrong with Gonzales's Justice.

There is no polite way to put this: Gonzales doesn't seem to have an adequate grasp of what's happening in his own department or much influence in setting administration policy.

Asked about House-passed legislation that would bar Justice from enforcing a year-old law requiring trigger locks on newly sold handguns, Gonzales said he was "not aware of" the dispute. Asked about his department's prosecutions of corrupt Border Patrol agents (described in a front-page story in this newspaper), Gonzales said he would "have to get back to you."

And when Sen. Edward M. Kennedy (D-Mass.) inquired whether the administration supported reauthorization of the Voting Rights Act as passed by the House, Gonzales didn't seem empowered to give him a straight answer -- though the Judiciary Committee was set to take up the measure that afternoon. "I don't know if I'm in a position to state that as an administration we're going to support that," Gonzales said.

Gonzales as witness is a maddening exercise in jello-nailing. "I'm going to move on and accept your

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non-answer, because I don't think I'm going to get anything more on that subject, and perhaps nothing more on the next subject," Specter told Gonzales after a fruitless line of questioning about whether Justice was -- as the attorney general had said in May -- considering prosecuting journalists for publishing leaks.

Specter's bleak prediction proved accurate. When he asked Gonzales about the attorney general's previous assurance that the National Security Agency's electronic surveillance was the only program not subject to judicial authorization, this illuminating exchange ensued.

Gonzales: "I'm not sure that those are the words that I used, Mr. Chairman."

Specter: "Well, the substance of the words you used."

Gonzales: "Those are the substance of the words I used, but those are not the exact words that I used."

At which point Specter gave up and changed topics.

Sen. Patrick Leahy (D-Vt.) didn't fare any better on military tribunals. Leahy asked whether Congress should simply ratify the existing system, as an assistant attorney general had urged the previous week.

Gonzales: "That would certainly be one alternative that Congress could consider, Senator Leahy."

Leahy, trying again: "Is that the administration's position, yes or no?"

Gonzales: "I don't believe the administration has a position as to where Congress should begin its deliberations."

Well, that was informative.

The big news of the hearing -- that the president had in effect killed an internal Justice investigation into the domestic spying program by refusing to grant the necessary security clearances to department lawyers -- underscores the most disturbing aspect of Gonzales's tenure: his lack of independence from the president. If Gonzales disagreed with this move -- a bad call and an even worse precedent -- he offered no hint of it at the hearing.

This is not a surprise -- after all, Gonzales's entire public career is entwined with that of George W. Bush -- but it is a disappointment. Ashcroft at least clashed with the White House over detainee policy (he fought internally to give citizens detained as enemy combatants access to counsel) and warrantless surveillance (he refused when Gonzales came to his hospital room asking that he sign papers extending the program).

To his credit, Gonzales did resist -- he supposedly threatened to quit -- when the president, pummeled by congressional Republicans over the search of a Democratic congressman's office, considered ordering Justice to return the documents. But Attorney General Gonzales doesn't seem to have any less zeal for unbridled presidential power -- or any less willingness to make outlandish arguments on its behalf -- than did White House Counsel Gonzales.

Which is precisely why he shouldn't be there in the first place -- and why I am experiencing intermittent twinges of a most unexpected emotion: Ashcroft nostalgia.

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