WASHINGTON, Jan. 16 — As an example of political stage-management, the Bush administration's handling of its Supreme Court brief in the Michigan affirmative action case was masterly, impressive even by the standards of a White House unusually skilled at spin control.

By denouncing the University of Michigan's race-conscious admission policies in a late-afternoon live television appearance on Wednesday, President Bush was able to dominate an entire 24-hour news cycle with an image of strong opposition to affirmative action.

It was the message his core conservative supporters most wanted to hear and one calculated to put an end to the growing carping from the right that the brief would not be tough enough.

So by the time his solicitor general, Theodore B. Olson, actually submitted the administration's briefs late tonight as the clock approached a midnight filing deadline at the court, the briefs were a fading second-day story and there was hardly anyone still on duty — certainly not the television news anchors — to notice that the reality of its legal argument diverged substantially from the rhetoric of the president's prime-time statement.

True to his promise, the briefs did ask the court to declare unconstitutional the undergraduate and law school admissions programs in dispute. But it did so by means of a legal analysis that, far from insisting that any consideration of race was impermissible, did not even ask the justices to overturn the Bakke decision, the 1978 landmark ruling that by allowing race to be used as a "plus factor" ushered in a generation of affirmative action in public and private college admissions.

It was as if the administration had filed a brief denouncing abortion without asking the court to overturn Roe v. Wade.

"In the end, this case requires this court to break no new ground" in order to hold the law school's admissions policy unconstitutional, the administration said in Grutter v. Bollinger, one of the two cases. The sentiment was echoed in the brief in the second case, Gratz v. Bollinger.
After the president's television appearance on Wednesday, the Senate Democratic leader, Tom Daschle, went to the Senate floor to criticize the administration's position on affirmative action. The administration had shown an insensitivity to civil rights, Mr. Daschle said, "in virtually every single occasion when actions spoke louder than words."

But this time, it turned out, the words spoke louder than the action.

Perhaps the divergence of rhetoric from reality reflected a split-the-difference compromise between warring factions within the administration — much as the Carter administration's awkwardly compromised brief did in the Bakke case itself. On that occasion, an internal ideological struggle that had become painfully public led the Carter administration to ask the justices to send the case back to the California Supreme Court for further consideration.

Or perhaps the administration's Janus-like posture reflected a more strategic calculation that its interests were best served by looking in both directions at once. The president got the political benefit of denouncing Michigan's undergraduate admissions program as a quota system (a characterization the briefs emphasize but that the university strongly disputes) while his lawyers got to make the more nuanced arguments that have the only real chance of succeeding at the court.

The balance on this issue is almost certainly held by Justice Sandra Day O'Connor, who perhaps among all the court's members is the least likely to be impressed by an all-or-nothing argument that takes the court further than necessary to resolve the particular dispute. Based on her positions in cases involving public contracting, employment discrimination, and redistricting, Justice O'Connor will look skeptically at the justifications for any government policy that makes use of race, and she is quite likely to disapprove of one or both of Michigan admissions programs. But she is unlikely to support a sweeping prohibition against any consideration of race.

Many political analysts have emphasized the lesson President Bush learned from his father's re-election defeat: do not ignore the Republican Party's conservative base. But the experience of the first Bush administration also offers another lesson: do not push the Supreme Court too far.

The first President Bush was aggressive in pushing difficult social issues onto the court's agenda, urging the justices to overturn
Roe v. Wade, for example, or to start reopening the door to organized prayer in public schools. But the moderate Republican justices on the court — Justice O'Connor along with Justices Anthony M. Kennedy and David H. Souter — recoiled from the pressure, voting for abortion rights and against prayer in schools in precedents that remain on the books.

"I don't think the White House is well served by having a solicitor general come to the court and read the legal equivalent of a press release," Chief Justice William H. Rehnquist told the legal writer Lincoln Caplan in 1986, as recounted in Mr. Caplan's 1987 book "The Tenth Justice."

Several lawyers with Supreme Court experience said today that even a completely accurate presidential discussion in public of a Supreme Court brief before the brief was filed would be a striking breach of tradition, if not decorum. They wondered whether the theatrics of the past few days would prove counter-productive.

"It accentuates the extent to which the whole issue is a policy question rather than a legal issue," Prof. Thomas W. Merrill of Northwestern University Law School, said in an interview today.

Professor Merrill, a deputy solicitor general in the late 1980's, noted that in ordinary cases, such as those on the meaning of federal statutes, the government's views receive deference from the court. "The office has a huge success rate," he said, referring to the 20 or so career lawyers who serve in the solicitor general's office. "The court knows it can rely on smart lawyers who have no ax to grind to come up with solutions that make all the pieces of the puzzle fit together."

But on high-profile social issues, he continued, the justices have their own views and look to the solicitor general for guidance, if at all, of a different sort. They look for signals about the political atmosphere, "for what's do-able," Professor Merrill said. "If a conservative administration doesn't take a strong position in a particular case, that's a signal."

In a web-exclusive column, Linda Greenhouse answers readers' questions on Supreme Court rules and procedure.

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