United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE *107th* CONGRESS, FIRST SESSION

Vol. 147 WASHINGTON, WEDNESDAY, JANUARY 31, 2001 *No. 13*

Senate

The Senate met at 10 a.m. and was called to order by the Honorable GEORGE ALLEN, a Senator from the State of Virginia.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

God, our help in ages past and our hope for years to come, we thank You for our Constitution and the stability and strength it has provided for our beloved Nation. Today, we gratefully remember the life and leadership of Gouverneur Morris, born on this day in 1752. We prayerfully recall that he was the writer of the final draft of the Constitution, the head of the Committee on Style, and the originator of the phrase, ''We the people of the United States.''

Thank You for the impact of Mr. Morris, who at the age of thirty-five became a member of the Continental Congress and spoke 173 times during the Constitutional debates, more than any other delegate. We honor his memory, not just for the quantity of his words but for their quality. In particular, we are moved by his conviction about You. ''There is one Comforter,'' he said ''who weighs our Minutes and Numbers out our Days.'' About the importance of a strong faith in You he said, ''Religion is the only solid basis of good morals; therefore education should teach the precepts of religion, and the duties of man toward God.'' May we never forget that ''morality is truth in full bloom.'' Father, keep America rooted in Your moral absolutes. You are our Judge and Redeemer. Amen.

PLEDGE OF ALLEGIANCE

The Honorable SAM BROWNBACK, a Senator from the State of Kansas, led the pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate.

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, January 31, 2001.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable GEORGE ALLEN, a Senator from the Commonwealth of Virginia, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. ALLEN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the assistant majority leader, the Senator from Oklahoma, Mr. NICKLES.

SCHEDULE

Mr. NICKLES. Mr. President, today the Senate will be in a period of morning business until 10:30, with Senators BROWNBACK and DURBIN in control of the time. Following morning business, the Senate will proceed to executive session to consider the nomination of John Ashcroft to be the Attorney General of the United States. Debate on the nomination will be the business of the day, and the Senate will remain in session into the evening to allow all Members adequate time to discuss this nomination. It is hoped a vote on the confirmation of John Ashcroft will occur early in Thursday's session. Senators will be notified as that vote is scheduled.

I thank my colleagues for their attention.

MEASURE PLACED ON THE CALENDAR—S. 220

Mr. NICKLES. Mr. President, I understand there is a bill at the desk due for a second reading.

The ACTING PRESIDENT pro tempore. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 220) to amend title 11 of the United States code, and for other purposes.

Mr. NICKLES. Mr. President, I object to further reading of this bill at this time.

The ACTING PRESIDENT pro tempore. Under the rule, the bill will be placed on the calendar.

DEBATE ON THE ASHCROFT NOMINATION

Mr. NICKLES. Mr. President, I also wish to bring to the attention of my colleagues the fact we had significant debate on this last night. Senator SESSIONS did an outstanding job in making his presentation. I encourage colleagues to review his statements and encourage all colleagues who wish to speak on this nomination to come to the floor early and make their statements so we can confirm John Ashcroft, or have a vote on his confirmation by tomorrow.

Mr. REID. Mr. President, if I could ask my colleague to yield for a brief interruption.

Mr. NICKLES. I yield.

Mr. REID. Thank you, Mr. President. I thank my friend from Oklahoma. I know how important his statement is. I know how much of a tragedy the State of Oklahoma and everyone in the country suffered.

But I did want to say before we left the floor that we agree with the Senator that the debate should go forward in full flow, and I say to the Democratic Senators within the sound of my voice, this could be a very late night. We have a lot of people on the Democratic side who want to speak on this

nomination. They are going to have that opportunity.

We did not do as much talking as probably should have taken place last night. We completed our work at 7 o'clock. We expected to go to 9. I think tonight we will go at least until 9 or 10 o'clock.

I say to Democratic Senators, they should be prepared because there may not be a tomorrow. I know there are efforts around here to move this forward. We have completed 14 of the 15 nominations that had been sent to us by the President, which is a record-setting pace. We want to move forward on the Ashcroft nomination as quickly as we can. We hope it does not have to go into next week. We will need cooperation from the Republican side. We are going to do the best we can to have somebody in place just as quickly as we can.

I, again, apologize for interrupting my friend, but I appreciate his allowing me to do so.

Mr. NICKLES. I appreciate my colleague's comments. I echo that. I encourage all Senators who wish to speak on the Ashcroft nomination to come to the floor earlier today, rather than later today. It was a little regrettable because I think both leaders had stated publicly we intended to be in session late last night for this nomination. But we could not get additional speakers so we adjourned earlier than planned. I thank my friend and colleague from Nevada.

I might also add when he said we moved forward expeditiously, I am pleased we have confirmed all but one nominee. But I might remind my colleagues, 8 years ago every Clinton nominee was confirmed by January 22, unanimously, by voice—every single one. The only one that was not was the Attorney General, and the reason for that was that the Clinton administration had withdrawn a couple of nominees. The eventual nominee for Attorney General, Janet Reno, was confirmed 98–0 after very short debate.

I just make those points to clarify the record. Eight years ago Congress moved very expeditiously to confirm all nominees. All were confirmed by January 21—by voice vote, I might add. The only recorded vote was Janet Reno and that was 98–0.

THE OKLAHOMA STATE UNIVERSITY PLANE CRASH

Mr. NICKLES. Mr. President, tragedy struck my State, as members of the Oklahoma State basketball team and news organizations were killed in a tragic plane crash just outside of Denver.

Of course any plane crash is not anticipated, but this was especially painful and tragic because it snuffed out the lives of 10 outstanding individuals, who were well known on campus and throughout the state. Two team members were killed. They were outstanding athletes.

Eight other individuals that were on the plane were a part of the team in various capacities and it is a real tragedy, a tragedy to our State and to our university.

Today there is a memorial service taking place at Oklahoma State University to memorialize these 10 exceptional individuals.

One of the individuals was Nate Fleming. His sister served as an intern in my office. He was a nephew of one of my best friends and an outstanding athlete. Nate was a National Honor Society member and valedictorian of his class. He was only 20 years old.

Another team member, Daniel Lawson, 21, was a junior and played guard. He was originally from Detroit, Michigan. Another was Pat Noyes, 27. Pat was director of basketball operations at Oklahoma State University.

Brian Luinstra, 29, the athletic trainer, leaves a wife and two children.

Will Hancock, 31, was in his fifth year as coordinator of media relations. His wife, Karen, is the coach of the OSU women's soccer team and they had their first child just this last November.

Jared Weiberg, 22, was a student manager and nephew of the Big 12 commissioner, Kevin Weiberg. Jared was a part of the team and will most certainly be missed by all.

Bill Teegins, 48, was the play-by-play voice of the Oklahoma State University Cowboys for many seasons and was sports director for Channel 9 in Oklahoma City. He was honored several times as sportscaster of the year. He was known by everyone across the state and needless to say, he did an outstanding job.

Kendall Durfey, 38, was a producer and engineer for the OSU radio network. Denver Mills, the pilot, from Oklahoma City, was well liked and was a great aviator.

Bjorn Falistrom was the copilot, originally from Sweden.

This is a real loss for their families, for Oklahoma State University, for Oklahoma and the nation. The contributions these individuals made to the State and to the University will always be remembered. We extend our condolences to Coach Sutton and to President James Hallogan and the extended family of Oklahoma State University. It is with deep sadness that we extend our prayers to their families, and to their friends in mourning such a great loss. Certainly, they will be missed.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Chair thanks the Senator from Oklahoma for his eloquent statement.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

The ACTING PRESIDENT pro tempore. The Senator from Kansas, Mr. BROWNBACK.

Mr. BROWNBACK. Mr. President, I believe under a previous agreement I have 15 minutes allocated to me; is that correct?

The ACTING PRESIDENT pro tempore. The Senator was to have until 10:15. It is now 10:12.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that I be allowed to speak for up to 15 minutes as in morning business.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. DURBIN. Reserving the right to object, and I will not object, but I want to reserve 15 minutes in morning business after Senator BROWNBACK.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Kansas is recognized for 15 minutes.

Mr. BROWNBACK. I thank the Chair.

MOMENT OF SILENCE

Mr. BROWNBACK. Mr. President, I note with sadness what took place at Oklahoma State. That was a terrible tragedy. I was reading about it in our papers in Kansas. That happened to Wichita State University about 30 years ago. It still has not really healed. Somehow when you take that young life and that vibrant seed with the team, it really grabs a hole out of you that takes a long time to fill.

My thoughts immediately turned to Wichita State when that happened to Oklahoma State. My thoughts and prayers are with the Senator and with Oklahoma.

Mr. President, I wonder if it would be appropriate to have a moment of silent prayer for Oklahoma, for the tragedy they have experienced.

The ACTING PRESIDENT pro tempore. There will be a moment of silence in the Chamber in memory of those who died.

(Moment of silence.)

The ACTING PRESIDENT pro tempore. The Senator from Kansas is recognized.

AMERICA NEEDS A TAX CUT

Mr. BROWNBACK. Mr. President, I rise today to speak on a different issue, one of great importance and one I think we are going to see take place, and that is overdue tax relief for the American people.

The Congressional Budget Office has just announced the 10-year budget surplus projection has increased to $5.6 trillion. When I came to the House of Representatives in 1994, it would have been hard to fathom numbers of this nature, but through fiscal restraint, a plan put in place to limit the amount of spending over a period of years, and a healthy, growing economy, we are now to the point where we are projecting and experiencing budget surpluses. It is wonderful that we have this opportunity.

I also point out to the American public, in case you are worried the Republicans in Congress are taking their eyes

off the ball of fiscal discipline and paying down the debt, we are paying down the debt, and we will continue to pay down the debt.

Over the past 3 years, we paid down over $360 billion of public debt—$360 billion over 3 years. We will continue at that pace, if not greater, of reducing the Federal debt. We are going to continue to do that. But it also is possible, and I suggest necessary, for us to do the needed tax cuts and tax relief the American public deserves. America's taxpayers are overpaying the bill for their Government. More specifically, it is a tax on their success. It is, in fact, a tax on the robust economic growth we have experienced and which now seems to be slowing.

Of the $5.6 trillion, we have already committed to save $2.7 trillion for Social Security, and we should do that. That still leaves almost $3 trillion. This is separate and distinct from the Social Security trust fund. We have put that in a lockbox. The Republican Congress said we are building a lockbox; we are going to put the Social Security surplus in it. That is the $2.7 trillion of Social Security income, leaving $3 trillion over the next 10 years for tax cuts and debt reduction. We can do both. We must do both.

With the announcement by the Congressional Budget Office last week, along with Federal Reserve Chairman Greenspan's comments, there is no longer any credible excuse not to cut taxes for the American people. There is more than enough money to cut taxes, protect Social Security, and continue on our path of debt reduction—the $360 billion paydown we have done over the past 3 years. Americans demand fiscal responsibility, and they deserve a tax cut.

I am hopeful we will be able to pass meaningful tax relief this session, sooner rather than later. I think that is important for the economy, I think it is important for the American people, and it is necessary. We have worked in a bipartisan fashion to balance the budget, to pay down the debt, and protect Social Security. Now we must work in the same fashion to give the American people a tax cut they deserve.

As virtually everyone in the free world knows, our economy is slowing. Some are even concerned we are teetering on the brink of a recession. Recent reports indicate consumer confidence has now dipped to its lowest level since December of 1996, which could have the effect of fueling further fears of a slow downturn into a recession.

The last month and a half has shown the accuracy of President Bush's remarks about the state of the economy as he was in the midst of handling his transition. We now await further action by Chairman Alan Greenspan. It is worthy of note that several of my colleagues on the other side of the aisle have urged the Chairman not to increase interest rates. I think that was correct. However, now it is clear the Fed is changing its direction. In fact, according to many economists, the markets are already assuming a half basis point reduction to be announced at the conclusion of the meeting that began yesterday.

The Federal Reserve is doing its job to strengthen this economy and prevent it from going into a recession. It is now time for Congress to do its job, which is to cut taxes. In fact, I think as a body we need to worry less about the job Mr. Greenspan is doing down the street and more about the job we need to do on Capitol Hill.

Both monetary and fiscal policy needs to be used to keep this economy from going into recession but lift it up. Our part in doing this, as virtually all economists will note, is to cut taxes to help stimulate the economy. We need to pursue a fiscal policy that reflects the needs of Americans and of our economy.

Based on the surplus projections of the Congressional Budget Office, we have the resources available to not only realize our commitment to sound fiscal policy, protecting Social Security, and paying down the debt, but to significantly—and I want to add the point, significantly—reduce the tax burden faced by Americans.

We must cut taxes now for America's working families. In fact, we need to pursue broader and deeper tax cuts than those proposed last week by my colleagues from Texas and Georgia. It is a bipartisan tax cut bill that was put in last week by Senators GRAMM and MILLER.

We must cut taxes for two primary reasons. First, tax cuts are in effect an insurance policy for further economic growth because of the stimulating effect they would have on the economy. Second, tax cuts are good policy not only because they return hard-earned dollars back to the American people—the people who earned the dollars in the first place—but also because they help limit the growth of Government.

If we do not send the surplus back to the American people in the form of tax cuts, Washington's big spenders will use the money to grow the size of Government. It is almost an iron rule of Government; if there is a dollar left on the table around here, it is going to get spent. It needs to go back to the American people because they have overpaid. And it will help stimulate our economy, which is one of the keys of how we have been able to balance the budget and pay down the debt and have a strong economy. If that economy weakens, we are not going to have the tax receipts to be able to pay down the debt or do the things that people would like to do as well. If the markets are any indication, we need to use our fiscal policy now to grow the economy, not to grow the Government.

Today, we are collecting more from hard-working Americans than we have at any point since the conclusion of World War II. Artificially high tax rates used to fund our bloated Federal Government is one reason we are collecting so much revenue from the American people; the growth in the stock market and an increase in entrepreneurial activity is the other.

The American people should not be taxed on success, but that is exactly what we are doing when we impose high rates of taxation, particularly on capital gains. We punish people for innovation, thrift, and hard work, and we penalize them for being successful. We need another reduction in capital gains tax rates to follow on the 1997 reductions.

I want to go to a particular point at this time, and that is the marriage penalty tax that has been in place now for a number of years. Twice in Congress we have passed a bill to repeal it. Now is the time for us to repeal it and get it signed into law by a President who agrees that we should repeal the marriage penalty tax.

We have been taxing people for being married. It is a ridiculous policy. We have discussed it a number of times on the floor. An average American couple, in a two-wage-earner family, pays about $1,500 extra in taxes just for the privilege of being married. It is ridiculous.

Recently, my colleague, Senator KAY BAILEY HUTCHISON, and I introduced a bill to eliminate the marriage penalty. It is now clearly within our grasp to rid the Tax Code of this onerous, ridiculous penalty. I believe we must eliminate this penalty immediately.

Unfortunately, some of the proposals being considered to reduce taxes fail to adequately address the marriage penalty. We need real marriage penalty reduction, not more gimmicks in our Tax Code. We need to double the standard deduction immediately. In fact, I prefer to make it retroactive to January 1 of this year. We also need to double the income subject to the marginal rate brackets for married couples to twice the amount it is for individuals. This accomplishes real marriage penalty relief.

As we move to consideration of a reconciliation bill later this year, I will be pushing for broad-based marriage penalty relief. I am hopeful this Congress, with an enormous on-budget surplus, will be able to accomplish real tax cuts for American families.

The proposal by my colleagues is a good way to start the debate on tax cuts, but I am hopeful we can do more than the $1.6 trillion tax cut. We have $3 trillion that is available, and $2.7 trillion of the Social Security surplus is set aside. We have $3 trillion to pay down debt and to be able to cut taxes. I think we can do better than the $1.6 trillion. I think it will be necessary for us to do that to help to stimulate this economy.

Finally, I believe tax cuts work in part because they do stimulate economic growth and also because they

help insure against an economic downturn. We need that insurance policy before the economic situation deteriorates even more.

I would add that there is a positive psychological effect that takes place; when the Federal Reserve reduces the rate it charges by half basis points, there is a psychological point that, OK, the Fed is stepping in and taking action to make sure this economy does not go in recession. Therefore, more people say: Good, that is a positive sign. I am going to watch, and I am going to be maybe a little more positive.

If the Congress would do that similarly with tax cuts, the American people, as well, would say: OK, they are concerned about this economy, but they are taking action. I can see there is light at the end of the tunnel.

We should do that for its economic and stimulative effect on people's positive thinking of what can take place for this economy.

I am hopeful that Congress will pass meaningful tax cuts earlier in this year rather than later. Americans deserve some tax relief. They have waited long enough.

Mr. President, thank you very much for your time. I yield the floor and yield back any time allotted to me.

The ACTING PRESIDENT pro tempore. By the previous order, the Senator from Illinois, Mr. DURBIN, is recognized for 15 minutes.

Mr. DURBIN. Thank you, Mr. President.

TAX CUTS AND THE BUDGET SURPLUS

Mr. DURBIN. Mr. President, it is opportune I am here following my friend and colleague from Kansas, Senator BROWNBACK, to talk about the same issue because I think we both agree on several things, but we may have a little difference of opinion on several others.

Senator BROWNBACK and I came to the House of Representatives at about the same time. We lived through the era of red ink—the terrible deficits and mounting national debt. Many times it appeared we would never get out from under that burden.

I can recall when I first came to the Senate, Senator ORRIN HATCH was at this desk right over here and had stacked up next to the desk all of the budget books for the previous 20 or 30 years, which all showed a deficit. He said: It is time to amend the Constitution for a balanced budget amendment. It is the only way to get Congress to stop its profligate ways and to finally bring balance to our books.

I resisted that amendment. I thought it was overkill and unnecessary. It failed by one vote, and thank goodness it did because the ink had hardly dried in the CONGRESSIONAL RECORD than we started turning the corner. The economy started getting stronger, and we started leaving the deficit era, going into the surplus era. And what a change it has brought about with all of the Americans who are currently working, though there clearly is some downturn in the economy now. Those working Americans, and their families, and their businesses have brought success not only to them personally but also to our Nation's economy. It certainly is reflected in the fact that we now are talking about surpluses.

The obvious question the American people ask of us in the Senate is: If we have more money than we need in Washington, why do you keep it? Why don't you do something good with it? And one of the good things you can do with it is to reduce the tax burden on families.

Senator BROWNBACK suggested that. I agree with him. It is President Bush's plan. It is a democratic plan. If I had to put my money on one thing that is likely to happen this year, there would be some form of a tax cut; and there should be. I think we are at a point in history where it is not only the right thing to do, because there is a surplus, it is the right thing to do for the economy.

Chairman Greenspan at the Federal Reserve appeared before the Senate Budget Committee just a few days ago and basically said he thinks we are at a point where there is no growth in our economy. If you have that situation, basic economics tells you that you try to put some stimulus in the economy to get it moving again. And that would be a lowering of interest rates, which helps everyone who has an adjustable mortgage rate or is paying off a car loan or some credit card loan that is reflective of those interest rates, or you find a fiscal approach; that is, a tax cut that also generates more strength, more activity in the economy.

But I think where there may be a difference between Senator BROWNBACK and myself is on the question of how much we have to spend on the tax cut. What can we afford to put into a tax cut? I am going to use the maximum amount that is reasonable, but let's look at some of the figures that are being used.

This chart shows the projected budget surplus for the next 10 years: $5.7 trillion in a unified surplus. But when we take out the Social Security trust fund—which, incidentally, both parties were very clear in saying: We are not going to raid Social Security to spend or for anybody's tax cut—that takes away $2.7 trillion, so we have a net of $3 trillion in our surplus. Then we take away the Medicare trust fund, which I am sure all of us agree we would not want to raid for spending on other programs, to protect it, and we are now down to a net projected budget surplus for the next 10 years of $2.6 trillion.

Projecting a budget surplus means assuming certain things will happen. There are as many economists in Washington as there are opinions about what might happen to our economy, but most of these projections about a surplus assume certain growth in the economy. They say if we continue to grow, we will continue to generate surplus. If they are wrong, if the economy takes a downturn, there will be less money available, less money for whatever purposes we might consider on the floor of the Senate or in the Federal Government.

Let's take a look at President Bush's proposed tax cut. His proposal is $1.6 trillion, which reflects a 10-year tax cut plan. There is also an element in the tax law known as the alternative minimum tax. All of us are concerned that the alternative minimum tax has been written in a way that is starting to penalize a lot of families and businesses we never intended to penalize in any way. So reform of the alternative minimum tax appears to be agreed by almost everyone as something we should do. That would cost us another $200 billion over a 10-year period of time.

In addition, if we take money and, instead of buying down the debt of the country, put it into something such as a tax cut, it increases the interest costs that have to be paid on that debt by $400 billion over the same period of time. The true net cost of the Bush tax plan, considering these two scenarios, is $2.2 trillion.

Recall earlier I said that our actual surplus by these estimates will be $2.6 trillion. To put it into some perspective, look at the tax cuts assuming a $2.6 trillion surplus. If we put $2.2 trillion into tax cuts, as President Bush has recommended, literally 85 percent of the surplus will be going exclusively to tax cuts. The remaining $400 billion, 15 percent, would be there and could be used. However, look at all of the things we frankly have to consider out of this $400 billion over 10 years: As to debt reduction—I will get back to that in a moment—we have a $5.7 trillion national debt. I will talk about what it costs us to maintain that debt. The prescription drug benefit under Medicare is going to cost us some money; some suggest $300 billion over 10 years. We are taking this slice of $400 billion and all the things in which we want to invest.

The President has called for more money for education. I like that idea. I think it is a good thing to do. Again, it is coming out of this slice, this 15-percent slice.

He has also asked for more money for defense; we anticipate a need for agriculture as we have in the past; Medicare reform, Social Security reform, and some have even suggested the creation of a rainy day fund to protect our economy and our budget in bad times.

The reason I like to reflect for a moment on the national debt is that we have to consider this as the mortgage that we are leaving our kids. The best thing we can do for our children and grandchildren is to make that debt, that mortgage, as little as possible so

they are not burdened with the responsibility and debt of the obligations of our generation.

What does a national debt of $5.7 trillion cost us? Literally, we collect $1 billion a day in Federal taxes from individuals, families, and businesses to pay interest on old debt. That is $1 billion a day that isn't being spent to put a computer in a classroom or to make America's national defense any stronger. It is $1 billion a day which instead is being spent for interest on old debt.

Many of us believe if we truly are at a time of surplus, this is the moment we should seize to pay down that national debt, bring it down as low as we can conceivably bring it so that future generations and our kids and grandkids won't be burdened with this debt and responsibility.

As you pay down the national debt, the competition for money in the marketplace is reduced. The Federal Government is not out there borrowing and servicing debt. Therefore, interest rates tend to come down. Now not only will we be taking the burden off of families who pay $1 billion a day for interest on the old debt, we will also be reducing the interest rates they pay on their homes and their cars and their credit cards. Families win both ways.

Ultimately, this is as good, if not better, in many respects, as a tax cut. It reduces the cost of living for real families facing real difficulties.

Let me speak for a moment about the tax cut itself. There are a variety of ways we can approach this tax cut. Some have suggested cutting marginal rates. That is a shorthand approach to a tax cut which would, in fact, benefit some of the wealthiest people in this country more than working families and middle-income families. That is where I have some difficulty.

I know what is going on in my home State of Illinois now. I know because my wife called me a few weeks ago and said: I just got the first gas bill for the winter. You will never guess what happened. It is up to $400 a month in Springfield, IL. It is about a 40-percent increase in my hometown. I hear this story all over Illinois, all over the country—energy bills up 50 percent, natural gas bills up 70 percent. If we talk about tax cuts, we ought to be thinking about families who are literally struggling with these day-to-day bills. Whether it is the need to heat your home or to pay for a child's college education or perhaps for tuition in a school, should we not focus tax cuts on the working families who struggle to get by every single day?

I always express concern on the Senate floor that we seem to have more sympathy for the wealthiest people in this country than for those who are really struggling every single day to build their families and make them strong. If we are going to have a tax cut—and we should—let's make sure the tax cut benefits those families.

I also want to make certain we protect Social Security and Medicare. If as an outcome of this debate we end up jeopardizing Social Security or Medicare, then we have not met our moral and social obligation to the millions of Americans who have paid into these systems and depend on them to survive.

I believe the good news about the surplus should be realistic news. We should understand that surpluses are not guaranteed. We ought to make certain that any tax cut we are talking about is not at the expense of Social Security and Medicare. We should focus the tax cuts on working families to make sure they are the beneficiaries so that they have the funds they need to make their lives easier. That should be the bottom line in this debate.

As I said at the outset, Democrats and Republicans alike believe these tax cuts are going to happen. I believe it is a good thing to do. Let us pay down this national debt. Let us provide a tax cut for the families who need it. Let's make sure we protect Social Security and Medicare in the process.

I yield back my time.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

EXECUTIVE SESSION

NOMINATION OF JOHN ASHCROFT TO BE ATTORNEY GENERAL

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now go into executive session and proceed to the Ashcroft nomination, which the clerk will report.

The assistant legislative clerk read the nomination of John Ashcroft, of Missouri, to be Attorney General.

The ACTING PRESIDENT pro tempore. The Senator from Utah.

Mr. HATCH. Mr. President. I am pleased that the Judiciary Committee yesterday evening favorably reported the nomination of Senator John Ashcroft to be the next Attorney General of the United States. I look forward to a fair debate of Senator Ashcroft's qualifications and am hopeful that we could move to a vote on his confirmation this week. It is important that we confirm Senator Ashcroft as soon as possible so that the President has his Cabinet in place and he can move ahead with the people's agenda.

John Ashcroft is no stranger to most of us in this body. We have served with him during his 6 years of service as the Senator representing Missouri, some had worked with him when he was Governor and some others had worked with him when he was the Attorney General of Missouri.

In the Senate, he served on the Judiciary Committee with distinction over the past four years—working closely with members on both sides of the aisle. As a member of the committee, he proved himself a leader in many areas, including the fight against drugs and violence, the assessment of the proper role of the Justice Department, and the protection of victims' rights.

But, having heard the relentless drumbeat of accusation after accusation in recent weeks, I can fairly say, in my view, that there has been an unyielding effort to redefine this man of unlimited integrity. Some have termed the statements made by John Ashcroft, during the nearly four days of hearings in the committee, a ''confirmation conversion''—''a metamorphosis.''

On the contrary. The true metamorphosis of John Ashcroft is in the misleading picture painted of him by narrow left-wing interest groups. In fact, I welcomed them to the committee, and said: We haven't seen you for 8 years. I think there is a lot to be garnered out of that statement.

As my colleagues are well aware, John Ashcroft has an impressive 30-year record of loyal public service as a state attorney general, a two term Governor, and then—of course—as Senator, for the State of Missouri. I should also mention that as Missouri's attorney general, he was so well respected that he was elected by his peers across the nation to head the National Association of Attorneys General, and again as Governor, he was elected by this nation's governors to serve as the head of the National Governors' Association.

That really defines John Ashcroft rather than some of the accusations that have been thrown against him in the Senate.

I have said this before and I will say it again, of the sixty-seven Attorneys General we have had, only a handful even come close to having some of the qualifications that John Ashcroft brings in assuming the position of chief law enforcement officer of this great nation.

The Department of Justice, of course, encompasses broad jurisdiction. It includes agencies ranging from the Drug Enforcement Administration, the Immigration and Naturalization Service, the U.S. Marshal's Service, the Federal Bureau of Investigation, the United States Attorneys, to the Bureau of Prisons. It includes, among other things, enforcement of the law in areas including antitrust, terrorism, fraud, money laundering, organized crime, drugs, and immigration. To effectively prevent and manage crises in these important areas, one thing is certain: we need, at the helm, a no-nonsense person with the background and experience of John Ashcroft.

Those charged with enforcing the law of the nation must demonstrate both a proper understanding of that law and a determination to uphold its letter and spirit. This is the standard I have applied to nominees in the past, and this is the standard I am applying to John Ashcroft here today in my full-hearted support of his nomination to be the

next Attorney General of the United States.

During John Ashcroft's 30-year career in public service, he has worked to establish numerous things to keep Americans safe and free from criminal activities. For example, he has: (1) fought for tougher sentencing laws for serious crimes; (2) authored legislation to keep drugs out of the hands of children; (3) improved our nation's immigration laws; (4) protected citizens from fraud; (5) protected competition in business; (6) supported funding increases for law enforcement; (7) held the first hearings ever on racial profiling; (8) fought for victims' rights in the courts of law and otherwise; (9) helped to enact the violence against women bill; (10) supported provisions making violence at abortion clinics fines non-dischargeable in bankruptcy; (11) authored anti-stalking laws; (12) fought to allow women accused of homicide to have the privilege of presenting battered spouse syndrome evidence in the courts of law. On that point, I should add that as governor, he commuted the sentences of two women who did not have that privilege; (13) signed Missouri's hate crimes bill into law.

I could go on and on. His record is distinguished.

I am getting a little irritated that some even implied that he might be a racist, but all, including the judge for Ronnie White, said they do not believe he is a racist. In fact, he is not. His record proves he is not. I might add that his record proves that he is in the mainstream of our society.

Senator Ashcroft appeared before the Judiciary Committee for two days and answered all questions completely, honestly and with the utmost humility. Over the inaugural weekend, he received over 400 questions. He completely answered these follow-up questions that the Senators both on and off the committee sent to him. He has testified and committed both orally and in writing that he will uphold the laws of the United States, regardless of his religious views on the policy which, within his constitutional duties as a Senator, he may have advocated changing. He understands his role as the chief law enforcement officer of this nation.

Virtually every Senator on the committee and every Senator in this Senate has to admit he has the utmost integrity, honor, dignity, and decency. If that is true, why not give him the benefit of the doubt rather than the other way?

We saw at the four days of hearings that even when he disagreed with the underlying policies, he has an undisputable record of enforcing the laws. This was the case with respect to abortion laws, gun laws, or laws relating to the separation of church and state.

Mr. President, a great number of people have said to me that they are tired of living in fear. They want to go to sleep at night without worrying about the safety of their children or about becoming victims of crime themselves.

As someone who both knows John Ashcroft as a person and who is familiar with his distinguished 30-year record of enforcing and upholding the law, I can tell you that I feel a great sense of comfort and a newfound security in the likely prospect of his confirmation to be our nation's chief law enforcement officer.

Mr. President, as I told my committee colleagues last night, we have served with John Ashcroft, and we know that he is a man of integrity, committed to the rule of law and the Constitution. We know that he is a man of compassion, faith, and devotion to family. We know that he is a man of impeccable credentials and many accomplishments.

Some have charged that we are asking that the Senate apply a different standard to John Ashcroft than other nominees because he was a member of this cherished body. Let me be clear. I am not asking nor advocating that a standard be applied to his nomination that is different than that which is applied to other nominees. I am simply saying that you have worked with him and know him to be a man of his word. He is not the man unfairly painted as an extremist by the left-wing activists who have reportedly threatened Senators in their re-election bids if they vote for his confirmation.

They present a man that none of us really know. They have distorted his record and impugned his character and have exaggerated their case.

I am saying that a nominee, especially one we all personally know to be a man of deep faith and integrity, deserves to be given the benefit of the doubt when he commits to us under oath that he will enforce and uphold the rule of law regardless of his personal or religious beliefs.

Mr. President, that is the benefit we accorded General Reno, President Clinton's nominee 8 years ago. She was pro-abortion, she had said so. She was anti-death penalty, she had said so. On both of these issues, among others, she had a totally different ideological view than almost all of the Republican Senators serving at the time. But she committed to uphold the laws of the land, regardless of her personal views. and we accorded her the benefit of the doubt which I believe President Bush's nominee similarly deserves, especially since we all know him.

I ask that we evaluate this man based on his record, his testimony, and based on your personal experiences with him. We know John Ashcroft is not an extremist. That is the image of him that has been painted through a vicious campaign by a well organized group of left-wing special interest activists.

They have a right to be active. They have a right to complain. They have a right to find fault. They have a right to present their case. But they do not have a right to impugn a man's integrity, or distort his record, which I think they have done.

Sometimes in life, though, the measure of a person is best seen in times of adversity. So it is with John Ashcroft who, after a difficult battle for something that meant a great deal to him—re-election to the Senate—resisted calls to challenge the outcome of that election. His own words during this difficult time say it best:

> Some things are more important than politics, and I believe doing what's right is the most important thing we can do. I think as public officials we have the opportunity to model values for our culture—responsibility, dignity, decency, integrity, and respect. And if we can only model those when it's politically expedient to do so, we've never modeled the values, we've only modeled political expediency.

Contrary to what a few special interest groups with a narrow political agenda would have us believe, these are not the words of an extremist or a divisive ideologue. These are the words of a fine public servant who is a man of his word and of faith and who is willing to do the right thing, even when it means putting himself last.

Mr. President, John Ashcroft, like many of us, is a man of strongly held views. I have every confidence, based on his distinguished record, that as Attorney General, he will vigorously work to enforce the law—whether or not the law happens to be consistent with his personal views.

Mr. President, As I asked my colleagues in the Judiciary Committee, I ask that in keeping with our promise to work in a bipartisan fashion, we reject the politics of division. If we want to encourage the most qualified citizens to serve in government, we must do everything we can to stop what has been termed the politics of personal destruction. This is not to say that we should put an end to an open and candid debate on policy issues. Quite the contrary: our system of government is designed to promote the expression of these differences and our Constitution protects that expression. But the fact is that all of us both Democrats and Republicans, know the difference between legitimate policy debate and unwarranted personal attacks promoted—and sometimes urged—by narrow interest groups.

Mr. President, let me cite just one example of what I mean by the narrow interest group campaign of personal destruction. Many may have read, hopefully with disbelief and dismay, a New York Times report, the day following the release of the transcript of Senator Ashcroft's speech at the Bob Jones University, which read, ''the leader of a major liberal group opposing Mr. Ashcroft's nomination expressed disappointment that the comments were not much different from those many politicians offer in religious settings.'' The piece continued, quoting this ''leader'' as saying '' '[t]his, clearly, will not do it,' this person said of hopes that the speech might help defeat the nomination.''

Let me note that some opponents have charged that Senator Ashcroft's answers at the hearing and his written answers to the approximately 400 questions sent to him by Judiciary Committee members were evasive. Wrong.

I don't know of any case where we had that many questions of a Cabinet official. Usually it is an insignificant number.

Throughout, Senator Ashcroft has consistently and persuasively responded that he will enforce the law irrespective of his personal views. His long and distinguished record in Missouri supports his commitment to follow and observe the rule of law. But that record is ignored by his critics.

For some of those looking to oppose him, he simply cannot do anything right. When he answers questions in detail to attempt to explain his record, he's termed evasive because he should have simply answered ''yes'' if he really meant it. When he answers a question with a simple and straightforward yes, he's accused of not confronting the issue completely.

Let us be clear. John Ashcroft is strongly pro-life. He always has been as far as I know, and I expect he always will be. He is a deeply religious man—he always has been as far as I know, and I expect he always will be. He has strenuously committed to a policy of equal justice and opportunity for all—and has a long record which supports this commitment of these matters. But he opposed Mr. Hormel for an ambassadorship, as did a number of his colleagues; he opposed Bill Lann Lee, as did eight other Republicans on the Judiciary Committee, including myself; and he opposed Justice Ronnie White. This is the record upon which many paint John Ashcroft as a right wing extremist. I disagree.

Let me simply conclude by repeating the words of John Ashcroft which I cited earlier. ''Some things are more important than politics, and I believe doing what's right is the most important thing we can do.'' I only hope that my colleagues will heed these words as they consider their vote in the Senate. I urge my colleagues to vote yes on this nomination.

By the way, I am urging my colleagues to do what we did for Attorney General Reno: Give John Ashcroft the benefit of the doubt instead of taking the exact opposite tack, of which I think I have seen enough evidence. When Attorney General Reno came up, there were 2 days of hearings. In fact, there was only 1 day for Attorney General Dick Thornburgh. There were only 2 days for Attorney General Bill Barr, only 2 days for Janet Reno. In none of those cases did we allow right-wing groups to come in and attack the witness. We allowed them to submit statements, but we didn't go on and on trying to destroy the reputation of really good people. John Ashcroft is really good people. He is a decent, honorable, religious, thoughtful, kind man who has a reputation of being fair and honest. I personally resent those who try to say otherwise and try to impugn that reputation.

The ACTING PRESIDENT pro tempore. The Senator from Vermont, Mr. LEAHY.

Mr. LEAHY. I appreciate the comments of my friends from Utah and the distinguished chairman of the Senate Judiciary Committee. He suggests a lot of questions were asked of Senator Ashcroft. I read today in the Wall Street Journal, a newspaper that has strongly backed Senator Ashcroft, they believe we didn't ask enough questions, especially concerning fundraising activities by Senator Ashcroft.

I ask unanimous consent that the article from the Wall Street Journal be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. BUNNING). Without objection, it is so ordered.

(See Exhibit 1.)

Mr. LEAHY. Mr. President, when we talk about the time involved in a nomination such as this, I recall the last controversial nomination for Attorney General we had when the Republicans controlled the Senate. That was for Edwin Meese. It took considerably longer, with far more witnesses and questions than we are having in this debate. We sometimes forget the history of what goes on here.

This is a case where the White House actually sent Senator Ashcroft's nomination to the Senate on Monday—Monday of this week, 2 days ago. We are having the debate on the floor today. Prior to the President's inauguration, the Democrats controlled the Senate. We moved forward even without the paperwork or anything else from the incoming transition team. We moved forward to speed up a hearing on Senator Ashcroft.

Today we begin the debate on the floor, after the Judiciary Committee debated the nomination yesterday and voted yesterday evening. As I said, I convened 3 days of hearings on this nomination over a 4-day period from January 16 to January 19. That was prior to having received all the paperwork on Senator Ashcroft. We did that to help the new administration. The Republican leadership announced weeks ago that all 50 Republican Senators would vote in favor of the nomination, irrespective of whatever came out of those hearings. I am glad that other Senators declined to prejudge the matter.

Actually, the Committee on the Judiciary has done the best we could to handle this nomination fairly and fully. We have had hearings, I think, that make all members of the committee and the Senate proud. I have served in this body for 26 years. I believe very much in the committee system. I believe very much in having real hearings and then having a record available for Senators.

In fact, we actually invited Senators who had served in the 106th Congress and were going to leave the committee, as well as some we anticipated would be coming in from both the Republican and Democratic side, to sit in on those hearings. I mention this because we did not actually set the membership of our committee until last Thursday, but we did this ahead of time.

The committee heard from every single witness Senator Ashcroft or Senator HATCH wanted to call in his behalf. This is not a case where suddenly one side or the other was something loaded up. I think there were an equal number of witnesses on both sides. We completed the oral questioning of Senator Ashcroft in less than a day and a half. We limited each Member to two rounds of questions, for a total of only 20 minutes. The nominee was not invited back by the Republicans following the testimony of the public witnesses. As a result, any unanswered questions had to be answered in writing.

We then expedited the sending of written questions to the nominee. We sent the majority of written questions on Friday, January 19, the last day of the hearing, rather than waiting until the following Monday when they were due. Senator HATCH sent out the final batch of written questions on the Tuesday following the hearing.

We received some of what were described as answers to some of the written followup questions sent to the nominee late last Thursday. It is clear from those answers that the nominee has chosen not to respond to our concerns or address many of our questions. In fact, the committee has had outstanding requests to the nominee to provide a copy of the entire videotape of the commencement proceedings in which he participated at Bob Jones University, as has been discussed here on the floor. We have had that request pending since early January. That videotape was provided, incidentally, to news outlets but not to the committee.

I have also requested that the nominee provide a formal response to the allegations that while he was Governor of Missouri he asked about a job applicant's sexual preference in an interview, and we have not received any answer.

There have been references on the floor already today as though there were some kind of left-wing conspiracy to defeat John Ashcroft. I am not aware of that. I have asked my questions as the Senator from Vermont, and I responded to the interests of my constituents, both for and against Senator Ashcroft, from Vermont.

But if there is any question of whether there is influence of anybody on this nomination, I will refer to the New York Times of Sunday, January 7, and the Washington Post of Tuesday, January 2, in which they quote a number of people from the far right of the Republican Party who openly bragged about the fact that they told the new President he could not appoint Governor Racicot of Montana—whom he wanted to appoint—but that he must appoint John Ashcroft.

I mention that because, if anybody thinks this nomination has been influenced by liberal groups, the only ones who have actually determined this nomination and have openly gone to the press and bragged about influencing it are an element of the far right of the Republican Party. They have openly bragged about the fact that they told the incoming administration and President Bush that he could not have his first choice, the Governor of Montana—who is a conservative Republican and now the former Governor—but that he must appoint Senator Ashcroft. That remains a fact. That is why we are here.

Notwithstanding all this, and notwithstanding the fact that the questions have not all been answered, the requested material has not all been sent, we Democrats granted consent to advance the markup date in order to proceed yesterday afternoon and last evening. As the distinguished chairman knows, normally we would have had our debate before the committee today. I said, following his request, that we would not object to moving it up 24 hours. I was told the Republicans have a meeting of their caucus scheduled for later this week and it would accommodate both the new administration and the Republicans in the Senate if we moved that up. I agreed to that. As I said, the Senate works better if Senators can work together. Accommodation, however, does not mean changing one's vote.

We had a good debate in the committee. I think Republicans and Democrats would agree it was a good, solid debate. We reported the nomination to the Senate by a margin of 10–8, a narrow margin. Actually, in most of that debate we had between six and nine Democratic Members present. We usually had three to four Republican Members.

I brought with me the hearing record. Here it is, right here. This is a good, solid record. It is part of the history of the Senate. I wish all Senators would review that record. Many have. Unfortunately, we are not going to have a committee report on this controversial nomination. I think we would have been helped by doing that. There was a time when we did seek to inform the Senate with committee reports on nominations, nominations such as that of Brad Reynolds or William Bennett and a number of important and controversial judicial nominations. We prepared such reports when Senator THURMOND required that as chairman.

In lieu of a committee report, each Senator is left with the task of reviewing the record and searching his or her conscience and deciding how to vote.

I did put into the RECORD a large and I hoped complete brief prepared by me and the lawyers on the Senate Judiciary staff—Bruce Cohen, Beryl Howell, Julie Katzman, Tim Lynch and others—which I think would be very helpful to the Senate.

We may want to consider and contrast the behavior that has been engaged in on the other side. We have talked about the time this may have taken. We had the hearing, we expedited the debate, and we came to the floor. The consideration of the nomination of Attorney General Meese when the Republicans controlled the Senate—with a Republican Senate, one would assume that would move very quickly—that took 13, not days, not weeks: 13 months. And then we had several days of debate in a Republican-controlled Senate before final Senate action.

There was reference to how we how we handled the nomination of Attorney General Reno. That was noncontroversial, and that still took a month from nomination to confirmation. She was not confirmed by the Senate until mid-March in the first year of President Clinton's term. Attorney General Meese was not confirmed by the Senate until late February in 1985, at the beginning of President Reagan's second term. Here we are in January. This nomination was sent to the Senate on Monday, 48 hours ago.

I hope those who advise the President will point out to him these facts so he is not under the impression this nomination has been delayed from Senate consideration. The Democrats, when we controlled the Senate for a few weeks, expedited this. Republicans, when they controlled the Senate at the time of President Reagan, took 13 months to get his nomination of Edwin Meese through.

I have reviewed the hearing record and the nominee's responses to the written followup questions from the Judiciary Committee. I did that before I announced I would oppose John Ashcroft to be Attorney General of the United States.

I have talked to the Senate already about this, and to the committee, about my reasons for opposing the nomination. I expect we will go back to this during the debate.

Let's not lose sight of the historical context in which we consider this nomination. This is an especially sensitive time in our Nation's history. Many seeds of disunity have been carried aloft by winds that come in gusts—especially, unfortunately, from the State of Florida. The Presidential election, the margin of victory, the way in which the vote counting was halted by five members of the U.S. Supreme Court—these remain sources of public concern and even alienation. Deep divisions within our country have infected the body politic. We experienced the closest Presidential election in the last 130 years, probably the closest in our history. For the first time, a candidate who received more votes than were cast for the victor in the last three elections for President, who received half a million more votes than the person who eventually was inaugurated as President—received half a million more votes, I should say, than the man who became President—saw the man who became President declared the victor of the Presidential election by one electoral vote.

I do not question the fact that President Bush is legitimately our President. Of course, he is. I was at the inauguration. We all were. He was inaugurated. Yet, I would hope Senators will realize the concerns in this country: One person gets half a million more votes, the other person becomes President; the one who becomes President after a disputed count in one State becomes President by one electoral vote.

He is President. He has all the powers, he has all the obligations, all the duties of the Presidency, and all the legitimacy of the Presidency. I have no question about that. But I think he has an obligation to try to unite the country, not to divide the country. In fact, 11 days ago, President Bush acknowledged the difficulties of these times and the special needs of a divided Nation. He said:

> While many of our citizens prosper, others doubt the promise, even the justice, of our own country.

He pledged to ''work to build a single nation of justice and opportunity.''

I was one of those who had lunch with the new President less than an hour after his inauguration. I spoke to him and told him how much his speech meant to me. I told him he will be the sixth President with whom I have served. I told him how impressed I was by his inaugural speech. I said he had a sense of history and a sense of country, and I applauded him for it. I do think the nomination of John Ashcroft to be Attorney General does not meet the standard that the President himself has set. For those who doubt the promise of American justice—and, unfortunately, there are many in this country who doubt it—this nomination does not inspire confidence in the U.S. Department of Justice.

My Republican colleagues have urged us to rely on John Ashcroft's promise to enforce the law, as if that is the only requirement to be an Attorney General.

If Senator Ashcroft would have come before the committee and said he would not enforce the law, we would not be debating this issue today. I cannot imagine any nominee—and I have sat in on hundreds of nomination hearings—would say they would not enforce the law. That is not the end of the story. The Senate's constitutional duty to advise and consent is not limited to extracting a promise from a nominee that he will abide by his oath of office. Let me quote what my good friend, Senator HATCH, said on the floor on November 4, 1997, about the nomination of Bill Lann Lee to be Assistant Attorney General for Civil Rights:

> His talents and good intentions have taken him far. But his good intentions should not be sufficient to earn the consent of this body. Those charged with enforcing the Nation's law must demonstrate a proper understanding of that law, and a determination to

uphold its letter and its spirit * * *. At his hearing before the Judiciary Committee, Mr. Lee suggested he would enforce the law without regard to his personal opinions. But that cannot be the end of our inquiry. The Senate's responsibility is then to determine what the nominee's view of the law is.

Like Senator Ashcroft, Bill Lann Lee promised to enforce the law as interpreted by the Supreme Court. He made the promise emphatically, he made it repeatedly, and he made it specifically with respect to certain Supreme Court decisions with which he may have personally disagreed. Despite all of Bill Lann Lee's assurances that he would enforce the law, the Republican-controlled Senate would not allow a vote up or down on the floor on his nomination.

I believe John Ashcroft's assurances that he would enforce the law is not the end of our inquiry. Far more than the Assistant Attorney General for Civil Rights, a job to which Bill Lann Lee was nominated, the Attorney General has vast authority to interpret the law and to participate in the law's development.

Unlike one of his assistants, he has to be held to a higher standard because he sets the policy. The assistant carries out the policy of the Attorney General. The Attorney General's job is not merely to decide whether common crimes, such as bank robbery, should be prosecuted. Of course, they should. Does anybody believe that whoever is Attorney General faced with something as horrendous as the Oklahoma City bombing is going to say, ''I am not going to prosecute''? Does anybody believe an Attorney General faced with a skyjacking or assassination is going to say, ''I am not going to prosecute''? Of course, they are going to prosecute.

But there are many other less spectacular matters, matters that are not in the news every day, where the Attorney General has to decide how the law is to be enforced. The Attorney General has more discretion in this regard than anybody in Government.

The Attorney General advises the President on judicial nominations. He decides what positions to take before the Supreme Court and lower Federal courts. He decides which of our thousands of statutes require defending or interpreting. He allocates enforcement resources. The Attorney General decides whom we are going to sue and, even more importantly, perhaps, decides which cases we are going to settle. He makes hiring and firing decisions. He sets a tone for the Nation's law enforcement officials.

I think it is reasonable to go back and look at how John Ashcroft acted as attorney general before, and I go back to Missouri. Again, he was sworn to enforce the laws and all the laws. So how did he focus the resources of his office? This is how he did it.

He focused the resources of his office on banning abortions and also on blocking nurses from dispensing birth control pills and IUDs. He sued political dissenters, and he fought voluntary desegregation. I am sure with murder cases or anything else such as that he would enforce the law, but it is how he chose to decide which of those discretionary areas to act in that troubles me.

He has used language here describing the judiciary that is disturbing to many. He has shown what Senator BIDEN calls ''bad judgment'' in associating with Bob Jones University and Southern Partisan magazine, and he unfairly besmirched the reputations of Presidential nominees, including Judge Ronnie White and Ambassador James Hormel.

I am particularly concerned that he has not fully accepted what he now calls the settled law regarding a woman's right to choose. His confirmation evolution seems implausible, given his support less than 3 years ago for the Human Life Act, which he now admits is unconstitutional even though he supported it, and his denial of the ''legitimacy'' of Roe and Casey in the 1997 ''Judicial Despotism'' speech, in which he called the Supreme Court ''ruffians in robes.''

I have disagreed with the Supreme Court on some cases, but I have never called them that.

His assurances are totally undercut by the recent remarks of President Bush and Vice President CHENEY. Just 1 day after Senator Ashcroft assured the committee that Roe and Casey were settled law and that he would not seek an opportunity to overturn them, the President said he would not rule out having the Justice Department argue for that result. The Vice President similarly refused to commit himself on this issue over the weekend.

A promise to enforce the law is only a minimum qualification for the job of Attorney General. It is not a sufficient one. It is simply not enough just to say you will enforce the law.

Senator Ashcroft's record does matter in making a judgment about whether he is the right person for this job. Throughout the committee hearings, my Republican colleagues said we should give Senator Ashcroft credit for his public service. I agree with that, just as I give him strong credit and admire him for his devotion to his family and his religion.

At the same time, my Republican friends insist that his record and the positions he has taken in public service do not matter because he will take now a different position as U.S. Attorney General.

President Bush asked us to look into Senator Ashcroft's heart, but we are being urged not to look into his record. I do not doubt the goodness of his heart. I do doubt the consistency of his record.

Some of my Republican colleagues went so far as to argue we should not hear from any witnesses other than the nominee, that we need not review all the nominee's required financial disclosures and his files and his speeches before passing on this nomination. That is not the way we go about our responsibility of advise and consent. Remember, the Constitution does say advise and consent, not advise and rubber stamp.

That is why, as chairman of the Judiciary Committee, during the weeks I held that post, I refused to railroad this nomination through. Instead, I had full, fair, informative hearings to review the nominee's record and positions.

The American people are entitled to an Attorney General who is more than just an amiable friend to many of us here in the Senate and promises more than just a bare minimum that he will enforce the law. They are entitled to someone who will uphold the Constitution as interpreted by the Supreme Court, respect the courts, abide by decisions he disagrees with, and enforce the law for everybody regardless of politics. The way to determine that is to look at the nominee's record, not to engage in metaphysical speculation about his heart.

John Ashcroft's stubborn insistence on re-litigating a voluntary desegregation decree consented to by all the other parties over and over again, at great expense to the State of Missouri and with sometimes damaging disruption to the education of Missouri's children, is relevant. It is relevant because someone who has used his power as a State Attorney General to delay and obstruct efforts to remedy past racial discrimination by the State, and who has then publicly excoriated the judges who ruled against him and made a major political issue of his disagreements with the courts, may use his greater power as the U.S. Attorney General for similarly divisive political purposes.

His effort as a State Attorney General to suppress the political speech of a group with which he disagreed—the National Organization of Women—by means of an antitrust suit is relevant, because it reflects on how he might respond to political dissent as U.S. Attorney General.

His actions as Governor of Missouri and as a U.S. Senator are also relevant. In those offices, he took the same oath of office to uphold the Constitution that he would take as U.S. Attorney General. Yet, in both of those offices, he sponsored legislation that was patently unconstitutional under Roe v. Wade: the 1991 anti-abortion bill in Missouri, and the 1998 ''Human Life Act'' in the Senate. It is highly relevant to ask why, if his oath of office did not constrain him from ignoring the Constitution in those public offices, we should expect it to constrain him as Attorney General. And it is also relevant to ask whether the same John Ashcroft who as a U.S. Senator went around making public speeches calling a majority of the current conservative Supreme Court ''five ruffians in robes'' has the temperament needed to be an effective advocate before that same Court as U.S. Attorney General.

I cannot judge John Ashcroft's heart. But we can all judge his record. Running through that record are troubling, recurrent themes: disrespect for Supreme Court precedent with which he disagrees; grossly intemperate criticism of judges with whom he disagrees; insensitivity and bad judgment on racial issues; and the use of distortions, secret holds and ambushes to destroy the public careers of those whom he opposes.

I cannot give my consent to this nomination.

Mr. President, I will say more, but I see several Senators from both sides of the aisle on the floor. I am going to withhold in just a moment. But just think for a moment, we are a nation of 280 million Americans. What a fantastic nation we are. We range across the political spectrum, across the economic spectrum, all races and religions.

I think of, in my own case, my mother's family coming to this country not speaking a word of English. My grandfathers were stonecutters in Vermont. I look at the diversity of ethnic backgrounds in our family, my wife growing up speaking a language other than English. We have great diversity in this country and, over it all, everybody knowing, whether they are an immigrant stonecutter or whether they are a wealthy Member of the Senate, the laws will always treat them the same; everybody knowing, whether they are black or white, they can rely on the law to treat them the same.

But on top of all that, the Attorney General of the United States represents all of us. The Attorney General is not the lawyer for the President; the President has a White House counsel. In fact, to show the separation, the White House counsel does not require Senate confirmation; he or she is appointed by the President, and that is the choice of the President alone. But the Attorney General requires confirmation because the Attorney General represents all of us.

We hold this country together because we assume the law treats us all the same. When I look at the public opinion polls in this country and see a nation deeply divided over this choice for Attorney General, it shows me that American people do not have confidence in this nomination. I hope, if John Ashcroft is confirmed, he will take steps to heal those divisions, take steps to say he will be the Attorney General for everybody, not just for one group who told the President he had to appoint him. So in that regard, I hope all Senators will think about that.

Mr. President, I will go back to this later on, but I see other Senators on the floor, so I yield the floor.

EXHIBIT 1

[From the Wall Street Journal, Jan. 31, 2001]

SENATE PANEL BACKS ASHCROFT DESPITE FUND-RAISING ISSUES

(By Tom Hamburger and Rachel Zimmerman)

WASHINGTON.—The Senate Judiciary Committee narrowly sent John Ashcroft's nomination as attorney general to the Senate floor, even as outside critics complained that his history of aggressive fund raising raises questions about his ability to enforce campaign-finance laws.

The committee's 10–8 vote, with Democrat Russell Feingold of Wisconsin joining the committee's nine Republicans, signaled that Mr. Ashcroft is almost certain to win confirmation from the full Senate later this week. But the panel's sharp division and Senate Minority Leader Thomas Daschle's announcement yesterday that he will vote against his former colleague reflect the strong opposition among Democratic constituencies to Mr. Ashcroft's staunchly conservative record.

Mr. Daschle accused the Missouri Republican of having ''misled the Senate and deliberately distorted'' the record of African-American judicial nominee Ronnie White, leading the Senate to reject Mr. White's nomination to the federal bench. Answering such attacks for the GOP, Judiciary Committee Chairman Orrin Hatch of Utah complained that a ''vicious'' campaign by liberal advocacy groups had left Democratic senators giving Mr. Ashcroft ''not one positive benefit of the doubt.''

One of Mr. Ashcroft's most voluble opponents, Democratic Sen. Edward Kennedy of Massachusetts, indicated that he won't attempt to block the nomination with a filibuster. President Bush urged quick action by the Senate so that his administration could proceed with the organization of the Justice Department, where a number of top department appointments have been held up pending action on Mr. Ashcroft.

''I would just hope there are no further delays,'' Mr. Bush said. ''There's been a lot of discussion, a lot of debate . . . and it's now time for the vote, it seems like to me.''

Actually, the former senator's history of campaign fund raising hasn't been debated much within the Senate. Mr. Feingold, who backed Mr. Ashcroft in yesterday's vote, is one of the chamber's leading advocates of campaign reform. But yesterday, he cited the ''substantial deference'' a president deserves in nominations.

Critics say Mr. Ashcroft has repeatedly pushed at the edges of campaign-finance regulations by using taxpayer-financed office staff to wage election campaigns, and by joining other candidates in both parties in finding loopholes that have allowed him to pursue larger donations than the $1,000-a-person contributions permitted to a candidate's campaign committee.

Those critics, from Democrats in Mr. Ashcroft's home state to representatives of national organizations promoting campaign-finance overhaul, say the lack of attention to the issue reflects how deeply the Senate itself is steeped in the techniques of fully exploiting the campaign-finance system. But at a time when an overhaul bill may soon overcome lingering resistance on Capitol Hill, they say Mr. Ashcroft's record casts a cloud over his commitment to enforce rigorously the laws regulating how political money is raised and spent.

''The Senate has completely failed its obligation to pursue this line of inquiry,'' complains John Bonifaz, executive director of the National Voting Rights Institute, a Boston nonprofit group that specializes in campaign finance and civil-rights litigation.

Mr. Ashcroft's backers on Capitol Hill and in the Bush administration dismiss the complaints as ideologically inspired sniping. Administration spokeswoman Mindy Tucker says Mr. Ashcroft has ''always adhered to the law on campaign-finance issues and his campaign-finance practices have been above reproach.''

Like other senators in both parties, Mr. Ashcroft formed a joint committee with his national party's Senate campaign arm to collect unregulated ''soft money.'' When he was exploring a presidential bid, he went to Virginia, which has few campaign-money limits, to establish a political action committee that accepted a $400,000 donation. ''A blatant evasion of laws that are designed to protect against the kind of corruption the attorney general is charged with upholding,'' complains Scott Harshbarger, Common Cause president.

In one case, Missouri Democrats allege, Mr. Ashcroft went over the line of propriety. It dates to 1982, when Mr. Ashcroft was Missouri attorney general and brought an action against a local oil company for selling tainted gasoline. The company, Inland Oil, countersued, charging that Mr. Ashcroft's actions were motivated by his desire to win election as governor. In a deposition. Mr. Ashcroft's administrative assistant said be worked on Mr. Ashcroft's election campaign while a state employee and contacted potential campaign contributors from his government office.

The lawsuit also noted that Mr. Ashcroft had solicited an executive of Inland Oil for a donation to the state GOP in a fund-raising appeal under the state attorney general's letterhead, and that he personally sought a donation from a barge-company owner who did business with Inland. Mr. Ashcroft has said the mail solicitation was merely sent in his name, and Ms. Tucker says he hadn't known of the barge concern's connection to Inland when he sought a donation.

The state later settled its complaint against Inland Oil, which in turn dropped its counter suit. An opposing legal counsel in that case, Alex Bartlett, says Mr. Ashcroft ''caved'' on the case to avoid answering questions about his fund-raising practices. Mr. Bartlett also says Mr. Ashcroft later exacted retribution by effectively blocking the Clinton administration from nominating him for a federal judgeship in the mid-1990s. Former White House Counsel Abner Mikva says then-Sen. Ashcroft told him in early 1995, ''I don't like'' Mr. Bartlett.

Ms. Tucker rejects that interpretation of events, saying Mr. Ashcroft negotiated an appropriate settlement in the Inland Oil matter. If he later expressed reservations about Mr. Bartlett to Mr. Mikva, she adds, he didn't block him from the bench since Mr. Bartlett was never formally nominated. She also says Mr. Ashcroft never used public employees to perform campaign work except in their off ours.

FUND-RAISING VEHICLES

John Ashcroft has harvested donations, in recent years using these political committees:

Ashcroft 2000: Senate re-election committee raised $8.9 million in ''hard'' money subject to federal limits of $1,000 per individual donation, $5,000 per political action committee.

Ashcroft Victory Fund: Collected $3.8 million unregulated ''soft'' money during 1999–2000, split evenly between Ashcroft 2000 and National Republican Senatorial Committee.

Spirit of America PAC: So-called leadership PAC collected $3.6 million in hard money since 1997, largely to finance Ashcroft's exploration of a presidential bid.

American Values PAC: Virginia-based PAC raised $586,533 beginning in 1998, which financed TV ads in Iowa and New Hampshire.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I appreciate the comments that both Chairman HATCH and Senator LEAHY have just made with respect to this nomination.

We began when I referred to Senator LEAHY as Mr. Chairman, and now we are nearing the conclusion of this during the time that Senator HATCH will be referred to as Mr. Chairman. I agree, it is time to bring the confirmation proceedings for Senator Ashcroft to a close.

I hope my colleagues will consider the long-range implications of their votes with respect to Senator Ashcroft. I have, I think, never regretted voting for a nominee for office, but I have regretted some of the votes I have cast against nominees. I hope my colleagues judge how their votes will be considered a year from now, 4 years from now, perhaps 20 years from now, in thinking about how they will cast their votes.

Most of the points Senator LEAHY made have been made before and have been fairly thoroughly rehashed during the committee process and in other forums. I would really like to only respond to three points Senator LEAHY just made.

First, he made this comment in the Judiciary Committee meeting yesterday, as well. Senator LEAHY said it is not liberal or left-wing groups that have influenced this nomination but, rather, groups on the far right. And it is possible, of course, for anybody to brag about what they may or may not have done. President Bush is fully capable of deciding whom he is going to nominate for Attorney General. I was one of the people who recommended John Ashcroft to him. So I do not think we can ascribe John Ashcroft's nomination to the fact that some people who are very conservative brag about the fact that they stopped somebody else and recommended his nomination. He was recommended by other people as well, including myself.

In any event, I think it is rather odd to suggest that liberal groups have not been actively involved in this debate. Immediately after it began, I received a copy of a special report from the People for the American Way—clearly a liberal, left leaning group—making the case against the confirmation of John Ashcroft as Attorney General. And page after page after page of it, in effect, is opposition research opposing the nomination.

I also will note just one story from the Washington Times of January 17 of this year. I will quote this at length because I think it makes the point rather clearly.

> Senate Democrats are under enormous pressure from liberal interest groups to defeat Mr. Ashcroft, whom they accuse of insensitivity to minorities and of harboring a stealth agenda to undermine abortion rights.
>
> Yesterday, Kweisi Mfume, president of the National Association for the Advancement of Colored People, said his organization will ''fund major information campaigns for the next 4 years'' in States whose senators vote in favor of Mr. Ashcroft.

This is continuing the quotation from Mr. Mfume:

> Senators who vote for Ashcroft will not be able to run away from this and assume people will forget, said Mr. Mfume. For Democratic senators, in particular, this vote comes as close to a litmus test as one can get on the issue of civil rights and equal justice under law from the party's most loyal constituency.

Mr. President, I do not think it really matters much. It is very clear that both liberal and conservative interest groups have weighed in on this nomination. It is totally appropriate for them to do so. Therefore, I am not quite clear why one would make the point that it is only conservative groups who have weighed in. Clearly, liberal groups have weighed in as well. That is their right.

I, in fact, admire those Democratic Senators who will vote to confirm Senator Ashcroft because I appreciate the intense pressure they are under. We all have pressures, but it takes courage sometimes to go against what they may perceive as going against the grain in their own State.

The second point made was that this was a divisive nominee. It is a little hard for me to understand how a nomination can be divisive until somebody objects. President Bush laid out his potential Cabinet, and immediately all attention focused on three of those nominees. They were said to be divisive. They were divisive because somebody objected to them.

Third—and this relates to it—this business about enforcing the law has really put Senator Ashcroft in a difficult position. It is a catch-22 for him; he cannot win, literally.

If he says he will enforce the law, which, of course, every nominee has said, then he is subject to the criticism that this is a change, a new Ashcroft, and we can't believe that he will, in fact, enforce the law. What is he to do? He can't prove a negative. He can't prove he will not fail to enforce the law.

We can look to his experience. We can look to his service in the Senate.

One of our colleagues who will be voting on him made this statement. This is from West Virginia Democratic Senator ROBERT BYRD:

> I'm going to vote for him. He was a legislator. His opinions at that time were the opinions of someone who writes the laws. He is now going to be an officer who enforces the laws. He will put his hand on the Bible. He will swear to uphold the law, that he will enforce the law. He has said so, and I take him at his word. I believe Ashcroft means what he says.

Of course, some have noted that John Ashcroft is a very religious man. Yet it seems paradoxical to me that after referring to his faith, they would somehow doubt that he would be firm in his commitment to uphold the laws. I agree with Senator BYRD. We can trust this man, that he will do what he says he will do.

I will submit for the RECORD just one of the many examples that one can point to about the immediate past Attorney General not enforcing the law; in this case, a situation in which Attorney General Reno specifically refused to enforce the Controlled Substances Act when it dealt with the matter of assisted suicide. Yet I heard nobody who is a critic of John Ashcroft criticize Attorney General Reno for her refusal to enforce existing law.

These are matters of judgment, and reasonable people will differ. That is why it is especially perplexing to me to note the vehemence with which some have expressed opposition to Senator Ashcroft on the grounds that they know he won't enforce the law. That is perplexing to me.

A final point on this—it has been made over and over, but I think it bears a little bit of discussion right now—Bill Lann Lee was a nominee of Bill Clinton for a very important job in the Justice Department, head of the Civil Rights Division. There were many who opposed his nomination, including myself. Senator LEAHY and others have been very critical of our opposition. In effect, they have said we should not have opposed him for that position. We applied too tough a standard; we should have believed him when he said he would enforce the law.

Not getting into all of the reasons why we didn't think he would enforce the law and why, as it turns out, we were correct. Nonetheless, people such as Senator LEAHY have been very critical of us for the stance we took. Yet they are now saying they are going to apply the same test they say we applied in the case of Bill Lann Lee. Either we were wrong in that case and that test should not be applied or we were right and it is a test that can be applied. And they then apply it and perhaps reach a different conclusion than we.

We should discuss this honestly. I don't think you can say on the one hand that test was wrong for Republicans to apply in the case of Bill Lann Lee but it is right for Democrats to apply it in the case of John Ashcroft. Which is it? If it is wrong for us to say we just didn't believe that Bill Lann Lee could do what he said he would do, then the Democrats have a very tough argument to make that they should be able to say precisely that with respect to John Ashcroft.

The bottom line is, it doesn't matter what John Ashcroft says to some Senators. They have reached a conclusion—I will suggest in good faith; I will never question the motives of my colleagues even if they vehemently disagree with me—that he is not suitable to be the Attorney General of the United States. That is their right.

I don't think John Ashcroft can ever satisfy them. He can say: I promise you I will uphold the law, as he did over and over and over again in the hearing. We know he is a man of integrity and no one has questioned that. Yet they still apply this test which, in their minds, requires them to vote against his confirmation. So be it.

We have to be honest about the application of these tests. If it is fair to do it in the case of John Ashcroft, then it

was fair for Republicans to do it in the case of Bill Lann Lee. We simply reached different conclusions. If it was unfair in the case of Bill Lann Lee, then it certainly can be argued to be unfair in the case of John Ashcroft.

People who argue about this ''rule of law'' point would be much more credible if over the course of the last 8 years they would have been more outspoken about the repeated problems of the immediate past administration with respect to the rule of law. They were defending their administration. They were defending their Attorney General and their President. They didn't speak out about these matters.

The rule of law is really at the bottom the most important thing that those of us on the Judiciary Committee can focus on and that we do need to consider when the President has nominees pending on the floor. That is why I am happy to conclude these brief remarks with my view that there is no one whom I believe in more with respect to fulfilling the responsibility to support the rule of law than John Ashcroft, a man of great integrity, a man of unquestioned intelligence and experience—in fact, the most experienced nominee ever for the position of Attorney General—a man who repeatedly was elected by his constituents in Missouri, who had every opportunity to view him as an extremist, if that in fact had been the case, but it was not; and a man who served in this body for 6 years.

During that time, he was a friend of virtually everybody in the body because they knew him, they liked him, they trusted him, and they worked with him. Therefore, it is perplexing and hurtful to me to hear some of the things that have been said about him in connection with his confirmation.

Oppose him if you will; that is your right. Reasonable people can reach different conclusions about whether he should be confirmed. But we need to do it in a civil way so that there is not lasting harm done either to the confirmation process, to the legitimacy of the Senate's actions with respect to confirmation, or to the legitimacy of President Bush and his Department of Justice under the leadership of John Ashcroft.

I urge my colleagues to consider whether in 4 or 5 or 6 years they will be happy with and glad to defend a negative vote on this confirmation. I urge them to consider that carefully.

I am very proud to express my strong support for the nomination of John Ashcroft. He will, in the words of Daniel Patrick Moynihan, make a superb U.S. Attorney General.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, first, I express my appreciation to our chairman and the members of the Judiciary Committee for the way these hearings were held on Senator Ashcroft to be the Attorney General, at that time chaired by our long-time friend and colleague, Senator LEAHY, and also, in terms of the markup, by Senator HATCH. Those who had the opportunity to watch the course of the hearings would understand the sense of fairness and fair play all of us who are members of the committee believe they conducted the hearings with. I am grateful to both of them.

I hope at the start of this debate that we can put aside the cliches and the sanctimonious attitudes we sometimes hear on the floor of the Senate that those of us who have very serious and deeply felt concerns about this nominee somehow are responding to various constituency groups, or somehow these views are not deeply held or deeply valued. I have been around here long enough to know that in many situations, it is very easy for any of us to say those who agree with our position are great statesmen and women, and those who differ with us are just nothing but ordinary politicians who are not exercising their good judgment.

Those are policies or at least slogans which are sometimes used here.

This issue is too important not to have respect for those views that support the nominee as well, hopefully, as those that have serious reservations about it.

Listening to my friend from Arizona talk about the difference between Bill Lann Lee and this nominee, the differences couldn't have been greater. Bill Lann Lee was committed to upholding the law and had a long-time commitment to upholding the law. His statements to the committee confirmed a commitment to uphold the law just like Dr. Satcher and Dr. Foster.

Many of us have serious concerns about this nominee's commitment to the fundamental constitutional rights that involve millions of our fellow citizens in the areas of civil rights, women's rights, privacy, as well as the issues of the Second Amendment, and the treatment of nominees over a long period of time. I think the record will reflect that I find very, very powerful and convincing evidence that the nominee fails to give the assurance to the American people, should he gain the approval, that he will protect those particular rights and liberties of our citizens.

I intend to outline my principal concerns in the time that I have this morning.

Mr. President, two weeks ago the Judiciary Committee heard four days of testimony on Senator Ashcroft's nomination to serve as Attorney General of the United States. We heard Senator Ashcroft—as well as those who support and oppose his nomination—discuss his record.

I found the testimony on civil rights, women's rights, gun control, and nominations very disturbing. As I said then, Americans must be confident that the Attorney General and the Justice Department will vigorously enforce our nation's most important laws and vigorously defend our citizens' most important rights. Neither Senator Ashcroft nor his supporters have been able to provide that assurance.

Civil rights is the unfinished business of America, and the people of this country deserve an attorney general who is sensitive to the needs and rights of all Americans, regardless of color. It is not enough for Senator Ashcroft to say after the fact that he will always enforce the laws fairly. We must instead examine his record as Attorney General of Missouri and as Governor of Missouri and the impact he had on the civil rights of the citizens of Missouri. We must consider whether as Attorney General or Governor of Missouri, Senator Ashcroft tried to advance the cause of civil rights in his state or whether he tried to set up roadblocks. Based on the totality of his record, I must sadly conclude that he did the latter. I am particularly concerned about Senator Ashcroft's testimony on school desegregation in St. Louis. He asserted that the discrimination that segregated the schools of St. Louis was from the distant past and that the state had not actively discriminated since the decision by the United States Supreme Court Brown v. Board of Education in 1954. He made sweeping general statements about having always opposed segregation and supported integration. He made specific claims that he complied with all court orders, that the state was not a party to the lawsuits and that the state had never been found guilty of any wrongdoing.

Those statements and claims are inconsistent with the facts and with his record as Attorney General and Governor of Missouri. I see no plausible conclusion other than that Senator Ashcroft misled the committee during his testimony.

Senator Ashcroft's testimony that state sponsored segregation ended in the 1950s sheds light on his attitude about discrimination and his willingness to turn a blind eye to the disenfranchised. Responding to a list of the state actions that maintained segregated schools, Senator Ashcroft said:

> Virtually none of the offensive activities described in what you charged happened in the state after Brown v. Board of Education. As a matter of fact, most of them had been eliminated far before Brown v. Board of Education.
>
> Secondly, in saying that the city maintained a segregated school system into the '70s, is simply a way of saying that after Brown v. Board of Education when citizens started to flee the city and move to the county . . . the schools, as people changed their location, began to be more intensely segregated. That was after the rules of segregation had been lifted, and it was not a consequence of any state activity.

Senator Ashcroft's testimony, at best, ignored the undeniable facts about school segregation in St. Louis, ignored court rulings, and was very misleading. In fact, far from having eliminated the ''offensive activities'' Senator Ashcroft referred to ''far before Brown,'' Missouri was still passing

new segregation laws in the decade before the Brown decision, going as far as amending its state constitution to require segregation.

In his testimony before the Judiciary Committee, Senator Ashcroft denied that the city maintained a segregated school system into the 1970s. He testified that the schools remained segregated only because whites fled the city. He emphasized that this segregation ''was not a consequence of any state activity.'' Again, this statement is seriously misleading in light of the facts and the court rulings.

The record shows that the response by St. Louis to the Brown decision was what the school board called a ''neighborhood school plan.'' The plan was designed to maintain the pre-Brown state of segregation in the St. Louis schools, and that is exactly what it did.

Reviewing the board's 1954–56 neighborhood school plan, the 8th circuit found:

> The boundary lines for the high schools, however, were drawn so as to assign the students living in the predominately black neighborhoods to the two pre-Brown black high schools. Following implementation of the School Board plan, both of these schools opened with 100 percent black enrollments. the elementary school boundaries were also drawn so that the school remained highly segregated.

The 8th Circuit Court of Appeals went on to make clear that there was no justification, other than perpetuating segregation, for the boundaries chosen:

> The Board could have, without sacrificing the neighborhood concept, drawn the boundaries so as to include significant numbers of white students in the formerly all-black schools. a reading of the record also makes clear, however, that strong community opposition has prevented the Board from integrating the white children of South St. Louis with the black children of North St. Louis.

The board's own documents show that maintaining the status quo of segregation was the intent of the plan, and that the new attendance zones were drawn to reassign the fewest number of students possible. Leaving no stone unturned, the board also made sure that the staffs of the schools remained segregated as well.

The court went on to make clear findings of fact that contrary to Senator Ashcroft's testimony, the board's active segregation of the schools did not end in the 1950s. In fact, the board actively used a student transfer program, forced busing, school site selection and faculty assignments throughout the 1950s, 1970s and into the 1970s to maintain the segregated status quo. In 1962, all 28 of the pre-Brown black schools were all or virtually all black, and 26 still had faculties that were 100 percent black. At the same time, the pre-Brown white schools that had switched racial identities has switched their faculties from white to black also.

Choosing sites for new schools could have helped, but instead was also used to make the segregation even worse. In 1964, ten new schools were opened and were placed so their ''neighborhoods'' would ensure segregated enrollment—all ten opened with between 98.5 percent and 100 percent black students. From 1962 to 1975, there were 36 schools opened—35 were at least 93 percent segregated, only 1 was integrated.

Forced busing was also designed to continue segregation. As late as 1973, 3,700 students were being bused to schools outside their neighborhoods to reduce overcrowding. The vast majority of the black students were bused to other predominantly black schools, while virtually all of the white students were sent to other white schools. Only 27 white students were bused to black schools.

The court of appeals summed up the continuing legacy of discrimination in 1980, in a case that Attorney General Ashcroft had litigated for the state:

> The dual school system in St. Louis, legally mandated before 1954 and perpetuated by the Board of Education's 1954–1956 desegregation plan, has been maintained and strengthened by the actions of the Board in the years since.

All of these numbers and statements are facts according to the federal courts—from federal court cases that Attorney General Ashcroft litigated. Senator Ashcroft knew these facts. He knew them in the 1980s when he tried these cases. He knew them in 1984 when he ran for governor as the candidate who would fight the hardest against integration. And, most important, he knew them when he testified before the Committee.

Senator Ashcroft also gave misleading testimony about his own actions in fighting school desegregation. He claims that he has always supported integration and supported desegregation. But his protracted and tenacious legal fight against desegregation, his failure to make a good faith effort to cooperate with court-ordered desegregation, and his frequent exploitation of racial tension over desegregation during his 1984 campaign for governor suggests otherwise.

Over a four year span as Missouri's Attorney General, Senator Ashcroft fought the desegregation plan all the way to the Supreme Court three times—and lost his bid for review of the 8th Circuit Court of Appeals decisions each time. As attorney general, he lost definitively in the 8th Circuit in 1980, 1982, and 1984. In the 1984 case, it took the court 4 pages just to describe the myriad suits, motions, and appeals Ashcroft filed. And then he appealed that one, too. And during the time that he was filing repeated legal challenges to the desegregation plan, Attorney General Ashcroft proposed no desegregation plan of his own and strongly resisted a negotiated settlement for entirely voluntary school transfers that had been agreed to by the city of St. Louis and St. Louis County. These are not the actions of a man who supports integration and opposed segregation.

In response to questioning by the Judiciary Committee, Senator Ashcroft made this specific claim:

> In all of the cases where the court made an order, I followed the order, both as attorney general and as governor. It was my judgment that when the law was settled and spoken that the law should be obeyed.

One of the simplest and least burdensome orders of the court flatly refutes Senator Ashcroft's claim. In May 1980, the federal district court ordered the state to prepare and submit a proposal within 60 days for desegregating the schools. In a telling example of his unwillingness to support any form of desegregation plan, Attorney General Ashcroft failed to comply with the order. In fact, it wasn't until December 1980 that the State responded at all—other than filing motions to block the order to submit a plan and appealing them all the way to the Supreme Court—and the court did not consider the responses to be a good-faith effort. In 1981, after several more orders and deadlines were missed he was finally threatened with contempt of court for his repeated delays.

Attorney General Ashcroft was not threatened with contempt because he objected to the cost of a particular desegregation plan or because he was aggressively filing appeals. He was threatened with contempt for his failure to comply with the court's 1980 order to submit a plan for integrating the schools. He refused, in effect, to even participate in desegregation at all. Later, instead of being chastened by his brush with contempt for defying the court, he cited it as a badge of honor during his 1984 campaign for governor, as proof of his adamant opposition to desegregation. He publicly bragged that it showed ''he had done everything in [his] power legally'' to fight the desegregation plan.

In fact, as the court had stated in its 1981 order:

> The foregoing public record reveals extraordinary machinations by the State defendants in resisting Judge Meredith's orders. In these circumstances, the court can draw only one conclusion. The State has, as a matter of deliberate policy, decided to defy the authority of the court.

In yet in another attempt to claim that his opposition to the desegregation plan did not mean he was opposed to integration, Senator Ashcroft testified he opposed the plan because the State was not a party to the lawsuit and did not have a fair chance to defend itself. As he stated:

> Well, you know, if the State hadn't been made a party to the litigation and the state is being asked to do things to remedy the situation, I think it's important to ask the opportunity for the State to have a kind of, due process and the protection of the law that an individual would expect.

This claim borders on the bizarre. The state became a party to the case in 1977, the very year that Senator Ashcroft took office as attorney general, and three years before the first 8th Circuit ruling. Throughout his entire eight year tenure, Attorney General Ashcroft litigated this case up and down the federal system on behalf of the State of Missouri. To claim that

the State was not a party to the litigation is a disingenuous and transparent attempt to evade responsibility for his actions.

In some of his court challenges, Attorney General Ashcroft did claim that the State was not a party to the settlement agreement and should not be required to implement it. The truth is that the other parties agreed and submitted a plan to the court. Attorney General Ashcroft had every opportunity to submit his own proposal in fact, he was ordered to do so but he refused. To then claim that he shouldn't have to follow the court ordered plan is tantamount to saying that a guilty party who doesn't want to be punished is somehow beyond the authority of the court. The defense was rightly rejected by the district court and the 8th Circuit and the Supreme Court refused to hear it.

In his testimony, Senator Ashcroft directly, clearly, and repeatedly said that he opposed State liability for desegregation because the State had never been found guilty of the segregation. In his response to questioning from Senator LEAHY, he testified:

I opposed a mandate by the Federal Government that the State, which had done nothing wrong, found guilty of no wrong, that they should be asked to pay this very substantial sum of money over a long course of years. And that's what I opposed.

This was no slip of the tongue. He repeated the denial of responsibility moments later, saying:

Here the court sought to make the State responsible and liable for the payment of these very substantial sums of money, and the State had not been found really guilty of anything.

These two statements, made under oath in testimony before the Committee, are flatly wrong and grossly misleading. The St. Louis cases were certainly long and convoluted, but one point is abundantly clear: the courts held that the State of Missouri was responsible for the discrimination. The 8th Circuit left no doubt about the State's guilt and liability for segregating the schools. As the court said in 1984:

We, again noted that the State and City Board—already judged violators of the Constitution—could be required to fund measures designed to eradicate the remaining vestiges of segregation in the city schools, including measures which involved the voluntary participation of the suburban schools.

This statement by the court highlights a very important point. The court said ''We again noted that the State and City Board—already adjudged violators of the constitution''—were responsible for desegregating the schools. This 1984 decision came four years after the original 8th circuit decision held that the state was in fact responsible for the discrimination.

Senator Ashcroft was attorney general of Missouri for all of those years and was campaigning for governor when the decision was issued. No one knew better than he that the state had been found guilty of discrimination, and had been found guilty repeatedly. Yet he was still denying responsibility before the court in 1984 and it is deeply troubling that he was denying it before this committee in 2001.

I am also deeply troubled by Senator Ashcroft's exploitation of the racial tensions over desegregation to promote his campaign for governor in 1984. The St. Louis Post-Dispatch reported at the time that Senator Ashcroft and his Republican primary opponent were ''trying to outdo each other as the most outspoken enemy of school integration in St. Louis,'' and were ''exploiting and encouraging the worst racist sentiments that exist in the state.'' The Economist, a conservative magazine, reported that both candidates ran openly bigoted ads and that Ashcroft called his opponent a ''closet supporter of racial integration.'' Even the Daily Dunklin Democrat, a newspaper that supported Ashcroft's appeals of the desegregation orders, took him to task for exploiting race in his campaign, criticizing the 1984 primary campaign as ''reminiscent of an Alabama primary in the 1950s.''

Ashcroft claimed in the Judiciary Committee that in opposing the desegregation plan he was merely opposing the cost of the desegregation that was being imposed on the state. But according to press reports of that campaign, Ashcroft repeatedly attacked the courts and the desegregation plan for reasons wholly unrelated to cost, even going as far as calling the desegregation plan an ''outrage against human decency'' and an ''outrage against the children of this state.'' I believe, instead, that it is the repeated, legally unsupportable, vigorous opposition to desegregation, that is an outrage against human decency and an outrage against the children of Missouri.

For these reasons, I have great concern about Senator Ashcroft's testimony and his actions surrounding the entire issue of desegregation. His actions as Attorney General of Missouri leave no doubt that at every turn, he chose to wage a non-stop legal war against integration and desegregation, and that he used the full power of his office to do so.

The question for Senator Ashcroft, and for senators on both sides of the aisle, is how can it mean anything for Senator Ashcroft to say that he will enforce the law against discrimination, when this record shows beyond any reasonable doubt that he will go to extraordinary lengths to deny the facts of discrimination?

Senator Ashcroft's record and testimony on voter registration legislation are equally troubling. In response to a question about his decision as Governor of Missouri to veto two bills to increase voter registration in the city of St. Louis, which is heavily African American, Senator Ashcroft testified:

I am concerned that all Americans have the opportunity to vote. I am committed to the integrity of the ballot. . . . I vetoed a number of bills as governor, and frankly, I don't say that I can remember all the details of all of them. Accordingly, I reviewed my veto message and recalled that I was urged to veto these bills by responsible local election officials. I also appeared to anticipate the Supreme Court's recent decision, as I expressed a concern that voting procedures be unified statewide.

A review of the facts surrounding Governor Ashcroft's decision to veto the voter registration bills raises serious questions about whether he truly is ''concerned that all Americans have the opportunity to vote.'' Even the equal protection principle recently stated by the U.S. Supreme Court in the Florida election case cannot be reconciled with Ashcroft's actions.

As Governor of Missouri, Senator Ashcroft appointed the local election boards in both St. Louis County and St. Louis City. The county, which surrounds much of the city, is relatively affluent. It is 84 percent white, and votes heavily Republican. The city itself is less affluent, 47 percent black, and votes heavily Democratic.

Like other election boards across the State, the St. Louis County Election Board had a policy of training volunteers from nonpartisan groups—such as the League of Women Voters—to assist in voter registration. During Senator Ashcroft's service as Governor, the county trained as many as 1,500 such volunteers. But the number of trained volunteers in the city was zero—because the city election board appointed by Governor Ashcroft refused to follow the policy on volunteers used by his appointed board in the county and the rest of the State.

Concerned about this obvious disparity, the State legislature passed bills in 1988 and 1989 to require the city election board to implement the same training policy for volunteers used by the county election board and the rest of the State. Despite broad support for these bills, on both occasions, Governor Ashcroft vetoed them, leaving in place a system that clearly made it more difficult for St. Louis City residents to register to vote.

Among the justifications offered by Ashcroft for the vetoes was a concern for fraud, even though the Republican director of elections in St. Louis County was quoted in press reports as saying: ''It's worked well here . . . I don't know why it wouldn't also work well [in the City].''

The issues of fraud and voter registration had also been addressed by the United States Senate several years earlier, which concluded that ''fraud more often occurred by voting officials on election day, rather than in the registration process.''

In fact, in Missouri in 1989—five months after Governor Ashcroft's second veto—a clerk on the city of St. Louis Election Board was indicted for voter fraud by Secretary of State Roy Blunt.

Ultimately, the repeated refusal by the St. Louis City Election Board to train volunteer registrars had a serious

negative impact on voter registration rates in the city. During Senator Ashcroft's eight years as Governor, the voter registration rate in St. Louis City fell from a high of nearly 75 percent to 59 percent—a rate lower than the national average, lower than the statewide average, and 15 percent lower than St. Louis County rate.

The types of barriers to voter registration approved by Governor Ashcroft and his appointed election board in the city were explicitly criticized in the early 1980s by both Democrats and Republicans in the United States Congress. In October 1984, the Subcommittee on Civil Rights and Constitutional Rights of the House Judiciary Committee issued a report with the following finding:

> There is no room in our free society for inconvenient and artificial registration barriers designed to impede participation in the electoral process. . . . [W]e do not quarrel with increasing registration outreach and expanding the system of deputization [i.e., training volunteers registrars].

So we had the two vetoes, one where we had a limited bill that was just targeted for the city of St. Louis where they were going to, in effect, have training registrars like they had in the county. Ashcroft vetoed that bill and said it was special legislation and, therefore, he couldn't agree to it because it was just special to a city in Missouri. So he vetoed it.

A year later, the Missouri legislature passed an overall plan for the whole state that encouraged the appointment of training registrars, so it would have application to the city of St. Louis. And he vetoed that again. He vetoed it because he said it was too broad and unnecessary.

So the result of both of his vetoes was this dramatic adverse impact on black voter participation in the city of St. Louis. At the same time that there were 1,500 voting registrars just outside of the core city, there were zero voting registrars in the city of St. Louis as a result of Senator Ashcroft's actions in the inner city. As a result, there was a significant expansion of voter registration in Republican areas, in the white community, and there was the beginning of the collapse of voter registration in the black communities. That is a direct result.

I will, in just a few moments, show this on a chart which vividly reflects this in a compelling way.

The core question at issue in the recent Florida election case was whether the different county-by-county standards in Florida for determining what constituted a valid vote were inconsistent with the equal protection clause. Seven members of the U.S. Supreme Court, relying upon existing precedent, concluded that the equal protection clause required the application of a uniform statewide standard for determining what was a valid vote.

I think it should have been that way by common sense, but here we have the overwhelming statement of the law by the Supreme Court. It is something I think all Americans can understand, but it was not good enough for Senator Ashcroft. As a result of that failure, we saw a dramatic reduction in voter participation and registration in that community. At a time when the issues of the adequacy of the counting and the sacred right to vote are part of our whole national dialog and debate about how we are going to remedy the extraordinary injustices that occurred in the last election and in other elections as well, it would seem to me that all citizens want to have confidence in whomever is going to be Attorney General; that they are going to protect their right to vote.

If you were one of those Americans who was disenfranchised in the last national election and knew this particular record of Mr. Ashcroft—would you be wondering whether you could ever get a fair deal?

We ought to have an Attorney General in whom all Americans can have confidence that their votes will be counted and counted fairly.

In 1988, when Governor Ashcroft vetoed the first voter registration bill, he cited two reasons. He said it was unfair to pass a law requiring the city of St. Louis—but no other jurisdiction—to train volunteers to help register voters. And he said he was urged to veto the bill by his appointed St. Louis Board of Elections. (Governor's Veto Message, June 6, 1988.) Yet every other jurisdiction in Missouri—other than St. Louis City—actively trained outside volunteers.

In 1989, the Missouri legislature, in an effort to respond to Governor Ashcroft's concerns about unfairness, passed a second bill. This time the legislature adopted a uniform registrar training requirement for election boards throughout the State of Missouri. But Governor Ashcroft vetoed the legislation again claiming that ''[e]lection authorities are free to participate with private organizations now to conduct voter registration.''

Democrats and Republicans alike in the legislature said if the Governor is going to veto it because it is targeted, we will pass one with general application. That is what they did, claiming that election authorities are free to participate with private organizations.

As I mentioned, what is troubling is there was a second veto by then Governor Ashcroft. The veto effectively ensured that there would not be a ''unified statewide'' procedure—a result that directly conflicts with the equal protection principles announced in the Florida election case and cited by Senator Ashcroft in his testimony to our committee.

The facts are clear. For 8 years as Governor, Senator Ashcroft had the opportunity to ensure that citizens of St. Louis city—nearly half of whom are African-American—were afforded the same opportunity to register to vote as citizens in the rest of Missouri. Instead of working to expand the right to vote, Governor Ashcroft and his appointed election board in the city of St. Louis chose to maintain inconvenient and artificial registration barriers that had the purpose and effect of depressing participation in the electoral process, particularly by African-Americans.

Senator Ashcroft's record on desegregation and voter registration are relevant to his recent visit to Bob Jones University and his interview with Southern Partisan magazine. The policies of both Bob Jones University and Southern Partisan magazine represent intolerance, bigotry, and a willingness to twist facts to create a society in that image. And those are policies that all Americans should reject.

Displaying an extraordinary lack of sensitivity, Senator Ashcroft claims that he went to Bob Jones University and was interviewed by Southern Partisan magazine without knowing the policies and beliefs of either. Even if those claims are true, Senator Ashcroft's comments during the hearing were—at best—disturbing. Senator Ashcroft condemned slavery and discrimination, but his response displayed a fundamental misunderstanding of how certain institutions in our society perpetuate discrimination.

Senator Ashcroft was unwilling to say that he would not return to Bob Jones University. He believes his presence there may have the potential to unite Americans. But to millions of Americans, such a visit by Senator Ashcroft as Attorney General of the United States would be a painful and divisive gesture.

Similarly, on Southern Partisan magazine, Senator Ashcroft would only say that he would ''condemn those things which are condemnable.'' Surely the man who wants to sit at the head of the Department of Justice should say more and do more where bigotry is the issue. On the issue of women's rights, Senator Ashcroft's record is equally troubling. The Supreme Court's decision in Roe v. Wade a quarter century ago held that women have a fundamental constitutional right to decide whether to have an abortion. The Court went on to say that States may regulate the abortion procedure after the first trimester of pregnancy in ways necessary to protect a women's health. After fetal viability, a State may prohibit abortions in cases where the procedure is not necessary to protect a woman's life or health.

In the years since Roe v. Wade, opponents have relentlessly sought to overturn the decision and restrict a woman's constitutional right to choose. Senator Ashcroft has been one of the chief architects of that strategy. As attorney general of Missouri, he told the Senate Judiciary Committee in 1981:

> I have devoted considerable time and significant resources to defending the right of the State to limit the dangerous impacts of Roe, a case in which a handful of men on the Supreme Court arbitrarily amended the Constitution and overturned the laws of 50 states relating to abortions.

Senator Ashcroft's position is clear. He believes that, except when medically necessary to save a woman's life,

abortion should never be available, even in cases involving a victim of rape or incest. He has said, ''Throughout my life, my personal conviction and public record is that the unborn child has a fundamental individual right to life which cannot be infringed and should be protected fully by the 14th Amendment.'' While I respect Senator Ashcroft's personal convictions, they cannot and should not be used as an excuse to deprive women of their constitutional right to choose.

Nevertheless, Senator Ashcroft has been unrelenting in his efforts to overturn Roe v. Wade. While serving as attorney general and as Governor, Senator Ashcroft constantly sought the passage of State antichoice legislation and was a principal architect of a continuing nationwide litigation strategy to persuade the Supreme Court to restrict or overturn Roe v. Wade. In 1991, as Governor, he even boasted that no State had more abortion-related cases that reached the Supreme Court.

As attorney general, Senator Ashcroft was so intent on restricting a woman's right to choose that he personally argued Planned Parenthood of Western Missouri v. Ashcroft in the United States Supreme Court. In that case, decided in 1983, the Supreme Court specifically and clearly rejected, by a 6 to 3 margin, the attempt by the State of Missouri to require all second trimester abortions to be performed in a hospital. The Court did permit, however, three requirements—that a second physician be present during a postviability abortion; that a minor obtain either parental consent or a judicial waiver to have an abortion; and that a pathology report be prepared for each abortion.

In 1986, Governor Ashcroft signed into law a bill that attempted to overturn Roe v. Wade by declaring that life begins at conception. The bill also imposed numerous restrictions on a woman's constitutional right to choose. After signing the bill into law, Governor Ashcroft said, ''the bill makes an important statement of moral principle and provides a framework to deter abortion wherever possible.''

In 1989, the bill was challenged all the way to the U.S. Supreme Court in Webster v. Reproductive Health Services. The State of Missouri not only asked the Supreme Court to uphold the statute, but it also specifically asked the Supreme Court to overturn Roe v. Wade. The Court refused to overturn Roe. But by a vote of 5–4, the Court upheld some provisions of the statute, including the prohibitions on the use of public facilities or personnel to perform abortions.

In addition to his attempts to restrict a woman's right to choose, Senator Ashcroft as attorney general also took direct and improper action that prevented poor women from obtaining gynecological and birth control services. As Attorney General, he issued an opinion stating that nurses in Missouri did ''not have the authority to engage in primary health care that includes diagnosis and treatment of human illness, injury or infirmity and administration of medications under general rather than direct physician guidance and supervision.'' Following this opinion, the Missouri State Board of Registration for the Healing Arts threatened the criminal prosecution of two nurses and five doctors employed by the East Missouri Action Agency who provided family planning services to low-income women.

The nurses provided family planning, obstetrics and gynecology services to the public—including information on oral contraceptives, condoms and IUDs; initiatives on breast and pelvic examinations; and testing for sexually-transmitted diseases—through funding for programs directed to low-income populations. The nurses were licensed professionals under Missouri law, and the doctors issued standing orders for the nurses. All services performed by the nurses were carried out pursuant to those orders or well-established protocols for nurses and other paramedical personnel. The board, however, threatened to find the nurses guilty of the unauthorized practice of medicine, and to find the physicians guilty of aiding and abetting them.

In 1983, more than 3 years after Attorney General Ashcroft issued his opinion, the Supreme Court of Missouri rejected the opinion, finding that nothing in the state statutes purported to limit or restrict the nurses' and doctors' practices, and that the nurses actions ''clearly'' fell within the legislative standard governing the practice of nursing. Although the decision ensured that nurses in Missouri could continue to provide family planning services, during the almost 3 years that the case was pending, Attorney General Ashcroft's legally untenable opinion placed nurses providing gynecological services, including family planning, in considerable legal peril.

Senator Ashcroft's aggressive and vocal opposition to Roe v. Wade continued during his service as a Member of the Senate. He voted in favor of overturning Roe v. Wade and sponsored both a human life amendment to the Constitution and parallel legislation. The human life amendment would prohibit all abortions except that required to prevent the death of the mother—but only if every reasonable effort is made to preserve the life of the women and the fetus. The proposed constitutional amendment contains no exception for rape or incest, and no protections for a woman's health. Because the amendment and the proposed statute define life as beginning at fertilization, its language could also be used to ban any type of contraception which prevents a fertilized egg from being implanted in the uterus, including birth control pills and IUDs.

Two weeks ago, however, Senator Ashcroft appeared to experience a confirmation conversion. He asked us to disregard his past record and unyielding position against reproductive rights and accept his new position—he now views ''Roe v. Wade and Planned Parenthood v. Casey as the settled law of the land.'' He will not longer work to dismantle Roe, but to enforce it, he says.

When asked about his efforts to overturn Roe v. Wade, Senator Ashcroft told the Committee that he ''did things to define the law by virtue of lawsuits . . . did things to refine the law when I had an enactment role.'' But as an example of his view of ''defining'' and ''refining'' the law, during his 1981 testimony before the Senate Judiciary Committee as attorney general of Missouri, Senator Ashcroft testified that the human life bill—which would prohibit all abortions—could be constitutional within the framework of Roe v. Wade. It is clear that as Attorney General of the United States, Senator Ashcroft could easily feel free to define and refine Roe v. Wade out of existence.

Senator Ashcroft also wants the committee to believe that he won't ask the Supreme Court to overturn Roe v. Wade. The current Court has made it clear that it will not overturn Roe. In that sense, Roe is settled law. But once the current composition of the Court changes, however, President Bush and Senator Ashcroft will feel free to take steps to overturn Roe. In an interview on January 20, 2001, President Bush said;

> Roe v. Wade is not going to be overturned by a Constitutional amendment because there's not the votes in the House or the Senator. I—secondly—I am going to put judges on the Court who strictly interpret the Constitution, and that will be the litmus test . . . I've always said that Roe v. Wade was—was a judicial reach.

If Senator Ashcroft becomes Attorney General, he will be well-positioned to undermine and eliminate this most basic right of privacy for all American women. President Bush and Senator Ashcroft will select judges and justices who are prepared to turn back the clock to a time when women did not have the right to choose.

We know Senator Ashcroft is willing to go to the courts time and time again to challenge settled law. State of Missouri v. The National Organization for Women is a case in point. In that case, the organization had called for a boycott of Missouri because of the failure by the State to ratify the equal rights amendment to the U.S. Constitution.

Senator Ashcroft told the Judiciary Committee that the litigation brought in Missouri by his office against the National Organization for Women was well within the law. He said:

> We filed the lawsuit, to the best of my recollection, because the boycott was hurting the people of Missouri, and we believed it to be in violation of the antitrust laws. The lawsuit had nothing to do with the ERA . . . or the political differences that I might have had with NOW.

He went on to say:

> Now, I litigated that matter thoroughly, and frankly, other states attempted it . . . I

think the law is clear now and has been clear in the aftermath of that decision.

That testimony was grossly misleading. At the time he brought the NOW case, he law was already well-settled in direct opposition to Senator Ashcroft's position. In ruling against Attorney General Ashcroft, both the federal district court and the Eighth Circuit Court of Appeals relied upon the Supreme Court's decision in Eastern Railroad Presidents Conference v. Noerr Motor Freight, Inc.—a case decided 17 years before Senator Ashcroft brought suit against NOW. The Attorney General said in that case:

[The Sherman Act] . . . is a code that condemns trade restraints, not political activity, and, a publicity campaign to influence governmental action falls clearly into the category of political activity.

Still, Attorney General Ashcroft was not deterred, even though the district court and the court of appeals had ruled against him, relying upon the clear U.S. Supreme Court precedent. Senator Ashcroft persisted and asked the Supreme Court to review the NOW case. The Court refused even to hear the case.

It is deeply troubling that as attorney general, Senator Ashcroft used state resources to litigate a weak case that rested on an argument rejected by the Supreme Court years ago. But, as with the litigation surrounding the voluntary school desegregation plan, he preferred to fight on in appeal after appeal in a losing and illegitimate battle, rather than surrender to justice and protect the rights of women.

Mr. President, just for the information of Members, I have probably 4 or 5 more minutes. I know other wish to speak. Than I will put the rest of the statement in the RECORD.

Mr. President, Senator Ashcroft's opposition to gun control, his interpretation of the second amendment, and his advocacy of extremist gun lobby proposals are also very disturbing. Over 30,000 Americans lose their lives to gun violence every year, including over 3,000 children and teenagers. Our Nation's level of gun violence is unparalleled in the rest of the world. In response to the devastation caused by gun violence, the majority of Americans support stricter gun control laws and vigorous enforcement of the laws now on the books.

Contrary to the majority of the American public, Senator Ashcroft vigorously opposes stricter gun control laws. He addressed this issue during the hearing, where he seemed to change his long held beliefs and emphasized his commitment to enforce the gun laws and defend their constitutionality. He testified that ''there are constitutional inhibitions on the rights of citizens to bear certain kinds of arms.'' Saying he supported some controls, Senator Ashcroft referred to his attempt to amend the juvenile justice bill to make semiautomatic assault weapons illegal for children. However, he neglected to mention that his proposed amendment was actually a weaker version of one proposed by Senator FEINSTEIN.

He sought to create a parental consent exception to Senator FEINSTEIN's bill, which would have prevented juveniles from obtaining semiautomatic assault weapons. At the hearing, Senator Ashcroft also testified that the assault weapons ban, the Brady law, licensing and registration of guns, and mandatory child safety locks are all constitutional.

Although Senator Ashcroft's testimony was intended to ease our concerns about his willingness to enforce gun control laws, it is difficult to reconcile what he said last week with his rhetoric and his record. Contrary to his testimony, Senator Ashcroft has previously stated that individuals have a virtually unconditional right to bear arms under the second amendment. In a 1998 hearing, he commented on court decisions, which noted that the second amendment does not guarantee individuals unrestricted rights to keep and bear arms. Senator Ashcroft expressed his disagreement with the view accepted by every federal appellate court and the Supreme Court, that the second amendment was intended to protect state-regulated militias, but does not entitle individuals to possess or use weapons connected with participation in private militias. He criticized these court decisions, stating, ''The argument makes no sense to me.'' At the 1998 hearing, Senator Ashcroft went on to say:

Indeed, the second amendment—like the First—protects an important individual liberty that in turn promoted good government. A citizenry armed with the right to possess firearms and to speak freely is less likely to fall victim to a tyrannical central government than a citizenry that is disarmed from criticizing government or defending themselves.

Senator Ashcroft's extreme view of the second amendment parallels his rhetoric comparing today's elected officials with the despots of the 18th century. The pro-gun Citizens Committee for the Right to Keep and Bear Arms reported that Senator Ashcroft compared ''today's power brokers and policy wonks'' in the Federal Government to the ''European despots from whom our Founding Fathers fled.'' He has explained that individuals should be allowed to ''keep and bear arms'' because ''I am fearful of a government that doesn't trust the people who elected them.'' Are we talking about our system of government? Are we talking about that?

Unfortunately, Senator Ashcroft's rhetoric and record lend undeserved credibility and legitimacy to the views espoused by anti-government militia groups in our Nation. Members of these groups believe the second amendment gives them the right to form private armies as a check against federal power. These militia groups point out that guns are not for hunting or even protecting against crime. Rather, they say, the second amendment was intended to safeguard liberty forever by ensuring that the American people should never be out-gunned by their own government. Ruby Ridge and Waco are two recent violent episodes in which groups holding these views came into armed conflict with federal law enforcement. The Department of Justice has the all-important responsibility to enforce the laws against such extremist groups. Yet Senator Ashcroft's past rhetoric has supported these extremist views and causes legitimate concern that his views are so outside the mainstream of American thought that as Attorney General he will be unable and unwilling to enforce the gun laws and pursue prosecutions against militia groups for violations of Federal laws.

Although Senator Ashcroft testified that he believes in the constitutionality of the assault weapons ban, the Brady law, gun licensing and registration, and mandatory child safety locks on guns, he voted to oppose legislation in these areas. He voted against the ban on the importation of high ammunition magazines. He voted against closing the gun show loophole. He voted for a measure to impede implementation of the National Instant Check System. He voted twice to weaken existing law by removing the background check requirements on pawnshop redemptions and by allowing dealers to sell guns at gun shows in any state. He voted twice against bills to require child safety locks, and he voted against regulating firearms sales on the Internet.

Senator Ashcroft testified that he supported funds for gun prosecution initiatives. However, he has voted to reduce funding in other areas vital to gun law enforcement. For example, he voted against funding to implement background checks under the Brady law, named after former Reagan Press Secretary James Brady. Indeed, Senator Ashcroft has referred to James Brady, a brave and patriotic American, as ''the leading enemy of responsible gun owners.'' When provided the opportunity to express regret for making such an unjustified statement, Senator Ashcroft declined.

Senator Ashcroft is also closely tied to the gun lobby and he has often accepted contributions from these organizations and supported their agendas. During the hearing, he told us that keeping guns out of the hands of felons is a ''top priority'' of his. Yet, in 1998, this did not seem to be a top priority for him. He supported an NRA-sponsored ballot initiative that would have allowed almost anyone to carry concealed guns in Missouri. The proposal was so filled with loopholes that it would have allowed convicted child molesters and stalkers to carry semiautomatic pistols into bars, sports stadiums, casinos, and day care centers. The proposal was opposed by numerous law enforcement groups and many in the business community. Proponents of

the measure say Senator Ashcroft volunteered his help to support the referendum, even recording a radio ad endorsing the proposal. Senator Ashcroft stated in response to written questions that ''Although [he did] not recall the specific details, [his] recollection is that supporters of the referendum approached [him] and asked [him] to record the radio spot.'' The fact remains that Senator Ashcroft did support the referendum and did record the radio spot. Few can doubt that as a seasoned politician, Senator Ashcroft made himself fully aware of the contents of the referendum before lending his name to it. And if he did not, there is even greater reason to question his judgment and suitability for such a high and important position in our federal government.

Senator Ashcroft championed the NRA's concealed weapon proposition in 1998. But in 1992, while governor of Missouri, he had voiced his concerns about such a measure. As Governor, he stated he had ''grave concerns'' about concealed carry laws. He stated, ''Overall, I don't know that I would be one to want to promote a whole lot of people carrying concealed weapons in this society.'' He further stated, ''Obviously, if it's something to authorize everyone to carry concealed weapons, I'd be concerned about it.'' When asked about his change of view in deciding to support the 1998 initiative, Senator Ashcroft said he changed his position because of ''Research plus real-world experiences.'' However, Senator Ashcroft's research was so flawed that he responded to written questions that ''[t]o the extent there were loopholes in Missouri law'' that would permit convicted child molesters and stalkers to carry concealed weapons, he was ''unaware of those provisions at the time.'' Later, it was reported that the gun lobby spent $400,000 in support of Senator Ashcroft's Senate reelection campaign. He became ''the unabashed celebrity spokesman . . . for the National Rifle Association's recent attempts to arm citizens with concealed weapons in Missouri,'' according to a column by Laura Scott in the Kansas City Star.

The Citizens' Committee for the Right to Keep and Bear Arms gave Senator Ashcroft the ''Gun Rights Defender of the Month'' Award for leading the opposition to David Satcher's nomination to be Surgeon General. The group objected to Dr. Satcher because he advocated treating gun violence as a public health problem.

Based on his close ties to the gun lobby and his strong support for their agenda, it is difficult to have confidence that Senator Ashcroft will fully and fairly enforce the nation's gun control laws and not seek to weaken them.

Senator Ashcroft has shown time and time again that he supports the gun lobby and opposes needed gun safety measures. Given the important litigation in the federal courts, it is imperative to have an Attorney General who will strongly enforce current gun control laws such as the Brady Law, the assault weapons ban, and other statutes. It is also important to have an Attorney General with a responsible view of proposed legislation when the Department of Justice is asked to comment on it.

Senator Ashcroft's handling of judicial and executive branch nominations also raises deep concerns. In four of the most divisive nomination battles in the Senate in the 6 years he served with us, Senator Ashcroft was consistently involved in harsh and vigorous opposition to the confirmation of distinguished and well-qualified African Americans, an Asian American and a gay American.

When President Clinton nominated Judge Ronnie White of the Missouri Supreme Court to be a federal district court judge, Senator Ashcroft flagrantly distorted the record of the nominee and attacked him in the strongest terms. He accused Judge White of being ''an activist with a slant toward criminals.'' He accused him of being a judge with ''a serious bias against a willingness to impose the death penalty.'' He accused him of seeking ''at every turn'' to provide opportunities for the guilty to ''escape punishment.'' He accused him of voting ''to reverse the death sentence in more cases than any other [Missouri] Supreme Court judge.''

When questioned about Judge White's nomination, Senator Ashcroft did not retreat from his characterization of Judge White's record, although a review clearly demonstrates that Senator Ashcroft's charges were baseless.

Judge White is not an ardent opponent of the death penalty. He voted to uphold death penalty convictions in 41 cases, and voted to reverse them in only 17 cases. His votes in death penalty cases were not significantly different from the votes of the other members of the Missouri Supreme Court—judges whom Senator Ashcroft appointed when he was Governor. In more than half of the 17 cases in which Judge White voted to overturn a death sentence, he was voting with the majority—with Ashcroft appointees. Seven of these cases were unanimous decisions. There were only three death penalty reversals in which Judge White was the only judge who voted to overturn the conviction. In fact, four of the justices whom Senator Ashcroft named to the court have voted to overturn more death penalty convictions than Judge White. That record is not the record of ''an activist with a slant toward criminals.''

In fact, Judge White's record in death penalty cases shows him to be in the Missouri mainstream. Four of his colleagues who were appointed to the bench by Governor Ashcroft have voted to overturn between 22 percent and 25 percent of the death penalty convictions they considered. Judge White voted to reverse the convictions in 29 percent of the death penalty cases he heard. By contrast, his predecessor Judge Thomas, also an Ashcroft appointee, voted to reverse 47 percent of the death sentences he reviewed. There is no significant difference between Judge White's record on the death penalty and the records of his colleagues on the court.

Some law enforcement officials in Missouri did oppose the White nomination. But many Missouri police officials supported Judge White. He had the support of the State Fraternal Order of Police. The head of the FOP said, ''The record of Justice White is one of a jurist whose record on the death penalty has been far more supportive of the rights of victims than the rights of criminals.'' Judge White was also endorsed by the chief of police of the St. Louis Metropolitan Police Department. The president of the Missouri Police Chiefs Association described Judge White as ''an upright, fine individual.''

In Senator Ashcroft's statements on the Senate floor on the nomination, he focused on a small number of Judge White's opinions. A review of Judge White's entire record suggests that those cases were taken very much out of context. In two of them, there were serious questions about the competency of the defendant's trial counsel. In the third, there was evidence of racial bias by the trial judge. Those cases were not disagreements about the death penalty. The issue was whether the defendant had received a fair trial. Judge White's dissent in one of those cases makes this point in the clearest terms:

> This is a very hard case. If Mr. Johnson was in control of his faculties when he went on this murderous rampage, then he assuredly deserves the death sentence he was given . . . I am not convinced that the performance of his counsel did not rob Mr. Johnson of any opportunity he might have had to convince the jury that he was not responsible for his actions. This is an excellent example of why hard cases make bad law. While I share the majority's horror at this carnage, I cannot uphold this as an acceptable standard of representation for a defendant accused of capital murder.

Senator Ashcroft's statements on the White nomination strongly suggest that Senator Ashcroft has a misguided view of the role of judges in our constitutional system. To label a judge ''pro-criminal'' based on isolated opinions over the course of an entire career is wrong. Judges are obliged to decide individual cases according to the requirements of law, including the Constitution. Judge White has frequently voted to affirm criminal convictions, including 41 capital cases. The fact that he reached a contrary position in a few cases should not disqualify him to be a federal judge.

What is most noteworthy about Senator Ashcroft's attacks on Judge White is the extraordinary degree to which Senator Ashcroft distorted the record in order to portray Judge White's confirmation as a referendum on the death penalty. This is a judge who had voted

to uphold more than 70 percent of the death penalty convictions he had reviewed. Yet Senator Ashcroft never questioned Judge White about these issues at the committee hearing on Judge White's nomination, and he never gave Judge White an opportunity to explain his reasons for dissenting in the three cases before unfairly attacking his record.

It appears that Senator Ashcroft had decided to use the death penalty as an issue in his campaign for re-election to the Senate, and to make his point, he cruelly distorted the honorable record of a distinguished African American judge and denied him the position he deserved as a federal district court judge. As I said at the hearing, what Senator Ashcroft did to Judge White is the ugliest thing that has happened to a nominee in all my years in the Senate.

Senator Ashcroft was also asked about the nominations of Bill Lann Lee to serve as Assistant Attorney General for Civil Rights, Dr. David Satcher to serve as Surgeon General of the United States, and James Hormel to serve as U.S. Ambassador to Luxembourg.

Senator Ashcroft told the committee that he could not support Mr. Lee because he had ''serious concerns about his willingness to enforce the Adarand decision'' on affirmative action. In truth, however, Mr. Lee's position on affirmative action was well within the mainstream of the law, and he repeatedly told the committee that he would follow the Supreme Court's ruling in the Adarand case. As Senator LEAHY said during the Ashcroft confirmation hearings.

> Mr. Lee testified on a number of occasions—in fact, testified under oath, including, incidentally, directly in answer to your questions, that he would enforce the law as declared in Adarand. And he also said, in direct answer to questions of this committee, he considered the Adarand decision of the Supreme Court as the controlling legal authority of the land, that he would seek to enforce it, he would give it full effect . . .

Similarly, Senator Ashcroft said he did not support Dr. Satcher to be Surgeon General because he:

> Supported a number of activities that I thought were inconsistent with the ethical obligations of a medical doctor and a physician, particularly the surgeon general . . . for example he supported an AIDS study on pregnant women in Africa where some patients were given placebos, even though a treatment existed to limit transmission of AIDS from the mother to the child . . . I, secondly, believed his willingness to send AIDS-infected babies home with their mothers without telling their mothers about the infection of the children was another ethical problem that was very serious.

In fact, at the time of the debate on the Satcher nomination in 1997, approximately 1,000 babies were born with HIV every day. Most of the births were in developing countries, where the U.S.-accepted regimen of AZT treatment is not practical because of safety and cost concerns. In 1994, the World Health Organization had called a meeting of international experts to review the use of AZT to prevent the spread of HIV in pregnancy. That meeting resulted in the recommendation that studies be conducted in developing countries to test the effectiveness and safety of short-term AZT therapy that could be used in developing countries and that those studies be placebo-controlled to ensure safety in areas with various immune challenges. Approval was obtained by ethics committees in this country and the host countries and by the UNAIDS program. The National Institutes of Health and the Centers for Disease Control agreed to support the studies in order to save lives in developing countries.

Many leaders in the medical field supported the studies. Dr. Nancy Dickey, AMA president-elect at the time, said that the studies in Africa and Asia were ''scientifically well-founded'' and carried out with ''informed consent.'' Those who did not support the studies still supported Dr. Satcher's nomination. Dr. Sidney Wolfe, Director of Public Citizen's Health Research Group, said that while he had for many months expressed opposition to the AZT experiments, it represented an honest difference of opinion with Satcher. He said he fully supports the nomination. ''I think he'd make an excellent surgeon general,'' Wolfe said. ''I have known him and I admire him.''

Senator Ashcroft also mis-characterized Dr. Satcher's role in the survey of HIV child-bearing women. In 1995, seven years after the survey began during the Reagan administration, Dr. Satcher, as acting CDC director, and Dr. Phil Lee, former Assistant Secretary for Health, halted the HIV survey. They did so because of a combination of better treatment options for children with HIV, the discovery of a therapeutic regimen to reduce mother-to-infant HIV transmission, and a greater ability to monitor HIV trends in women of childbearing age in other ways.

The HIV tests had begun in 1988, five years before Dr. Satcher joined the CDC. The tests were supported by public health leaders at every level of government as a way to monitor the HIV/AIDS epidemic. These surveys were designed to provide information about the level of HIV in a given community without individual information. The Survey of Child-Bearing Women was one of the HIV surveys conducted under the program. It was funded by the CDC and conducted by the states. Forty-five states, including Missouri while Senator Ashcroft was Governor, participated in the survey and requested and received federal funds from the CDC to conduct it. The survey was important to public health officials at the time, because it was the only unbiased way to provide a valid estimate of the number of women with HIV and their demographic distribution. Dr. Satcher's participation in the survey was justified, and it was not a valid reason for Senator Ashcroft to deny him confirmation as Surgeon General.

The case of James Hormel is also especially troubling. When Mr. Hormel was nominated by President Clinton to serve as Ambassador to Luxembourg, Senator Ashcroft and Senator HELMS were the only two members of the Foreign Relations Committee to oppose the nomination. Although Senator Ashcroft voted against Mr. Hormel, Senator Ashcroft did not attend the confirmation hearings, did not submit written questions, and refused Mr. Hormel's repeated requests to meet or speak by phone to discuss the nomination.

In 1998, when asked about his opposition to Mr. Hormel's nomination, Senator Ashcroft stated that homosexuality is a sin and that a person's sexual conduct ''is within what could be considered and what is eligible for consideration.'' Senator Ashcroft also publicly stated in 1988 that: ''[Mr. Hormel's] conduct and the way in which he would represent the United States is probably not up to the standard that I would expect.''

Senator LEAHY asked Senator Ashcroft at the Judiciary Committee hearings whether he opposed Hormel's nomination because of Hormel's sexual orientation. Senator Ashcroft responded ''I did not.'' Instead, Senator Ashcroft claimed that he had ''known Mr. Hormel for a long time''—Mr. Hormel had been a dean of students at the University of Chicago law school when Senator Ashcroft was a student there in the 1960s. Senator Ashcroft repeatedly testified that he based his opposition to Mr. Hormel on the ''totality of the record.''

Mr. Hormel was so troubled by Senator Ashcroft's testimony that he wrote to the committee and said the following:

> I want to state unequivocally and for the record that there is no personal or professional relationship between me and Mr. Ashcroft which could possibly support such a statement. The letter continued, I have had no contact with him [Ashcroft] of any type since I left my position as Dean of Students . . . nearly thirty-four years ago, in 1967 . . . For Mr. Ashcroft to state that he was able to assess my qualifications . . . based upon his personal long-time relationship with me is misleading, erroneous, and disingenuous . . . I find it personally offensive that Mr. Ashcroft, under oath and in response to your direct questions, would choose to misstate the nature of our relationship, insinuate objective grounds for voting against me, and deny that his personal viewpoint about my sexual orientation played any role in his actions.

We should all be deeply concerned about Senator Ashcroft's willingness to mislead the Judiciary Committee about his reasons for opposing the Hormel nomination. As the St. Louis Post-Dispatch noted on January 22, 2001. ''[T]he most disturbing part of Mr. Ashcroft's testimony was the way in which he misstated important parts of his record.''

In conclusion, the Attorney General of the United States leads the 85,000 men and women who enforce the nation's laws in every community in the

country. The Attorney General is the nation's chief law enforcement officer and a symbol of the nation's commitment to justice. Americans from every walk of life deserve to have trust in him to be fair and just in his words and in his actions. He has vast powers to enforce the laws and set priorities for law enforcement in ways that are fair or unfair—just or unjust.

When a President nominates a person to serve in his Cabinet, the presumption is rightly in favor of the nominee. But Senator Ashcroft has a long and detailed record of relentless opposition on fundamental issues of civil rights and other basic rights of vital importance to all the people of America, and the people of this country deserve better than that. Americans are entitled to an Attorney General who will vigorously fight to uphold the law and protect our constitutional rights. Based on a detailed review of his long record in public service, Senator Ashcroft is not that man. I urge the Senate to vote no on this nomination.

Mr. President, since I see a number of my colleagues, I will take the opportunity, when there is a pause in the Senate, to complete my statement. At this time, I yield the floor.

The PRESIDING OFFICER (Mr. BURNS). The Senator from New Hampshire.

Mr. SMITH of New Hampshire. Mr. President, I consider it an honor and privilege to stand here today in support of the nomination of John Ashcroft to be Attorney General of the United States. Contrary to some of the rhetoric we have been hearing from the other side, everybody in this institution knows he is one of the finest people who ever served here. He is a man of great religious faith, a moral man. Yet as we listen to this debate, if it wasn't for the fact that it was so personally destructive and so vindictive, it would be humorous.

We have a man who served 6 years in the Senate, served two terms as Governor, two terms as attorney general of the State of Missouri. Yet to hear the debate, he is anti-child, anti-woman, anti-black, anti-gay, anti-Catholic. What else can possibly be said?

One thing we can certainly be assured of—the left knows how to play politics. They do it well, and I commend them for it. Unfortunately, though, sometimes in politics, one destroys unfairly the reputations of people who don't deserve it. That is what offends me the most. I will not use the term ''anger,'' but it does offend me that this kind of personal destruction has to be used.

I recall the comments earlier in the debate today of Senator LEAHY when he said there are 280 million Americans with divergent ethnic backgrounds and political views. Out of that 280 million Americans, according to the left, if there are any of those 280 million Americans who are conservative and happen to be pro-life or pro-gun, they can't be Attorney General. If they are pro-choice or if they are anti-gun, then they can be.

I again remind my colleagues that the vote on Janet Reno was 98–0. Most of us on this side of the aisle would agree that her views and ours were quite different, but we supported her nomination because the President of the United States has a right to pick his or her Cabinet. That is a fact.

I will respond directly to this anti-Catholic charge. It is so outrageous, I don't know how people can look in the mirror, to be candid about it, and do this kind of personal destruction.

Let me read from a copy of a letter I just received from Senator KENNEDY's own cardinal, Cardinal Law. I will read it into the RECORD:

DEAR SENATOR ASHCROFT: Let me begin by expressing my deep dismay at the unfounded and scurrilous charge that you could possibly harbor anti-Catholic feelings. I was astounded to hear that anyone was making such a ridiculous accusation.

From any time as Bishop of Springfield/Cape Girardeau until today, I have always found you to be a man of honor, integrity and deep faith. I recall with great fondness the many opportunities we had to work together on many issues affecting the lives of the good people of the State of Missouri. In a particular way, I recall how kind and thoughtful you were to invite me to address The Governor's Annual Prayer Breakfast on January 9, 1992 when you were serving as the Governor of Missouri. On that same day you also honored me with an invitation to address The Governor's Leadership Forum on Faith and Values. College students, then and now, are beneficiaries of your generous love and concern for them and their futures. I do not recall that you made any distinctions between black and white, Protestant, Catholic or Jew in your desire to instill in them a love for their faith, their families and one another as brothers and sisters in the human family.

Let me assure you, John, of my prayers.

Asking God to bless you, Janet, the children and all whom you hold dear and with warm personal regards. I am

Sincerely yours in Christ,

BERNARD F. LAW,
Archbishop of Boston.

Mr. President, there are a long line of people on the basis of their position on life who couldn't be Attorney General. We could start with Jesus Christ himself. We could also add to that list the Pope, Mother Teresa, all the cardinals in the United States. We are going to have to eliminate a whole lot of people. It is so outrageous and, frankly, pathetic, it really exposes the left for what they are.

It exposes the left for what they are.

Let me read part of a comment made by Bill Bennett:

What you are seeing is the true face of the Democratic Party. What you are seeing is them saying to a man ''you are perfectly decent, everything you have done is within the law, you haven't harbored any illegal aliens, you have never left the scene of a crime, you led an exemplary life, but we don't approve of your views. You dare to say you are pro-life, you dare to say you are opposed to reverse discrimination and for that you will pay. For that we will make this experience something you will never forget.'' I hope they do it. I hope the American people watch it. If you want to see the haters, you'll see them in these press conferences behind the attempt to kill the Ashcroft nomination.

You can't say it any better than that. People should be ashamed of themselves. Who did our side oppose on a Cabinet appointment in the Clinton administration? They all were approved by voice vote, with the exception of Janet Reno. That was 98–0.

The activist Democrats shooting at John Ashcroft in his bid to become America's next Attorney General have revealed the ugliness about themselves, not the nominee.

So said Betsy Hart of Scripps Howard. That is the truth. There is the ugliness. It is not John Ashcroft. John Ashcroft sat on that committee on a panel and took those questions and took that abuse. He was decent, respectful, honorable, gracious, and took it all.

He is above them all. He showed it on national television. He is above them all. His critics couldn't tie his shoe laces or even shine his boots.

Betsy Hart also said:

Apparently these folks are so comfortable with using cabinet offices to create law instead of to enforce existing laws and so content to see judges write new law instead of interpret existing law, they can't fathom a responsible officeholder who will honor the rule of law.

You cannot say it any better than that, if you are prepared for 10 years. That sums it up in a nutshell. They are so used to using these positions to create law, they can't believe a person such as John Ashcroft, who will say to you: I worked as hard as I could as a Member of the Senate to create laws for what I believe in. So does everybody else on the left, and you have every right to do that. But there is a difference between that John Ashcroft and the John Ashcroft, however reluctant he may be, who will step up to the plate as the Attorney General of the United States and enforce the law—yes, even the laws he doesn't like. His record proves he did it over and over and over and over and over again. There is not one shred of evidence to indicate that he didn't do it.

I am sick and tired of the hypocrisy in this place. Much was made about another issue; when you start getting into the racial charges, that hits right below the belt. I am going to answer it. It deserves to be answered. Is there anybody in here whose spouse taught for several years at a predominantly black school? Is that racist? In the news today is speculation that his No. 2 person may, in fact, be black. So what. The most qualified person should be who he picks. Then the issue of desegregation in the St. Louis matter before the Governor and the attorney general. During that suit, the job of the attorney general and the Governor was to support the State's position, to defend the State. It wasn't about segregation. It was about taxes. It was about busing. It was a very controversial issue. Those who opposed busing or imposing taxes by the courts on the citizens were not racists.

Anyone who implies that is flat out wrong. If John Ashcroft is guilty of segregation because he defended the State, then why is Jay Nixon, who is the attorney general, himself, not guilty of the same thing? Why is it that two prominent Members of this body—I will introduce this into the RECORD—Senator KENNEDY and Senator HARKIN—invite you to a breakfast ''to meet and support Missouri Senate candidate, Attorney General Jay Nixon, Tuesday, March 31, 1998, at The Monocle for a contribution of $5,000 or finish your max-out?'' He did the same thing as Ashcroft did. And it is hypocrisy to stand here and say this to destroy the reputation of one of the finest people who ever served here.

Mr. President, I ask unanimous consent that this announcement be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATOR TED KENNEDY &
SENATOR TOM HARKIN

INTITE YOU FOR BREAKFAST TO MEET AND SUPPORT

MISSOURI SENATE CANDIDATE
ATTORNEY GENERAL JAY NIXON

TUESDAY, MARCH 31, 1998

THE MONOCLE

8:30 AM–9:30 AM

RSVP to Jill Gimmel—202–546–9494
or Don Erback—202–546–9292

Contribution: $5,000 or Finish Your Max-Out

Mr. SMITH of New Hampshire. Kay James said it about as well as you can say it. ''Religious profiling,'' that is what it is. You can't be a man of faith or a woman of faith. You can't be that. You can't have views that differ with the left. Otherwise, you can't serve. That is it.

Bipartisanship? I will tell you how far it reaches when we agree with that. That is when we get bipartisanship. They never come over to agree with us. That is what this debate is about. It is about the continuation of the election. The election is over. Hello, the election is over, folks.

The President of the United States should pick his Cabinet. That is the right thing to do, and every one of you knows it. To get into this character assassination of racism, anti-Catholic, antigay, anti-this, anti-that—there is not a shred of evidence about John Ashcroft that would indicate that, and you ought to examine your conscience before you vote.

John Ashcroft is well qualified to be Attorney General, maybe one of the most qualified ever to even be put up for nomination.

During the debate on Janet Reno, I recall her views against the death penalty. I happen to support the death penalty. I voted for Reno because Reno said she would enforce the law, and if the law of the land is the death penalty, she said she would enforce it. That is fine.

Do I agree with everything Janet Reno did? No. Bill Clinton won the Presidency and had the right to pick his Attorney General. That is the situation right now. George Bush is the President, and he has the right to pick. If you think John Ashcroft is not going to enforce the law, then say so. If you think he is a racist, say so. But there is not one shred of evidence that indicates otherwise.

This business about Ronnie White is so outrageous that it really just defies logic to talk about it.

The National Sheriffs' Association wrote a letter, and I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL SHERIFFS' ASSOCIATION,
Alexandria, VA, January 11, 2001.

Hon. BOB SMITH,
Dirksen Senate Office Building,
Washington, DC.

DEAR SENATOR SMITH: On behalf of the National Sheriffs' Association (NSA), I am writing to offer our strong support for the nomination of Attorney General Designate John Ashcroft. As the voice of elected law enforcement, we are proud to lend our support to his nomination and look forward to his confirmation by the Senate.

As you know, NSA is a non-profit professional association located in Alexandria, Virginia. NSA represents nearly 3,100 elected sheriffs across the Nation and has more than 20,000 members including deputy sheriffs, other law enforcement professionals, students and others.

NSA has been a long time supporter of John Ashcroft and in 1996, he received our prestigious President's Award. After reviewing Senator Ashcroft's record of service, as it relates to law enforcement, we have determined that he will make an outstanding Attorney General and he is eminently qualified to lead the Department of Justice. NSA feels that Senator Ashcroft will be an outstanding Attorney General for law enforcement and the U.S. Senate should confirm him.

I look forward to working with you to ensure that the U.S. Senate confirms Attorney General Designate Ashcroft.

Sincrely,

JERRY ''PEANUTS'' GAINS,
President.

Mr. SMITH of New Hampshire. The National Sheriffs' Association wrote a letter on behalf of John Ashcroft for Attorney General.

On this business about Ronnie White, the truth of the matter is the individual accused of that crime, Mr. Johnson, went on a 24-hour crime spree, killed three sheriffs, killing the wife of another one at a party during the Christmas holidays, and he was given all kinds of legal defenses. Ronnie White argued that Johnson's defense team, a group of three private attorneys with extensive trial experience, had provided ineffective assistance. Fine; he has a right to do that. Ronnie White was a judge. He had a right to say this guy deserves some more help. But he also has to expect that if you make those kinds of decisions, somebody may hold that against you when you go up for another judgeship somewhere.

That is all it was. That is what that was about. It wasn't about racism; it was about a judge who some of us thought—55 of us, as a matter of fact—thought shouldn't be on the court because of his views on crime.

I urge my colleagues to rethink their positions and understand it is important that we understand that a President should pick his nominee and that this nominee is a fine man—one of the finest who ever served here. He should be confirmed, and I hope he will be confirmed, as the next Attorney General.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Thank you very much.

Mr. President, as we consider the nomination of John Ashcroft for Attorney General, I would like to compliment the Judiciary Committee on their process and deliberation in bringing this nomination to the floor.

On my side of the aisle, I would like to be particularly complimentary of the leadership provided by Senator PATRICK LEAHY and, of course, the work done by Senator ORRIN HATCH. I believe the deliberations were fair, rigorous, thorough, and conducted in a tone that was really becoming of the U.S. Senate. I would like to congratulate my colleagues on that.

As I consider the nomination of all the Cabinet members, particularly this one, I want to speak first about the statement that said a President is entitled to his nominees. The nominations to head up the executive branch are not entitlement programs. There is nothing entitlement about it. In fact, we were given a constitutional mandate to examine each and every nominee and to give our advice and consent to the President of the United States. The founding fathers were very clear that the Senate should not be a rubber stamp in terms of a Presidential set of nominees. The President is entitled to fair consideration of those nominees, but not for us to be a rubber stamp.

On each and every one of those nominees, I have given my independent judgment and have voted for most of President Bush's nominations because I think they meet three tests: Competency, integrity, and a commitment to the mission of the agency.

President Bush in his inaugural address pledged to ''work to build a single nation of justice and opportunity.'' Yet one of his first acts was to choose John Ashcroft to lead the Department of Justice, someone who has had an extreme ideological agenda on civil rights, on a woman's right to choose, on gun control, his positions are far outside the mainstream. Often, his rhetoric has been harsh and wounding. As attorney general and Governor of Missouri; he pushed systematically and regularly for the disempowerment of people of color and the disempowerment of women to have access to health services related to their own reproduction.

Can anyone be surprised that this nomination is divisive? This is not a time in our history for further division.

My wonderful colleague from New Hampshire left the floor. I want to say something. I don't have a litmus test on nominations. I don't have a single issue by which I judge any and of all the nominees. He raised the issue, and appropriately, that if you are not pro-choice, can you be confirmed in the Senate, or can you get Democratic votes? The answer is yes, and right here.

I will give you an example. Governor Thompson has now been appointed our Secretary of HHS. I am pro-choice. Governor Thompson is not. I did not hesitate to vote for Governor Thompson because I looked at the pattern of the way he governed. He is a champion of welfare rights and truly a compassionate conservative—one of the first to have a State version of a woman's health agenda, a real commitment to dealing with the tragedy of long-term care and extra support to care givers. This is a Cabinet member I want to work with in constructive dialog.

I had no litmus test. I don't believe my colleagues do. I believe among our own side of the aisle there are people about which it is not whether you are pro-choice or pro-life, it is, are you committed to some of the central values of our society?

Do you believe America is a mosaic, that all people come with different heritages and different beliefs and have a right to equal opportunity and justice under the law? Do you believe the social glue is access to courts that you believe are fundamentally fair. Do you believe that an Attorney General's Office at the State or Federal level will embrace the fundamental principles of our U.S. Government? That is our criteria.

When I looked at the nomination of John Ashcroft, I had to say, Is he competent? Yes. You can't dispute that. His whole education and record—yes, he is competent. On integrity? Until the confirmation hearing, I believed him to be a man of great integrity. I had no doubt. But all of a sudden, there were two John Ashcrofts. The pre-hearing John Ashcroft who was Attorney General, as Governor of Missouri, here on the Senate floor had one set of beliefs. I respect those beliefs. People are entitled to their beliefs. But all of a sudden in the confirmation hearing, his beliefs no longer mattered to him. If you fundamentally opposed, as he did, issues of civil rights, the access of women to have reproductive services, how is it you could have such passionate beliefs one day and then say they didn't matter, you would put them on the shelf?

I respect the passion Senator Ashcroft has of his beliefs. Though he is entitled to his beliefs, I don't believe his beliefs entitle him to be Attorney General of the United States. I don't know how you can believe something so passionately one day and then say you will put them on the shelf. Beliefs are not something like the surplus that you can put in a lockbox. Beliefs cannot be put in a lockbox.

When I looked at John Ashcroft and his record as attorney general and as Governor, I was deeply troubled. What I was troubled about was how he enforced issues, his record on civil rights, on a woman's right to choose, on enforcing the laws.

On civil rights, the Attorney General of the United States decides how vigorously we enforce existing civil rights laws. The Civil Rights Division monitors and ensures that school districts comply with desegregation. Yet as attorney general, John Ashcroft strenuously opposed a voluntary court-ordered desegregation plan agreed to by all parties. He even tried to block this after a Federal court found that the State was acting unconstitutionally and then went on to vilify the court for their position.

One of the fundamental civil rights is the right to vote. Didn't we just go through that in the most closely contested election? Every vote does count, and everybody who can should be registered. Yet as Governor, he vetoed the Voter Registration Reform Act which would have significantly increased minority voter registration and was endorsed by such groups as the League of Women Voters. I believe there has been a persistent pattern of opposing opportunity in the areas of civil rights.

On the protection of rights of individuals, the right to choose, the Attorney General has great power to undermine existing laws and the constitutional protection of a woman's right to choose. As attorney general, John Ashcroft used his office to limit women's access to health care, particularly reproductive health care, filing an amicus brief in a case that sought to prevent nurses from providing routine GYN services and also giving out on a voluntary basis usual and customary methods of contraceptives, saying they were practicing medicine. What they were doing was practicing public health.

Based on his record and other statements, I can only conclude that John Ashcroft would use his position to undermine existing laws, including the constitutional protection of a woman's right to choose and access to reproductive health services, after these services have already been affirmed by law and the Supreme Court.

Sexual orientation. The Attorney General is charged with enforcing anti-discrimination laws, which include protections for homosexuals. Yet John Ashcroft opposed the nomination of James Hormel to be Ambassador to Luxemburg simply because he is gay. Now, hello, what does that mean would happen in his own department? Will this be an issue with his own hiring at the Department of Justice?

The Justice Department advises the President on proposed legislation; for example, hate crimes prevention, another part of the social glue of America. John Ashcroft voted against this legislation. How does he feel about hate crimes now? Will he enforce existing hate crime laws? Will he recommend that the President expand them?

The Justice Department is called upon to enforce other laws. One of the big flashing yellow lights is racial profiling. By the way, the former Governor of New Jersey was called into question about the way she enforced racial profiling, but I voted for her to be EPA Administrator because that is not the issue in being an EPA Administrator. Again, no litmus test and no listening to the so-called left-wing groups they talk about. Please let's end this demeaning of groups.

The NAACP, People for the American Way, the ACLU, these are part of America. Senator Ashcroft could have acted in racial profiling, but he held it up in committee. He was quite passive. Is he going to be passive when it comes to this as Attorney General? I wonder.

Then we have activism. Bill Lann Lee was nominated for the Assistant Secretary for Civil Rights—a compelling story, a man of great talent, a man who worked his way up, not unlike some of the nominees given to us by President Bush, such as Mr. Martinez, Ms. Chao, whose stories are compelling. Bill Lann Lee had a compelling story, but he also had one other thing on his resume. He happened to have been a civil rights lawyer for the NAACP. This made him, in the Ashcroft analysis, a radical activist. What is wrong with being a lawyer for the NAACP? I thought Thurgood Marshall once had that job—not a bad place to earn your spurs. But, oh, no.

So what is it that John Ashcroft is going to look for in his Assistant Secretary for Civil Rights? Passivity? Let's get somebody passive? I don't think so, because it really goes against what we require in that job, because in that job you have to be proactive.

I don't believe John Ashcroft is a racist. I also don't believe he is anti-Catholic. I believe those rhetorical charges were not only exaggerated but I truly believe they are unfounded. At the same time, he does have a record of insensitivity. I look at that pattern where he routinely blocked the nomination of women and minorities; he opposed 12 judicial nominees, 8 of whom were women and minorities.

Others have spoken about his position on gun control. As a fervent opponent of even the most basic gun control measures, how can we expect him to vigorously enforce the gun safety laws that are already on the books?

Let me conclude. The President does have the right to name his Cabinet, but the Senate has the constitutional requirement to give advice and consent on these nominations. My advice to President Bush is: I am sorry you gave us such a divisive nominee. Other nominees are excellent. Others I will look forward to working with, and to starting a constructive dialog with. I am so sorry this happened. I am sorry it happened to John Ashcroft. If John Ashcroft had been nominated for Secretary of Agriculture, I would have

probably voted for him. But I cannot vote for him to be Attorney General because I do believe that beliefs matter and the beliefs that you show over a record of a lifetime show the true way you will conduct your office. Beliefs are not in a lockbox.

I cannot consent to the nomination of John Ashcroft. I urge my colleagues to join me in opposing this nomination. I also urge my colleagues, let us not have demeaning rhetoric on the floor or try to demonize either a group or a nominee.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I am prepared to speak at this moment. If there is a Republican Senator on the floor, I will be happy to yield time so we take turns.

Mr. HATCH. If the Senator will wait, I understand Senator KAY BAILEY HUTCHISON is coming over. Here she is now. I appreciate that courtesy.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I thank the distinguished chairman of the Judiciary Committee for having this nomination go forward and for giving us the opportunity to talk. I think the debate is very important. I think it is important that we talk about the John Ashcroft we know because when I hear some of the other people talking about John Ashcroft, it is not the same person with whom I served for 6 years. I would like to set the record straight on a couple of points.

I have known John and Janet Ashcroft since long before they came to the Senate because he was a leader for his State and our country for many years before he represented his State in the Senate. He has been a Governor. He has been elected chairman of the National Governors' Association. He has been the attorney general for the State of Missouri. And he served as chairman of the Attorneys General Association of the United States. So he has been in a position of leadership for our country many times.

I think he is the most qualified person to have been nominated for Attorney General in many years. He has served in the capacity of attorney general as well as Governor and in the U.S. Senate.

The people of America saw the true heart of John Ashcroft when his opponent, Mel Carnahan, died near the end of their race for the Senate. I was there for John Ashcroft after that tragic accident. I think John Ashcroft did not know what to do, just like everyone else. He had no intention of campaigning against a man who had just died, a man who had also served the State of Missouri so well. He had no intention of campaigning against his widow when she made the decision that she would take the appointment of the Governor if Mr. Carnahan won the election.

John Ashcroft kept his word. He kept his word and has never uttered a word about Mrs. CARNAHAN. So I think when he was ultimately defeated, his magnanimity in defeat also showed that he is a person of character first—character above public servant, character above partisan, character above everything else. He showed it at a time when he had nothing to gain, when he thought he probably would not be in public office again. But he did what was right from his heart. That is why I am supporting him for Attorney General of the United States.

He also brings an impressive academic background to this office. He is a graduate of the University of Chicago School of Law. He attended Yale University.

I also want to mention, because I think she is very much a part of this team, his wife Janet and their joint commitment to education in our country. When she moved up here with Senator Ashcroft, she decided she wanted to teach. She chose to teach at Howard University, one of our Nation's historically black colleges. Howard University is where she has taught for 5 years. I think she has shown her commitment to education by going the extra mile to share her experiences and her knowledge with the students at Howard University. Janet, by the way, is also a lawyer.

I am very proud to support both Janet and John Ashcroft.

We have heard a lot of John Ashcroft's record, things which he said which have also been refuted. In my experience with John Ashcroft, he was the cosponsor of my legislation to eliminate the marriage tax penalty, which has the effect of taxing so many couples just because they get married—not because they make higher salaries individually but because they get married—and throwing them into a higher bracket. John did not just cosponsor the bill and walk away; he fought with me on the floor, day after day, week after week. We passed marriage penalty relief. It was because John Ashcroft worked as hard as I did to make that happen. It was vetoed by the President. But eventually we are going to pass marriage penalty relief in this country, and the President is going to sign it, and people will not have to pay the average $1,400 a year just because of their married status.

John did this because he believes in family values and he believes marriage is one of the ways people can live a good life. Statistics show that married people are the least likely to be on welfare or to get into any kind of criminal trouble. I think we should be encouraging marriage, not discouraging it. John Ashcroft agrees with that.

He worked with me on reauthorizing the Violence Against Women Act. We introduced legislation to amend current stalking laws to make it a crime to stalk someone across State lines. Also, cyberstalking has become a more common crime in recent years, as the use of the Internet has increased. Young people are lured into a situation in which criminal conduct becomes part of an association. That happens when you have Internet chatrooms. Internet chatrooms often cause people to start thinking they want to meet, and that has facilitated criminal acts when it has not been monitored correctly. So to try to discourage it, we made that against the law.

John also played a role in allowing hourly wage workers, particularly working mothers, to have flextime in the workplace so they could take off at 3 o'clock on Friday afternoon and make up for it on Monday by working 2 extra hours so they could see their child's football game or soccer game.

These are things that are very important in John's background.

He also voted to prohibit anyone convicted of domestic violence from owning a firearm. This is very important to try to curb domestic violence in our country.

I think we need to bring John's full record to the forefront in order to make the decision on whether he would be fit to serve as Attorney General.

Almost everyone in this body supported every Clinton appointee to the Cabinet. That has been the tradition in the Senate. Very few times do we deny the right of the President to have his own Cabinet and the people he trusts and wants to work with around him. I think it would be a major step in the wrong direction to not affirm the appointment of John Ashcroft. I also think it will be a major setback if John Ashcroft is the victim of scurrilous statements that will keep him from having the ability to do his job and the mantle to do his job.

So I hope my colleagues will show discretion. I hope they will understand that John Ashcroft is likely to be confirmed. So if they have something to say against him, it is their absolute right to do it, but I hope they stick to the facts and give their views in a way that will not hurt John Ashcroft's ability to do the important job of enforcing the laws of this country.

When John Ashcroft becomes Attorney General, he will no longer be an advocate for laws; he will be the enforcer of laws. He has said on many occasions that he will enforce those laws to the letter because he sees that as his job.

Furthermore, he has shown by his record as attorney general of Missouri that he will do that. He deserves not only our support now but also our support after he gets the job to make sure the laws of our country are fairly and reasonably enforced and targeted to people who break those laws.

The rhetoric, if it gets too hot, is going to auger against his ability to do the job that all of us need for him to do and want him to do.

I thank the Chair. I thank Senator HATCH and Senator DURBIN. I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I thank the Chair. Mr. President, I thank the Senator from

Texas for her kind words. I will be happy to yield to the chairman of the committee, Senator HATCH, so we can continue this dialog about this important nomination.

While in my office, I listened to one of my colleagues on the Republican side earlier in the debate raise the question whether the opposition to John Ashcroft was really based on his religious belief. I think that is an extraordinarily serious charge to make.

I am a member of the Senate Judiciary Committee. Together with my staff, we have worked for the last several weeks analyzing the public record and public career of John Ashcroft. I am aware of his religious affiliation because he made a point of stating with pride his religious affiliation during the course of the hearing. I can tell you quite candidly that I do not know a single precept or tenet of his religious faith, nor did I take the time to ask. That is totally irrelevant. In fact, if someone tried to raise that during the course of this debate, I would be the first to defend John Ashcroft's right to practice the religion of his conscience.

I do not know anything about his religion, nor have I based any of my decisions on his nomination on that fact. As I said during the course of the hearing, he has said—and it has been a matter of some amusement—that he does not drink or dance. But I will tell you I do not know whether Janet Reno drinks or dances, nor do I think it is important to the job of Attorney General.

During the course of the hearings, the Republicans brought forward a lady by the name of Kay Coles James who works for the Heritage Foundation. After her testimony, I had a conversation with her on two different occasions. At the end of the second conversation, she said: You and I agree on a lot more than we disagree when it comes to religion in public life. I liked her.

She said something in her testimony on this same issue that caused me great concern. At one point she said John Ashcroft was a victim of ''religious profiling.'' That was her term. It is not in her written statement, but it is what she said before the Senate Judiciary Committee.

In her written statement and repeated at the hearing, she said:

> Unfortunately that faith Senator Ashcroft's faith—has been dragged into the public debate and has been used to call into question his fitness for public service. Senator Ashcroft's opponents have veered perilously close to implying that a person of strong religious beliefs cannot be trusted with this office.

As a result of that statement in the hearing, I called Ms. James over afterwards and said: I am going to ask you very specifically tomorrow to name the Senators who have crossed this line and raised questions about John Ashcroft's religious belief. I did not have time the second day when the panel returned. I sent a letter to her in writing.

On January 23, Ms. James replied to my letter. This is basically what she said:

> On Thursday, I testified that ''several members of the Senate have questioned whether or not a man of strong personal faith and conviction can set aside his personal beliefs and serve as the Attorney General for all citizens.'' You ask me to identify these several senators. As I told you after the hearing, this summary came directly from Senator Ashcroft's testimony on January 16th.

And then she relates the transcript of the session which reads as follows:

Senator LEAHY asked of Senator Ashcroft:

> Have you heard any senator, Republican or Democrat, suggest that there should be a religious test on your confirmation?

John Ashcroft:

> No Senator has said ''I will test you.'' But a number of senators have said, ''Will your religion keep you from being able to perform your duties in office?''

Senator LEAHY went on to say:

> All right, well, I'm amazed at that.

And that was the end of the transcript.

Ms. James goes on to say:

> As we further discussed, I think when you put it into the context of substituting another qualifier for ''religion'' that the offensiveness of such thinking is apparent. I find this as troubling as asking whether being a ''woman'' or being an ''African-American'' would prevent someone from doing a job.

I believe that is a fair characterization of her reply. We still do not know the name of any Senator who raised either personally or privately to Senator Ashcroft or certainly publicly any question about his fitness for office based on his religious belief. I do not know the religions of any of the nominees to President Bush's Cabinet, nor do I think it is an important question.

What we have focused on during the course of this investigation of John Ashcroft is his public career, his public record. There have been those who always want to say: What about his private life? His private life should be private. It is his life and his family's life. I have resisted any efforts by critics of John Ashcroft to even follow that line of questioning. It is irrelevant, unimportant.

What is important is what he has stood for publicly, what it tells us about his view of politics and policy and the kind of job he would do if he is confirmed as Attorney General.

I considered John Ashcroft and his public record and my dealings with him as a fellow Senator over 4 years, and I came to the conclusion that I cannot support his nomination as Attorney General.

I listened to his testimony before the committee, and I heard him say so frequently that public positions on issues which he had held for his adult life would, frankly, not encumber him as Attorney General. I cannot really base my vote on John Ashcroft on what he has claimed he will do in the future when his public record is so clear and in many ways so inconsistent with what he said to the committee.

I say to those who raise the question about whether the Judiciary Committee or any committee is being fair to President Bush by having a thorough investigation of John Ashcroft or any other nominee, I think the agenda for considering these nominees is not the creation of any Senator, nor certainly of the Democratic side in the Senate. It is the creation of the Founding Fathers in article II, section 2, of the Constitution where they gave to the Senate the power to advise and consent to the President's nominees.

The critics of this process ignore our sworn responsibility to defend the Constitution. Alexander Hamilton, writing in Federalist Paper No. 76 on ''The Appointing Power of the Executive'' wrote this of the advice and consent provision which brings us to the floor today:

> It is not easy to conceive a plan better calculated than this to promote a judicious choice of men for filling the offices of the Union. . . .

Please forgive Alexander Hamilton for just referring to men, but that was the style of the day. I would certainly expand on Alexander Hamilton's sentiment to include women, but otherwise I agree wholeheartedly. There was and is enormous wisdom in the constitutional provision to provide to the legislative branch, in this case the Senate, the ability to exercise oversight of the nominations made by the President.

The Founding Fathers believed, and I think they were right, that the power to appoint people to high office in the United States should not be vested in the hands of a single individual.

The President deserves clear and broad latitude in making the appointments of his choice, but just as clearly, the Senate has a responsibility to ensure that these appointments will serve expertly, broadly, and fairly in a manner that will benefit all Americans, and the Senate has the power to, if necessary, reject the nomination.

My colleague, Senator FEINGOLD, in his statement yesterday before the committee, noted that this is a rare situation when the Senate rejects a nomination, but I will tell you, during the course of our Nation's history, there have been literally hundreds of names withdrawn when it was clear they would not pass with approval before the Senate.

Alexander Hamilton thought such rejections would occur rarely and only when there were ''special and strong reasons for the refusal.'' I believe we have before us one of those rare instances that Hamilton foresaw. There exists today just such ''special and strong reasons'' to reject the nomination of John Ashcroft to the position of Attorney General. I would like to outline my reasons that necessitated my vote against his nomination.

During his testimony, Senator Ashcroft did a masterful job of painting a portrait of his vision of the job of Attorney General. He described himself as a man who would evenhandedly enforce and defend the laws of the land no

matter how strong his personal disagreement with those laws, but his public career paints a much different picture.

When I look at the public record of John Ashcroft and compare it, point by point, with his testimony, I find I am looking at two completely different portrayals, two completely different people. During the hearings, Senator Ashcroft promised fairness in setting the agenda for the Department of Justice and vowed to protect vulnerable people whose causes he has seldom, if ever, championed in his public life.

Which picture tells the story? If John Ashcroft were to become Attorney General, would it be John Ashcroft, the defender of a woman's constitutional right to choose, or John Ashcroft, passionate opponent of Roe v. Wade? John Ashcroft, the defender of sensible gun safety laws, or John Ashcroft, who opposed every significant gun safety measure that came before the Senate during his tenure? John Ashcroft, as defender of civil rights, or John Ashcroft, who, as Governor of Missouri, opposed a voluntary—I repeat, voluntary—school desegregation plan and efforts to register minorities to vote.

We all heard Senator Ashcroft's testimony, but his public record speaks with clarity and consistency.

Let us consider the question of discrimination against a person because of their sexual orientation. Consider whether those with a different sexual orientation who were victims of a hate crime could expect the protection of John Ashcroft's Department of Justice.

I cannot speak for all of America—maybe only a small part of it—but I think, regardless of your view towards sexual orientation, the vast majority of Americans oppose discrimination against anyone because of their sexual orientation. The vast majority of Americans think it is fundamentally unfair to be intolerant of people with a different sexual persuasion.

Recently at Georgetown University, Professor Paul Offner stated that in a 1985 job interview, then-Governor Ashcroft asked him pointblank about his sexual orientation. Mr. Offner related that the Governor asked him: ''Do you have the same sexual preference as most men?'' Senator Ashcroft, through his spokespeople, has denied this. In fact, they brought witnesses to say that it did not happen.

Perhaps the story would be nothing more than the typical Washington version of ''yes, you did; and, no, I didn't,'' were it not for the matter of Senator Ashcroft's troubling record on the issue of tolerance for people of different sexual orientations.

Senator Ashcroft opposed the nomination of James Hormel as Ambassador to Luxembourg because Mr. Hormel, in Senator Ashcroft's words, ''. . . has been a leader in promoting a lifestyle . . . . And the kind of leadership he's exhibited there is likely to be offensive to . . . individuals in the setting to which he will be assigned.''

For the record, Mr. Hormel's lifestyle is that he is an openly gay man.

I know the appointment of any Ambassador is important. Certainly, the appointment to a nation such as Luxembourg, which has been a friend of the United States for a long time, is important. But to single out James Hormel because he is an openly gay man, and to oppose his nomination because of that, I think, is not fair.

Senator Ashcroft said he opposed Mr. Hormel's nomination based on the ''totality of the record.'' When he was asked by Senator LEAHY if he opposed Mr. Hormel because he was gay, Senator Ashcroft denied that. He said: ''I did not.''

Senator Ashcroft had very little contact with Mr. Hormel before his nomination. He refused to meet with Mr. Hormel after he was nominated despite Mr. Hormel's request.

At a recent press conference, Mr. Hormel had this to say. I will quote him:

> I can only conclude that Mr. Ashcroft chose to vote against me solely because I am a gay man.

He had concluded that his sexual orientation was the cause of Senator Ashcroft's opposition ''not only from his refusal to raise any specific objection to my nomination, but also from Mr. Ashcroft's public comments at the time of my nomination and his own long record of resistance to acknowledging the rights of all citizens, regardless of their sexual orientation.''

I have before me a letter dated December 3, 1997, from James Hormel, of San Francisco, CA, to Senator Ashcroft at the Hart Senate Office Building. He wrote:

> I am aware that you voted against my nomination, when it was considered by the Foreign Relations Committee, and understand that you may have concerns about my qualifications. I want you to know that I am available to meet with you at your convenience in either Washington or Missouri, to address and—I trust—allay your concerns.

Senator Ashcroft never agreed to such a meeting.

Could we expect Attorney General Ashcroft to defend tomorrow's Matthew Shepard if he can't show tolerance for today's James Hormel?

The second issue that is of importance to me relates to an outstanding individual who came before the Senate Judiciary Committee when I served on that committee 2 years ago. His name was Bill Lann Lee. He was being considered as an Assistant Attorney General for Civil Rights. Senator Ashcroft joined in an effort to block his nomination.

I remember this because I remember what Bill Lann Lee told about his life's story. Maybe I am particularly vulnerable when I hear these stories, but they mean so much to me, when a person such as Bill Lann Lee comes and tells us about the fact that his mother and father were immigrants from China to the United States. They came to New York City and started a small laundry, and raised several children, including Bill Lann Lee.

His mother is with him. His father passed away. He said his mother used to sit in the window of the laundry every day at her sewing machine. His father was busy in the back ironing and preparing the laundry. Bill Lann Lee said that they worked every day—hard-working people—raising a family. When World War II broke out, Bill Lann Lee's father was old enough to escape or avoid the draft, but he volunteered because he was proud of this country and he was willing to serve.

Bill Lann Lee also told us that his father refused to ever teach him how to run the laundry. He told him, from the beginning: This is not your life. You will have a different life. We will work hard here. You are going to do something different. And, boy, was he right, because Bill Lann Lee applied for a scholarship to one of the Ivy League schools. He received a scholarship and went on and graduated from law school.

He then went to work for the NAACP. He really dedicated his professional life not to making money as a lawyer but to fighting for tolerance against discrimination.

He was a quiet man, a humble man; but when it came to the cause of civil rights, he clearly believed in it. For that reason, he faced withering criticism from the Senate Judiciary Committee. In fact, Senator Ashcroft openly opposed his nomination.

When Bill Lann Lee was asked about a specific Supreme Court case, and whether he would enforce it, Bill Lann Lee, under oath, said: Yes, I will enforce it. Senator Ashcroft rejected that sworn statement. He said, in opposing Bill Lann Lee, that Bill Lann Lee was an ''advocate'' and was ''willing to pursue an objective . . . with the kind of intensity that belongs to advocacy, but not with the kind of balance that belongs to administration.''

Obviously, Senator Ashcroft felt that advocacy and effective administration do not mix. ''He has obviously incredibly strong capacities to be an advocate,'' Ashcroft said of Bill Lann Lee. ''But I think his pursuit of specific objectives that are important to him limit his capacity to have a balanced view of making judgments that will be necessary for the person who runs that division.''

I was saddened by the treatment of Bill Lann Lee by the Senate Judiciary Committee and Senator Ashcroft. This good man—this great American story—was subjected to what I considered an unfair standard by the man who now wants to be our Attorney General, who now wants to be entrusted with enforcement of civil rights laws.

But this was not the only nominee that Senator Ashcroft zeroed in on; another was Judge Margaret Morrow of California. He joined in blocking her nomination for a lengthy period of time with a little Senate device known as a ''secret hold,'' where you hold up a

nominee and you never disclose that you are the person holding it. Eventually, he admitted he was the person holding Margaret Morrow back from her appointment to the Federal bench.

Was Margaret Morrow qualified to be a Federal district court judge? Witness after witness said she was. They all said she had extraordinary qualifications. She was the first woman to be president of the California State Bar Association. But she didn't meet Mr. Ashcroft's test. Because of that, she waited years before this Senate before she had a chance to serve in the State of California.

The reason why Senator Ashcroft opposed her? She was an advocate in his mind. Should I accept that John Ashcroft, himself, an impassioned advocate for his entire political life, will surrender his advocacy in the role of Attorney General? He certainly didn't accept those arguments from Bill Lann Lee and Margaret Murrow when they raised their hand to give the same oath he did.

If we apply the Ashcroft standard to his own nomination, would he have a chance of being confirmed in the Senate? Fairness requires more than a simple test as to whether a nominee has advocated views with which we disagree. Fairness requires that we judge on balance whether that nominee can credibly set aside those views and be evenhanded.

At this moment in our Nation's history, our need for that type of leadership is compelling. We are a politically divided Nation with one of the closest elections in modern memory. Landmark civil rights and human rights laws hang in the balance. We need an Attorney General who will be fair and impartial in administering justice.

No issue in the United States is more divisive than civil rights or more in need of enlightened leadership. Yet throughout his career, Senator Ashcroft repeatedly turned down opportunities to reach out across the racial divide. There was, of course, a lot of attention given to the fact that Senator Ashcroft appeared at Bob Jones University, received an honorary degree, and delivered the commencement address. It did deserve attention. It became an issue in the last Presidential campaign.

After President Bush appeared there during the course of his campaign, he was so troubled by the public reaction to his appearance at Bob Jones University that he sent a letter to the late Cardinal O'Connor in New York assuring the cardinal that he did not agree with the prejudicial statements of Mr. Jones and regretted that he did not distance himself from them.

Let me quote a few words from George Bush's letter to Cardinal O'Connor in reflecting on his appearance before Bob Jones University, a letter of February 25, 2000:

> Some have taken—and mistaken—this visit as a sign that I approve of the anti-Catholic and racially divisive views associated with that school. As you know from a long friendship with my family—and our own meeting last year—this criticism is unfair and unfounded. Such opinions are personally offensive to me and I want to erase any doubts about my views and values.
>
> On reflection, I should have been more clear in disassociating myself from anti-Catholic sentiments and racial prejudice. It was a missed opportunity causing needless offense, which I deeply regret.

I accept President Bush at his word. I believe he was embarrassed when he reflected on some of the statements that have been made at Bob Jones University: Their ban on interracial dating among students; some of the cruel statements made about people of the Catholic and Mormon religions; of course, their decision, when a gay alumnus said he was going to revisit his campus at Bob Jones University, and they stated publicly if he came on campus, they would have him arrested for trespassing. I can understand the embarrassment of people as they reflect on those sorts of statements. But I cannot understand, after President Bush has made this acknowledgment, that when John Ashcroft had the same opportunity before the Senate Judiciary Committee, he didn't take that opportunity. He offered no apologies for his appearance at Bob Jones University.

I said: If you become Attorney General, would you return to Bob Jones University? He wouldn't rule that out.

He said: If I go back, I might talk to them about some of the things they have said and what they stand for.

I am sorry. I view that particular episode as troubling. It has little to do, if anything to do, with religion and more to do with tolerance. If elected officials don't take care as to where they speak and what they say, what comfort and encouragement they give to others, then I think we are derelict in our public responsibilities.

I think President Bush learned an important lesson. It is hard to imagine that his choice for Attorney General of the United States couldn't learn the same lesson from him, couldn't say before this committee exactly what President Bush said to the late Cardinal O'Connor, but he did not.

On the issue of school desegregation, my colleague, Senator KENNEDY, laid out the issue quite clearly before the Senate within the last hour or two in the course of the debate. I grew up in East St. Louis, IL, across the river from St. Louis. I associated myself more with St. Louis than most other cities as a child. I know, having grown up in that area on both sides of the river, that there have always been racial problems, sometimes bitter and violent, and sad situations arising because of it.

When there was an effort made in Missouri to deal with segregated schools, there was a voluntary desegregation plan that was agreed to by the students and their parents, by the administrators and the teachers, people living in the community, of how they would voluntarily desegregate schools and give children an opportunity for a good education. We have heard during the course of the committee hearing, we heard again on the floor of the Senate, John Ashcroft used every tool in his tool box to try to stop this voluntary desegregation plan. Frankly, that is a poor reflection on what John Ashcroft would do as Attorney General.

He labeled the efforts of the Federal courts to desegregate Missouri's schools as a ''testament to tyranny.'' Again, Governor Ashcroft missed an important opportunity to bridge the racial divide.

Then he had two bipartisan bills presented to him as Governor to expand voting rights in the city of St. Louis, which is predominantly African American. He vetoed the first saying: It doesn't help St. Louis. It should be a broader based and statewide bill.

The next year, the General Assembly of Missouri sent him the broader based statewide bill. He vetoed that as well, saying: This is too broad based and too general.

I think it is pretty clear that he was intent on not expanding an opportunity for voter registration and efforts for people to involve themselves in the voting process. What possible assurance could we have from his record that Attorney General John Ashcroft would dedicate himself to eliminating racial prejudice in America?

The next issue which I take with John Ashcroft is one which was probably the most important to me. On the day that President Bush nominated John Ashcroft, the leading radio station in St. Louis, KMOX, called me and asked for a comment. I told them that before I could vote for John Ashcroft, I had to have answers to several questions. First and foremost was the treatment of Judge Ronnie White. Of course, that is something I will speak to and an issue that came up time and again during the course of the hearings.

Within an hour or two, John Ashcroft called me after I made this radio statement and said: I want to talk to you. I need your vote.

I said: Senator, I will be happy to meet with you any time and discuss this, but let me make it clear, the first question I will have to you is about what happened to Judge Ronnie White, when he had an opportunity to become a Federal district court judge and you blocked that opportunity.

He said: That is fine. We will have to get together.

I said: My door is open.

John Ashcroft never called for such a meeting. I asked several questions of Senator Ashcroft at the hearing about the White nomination. I listened carefully to the testimony of Judge White himself. I understand why Senator Ashcroft did not ask for a meeting.

The story of Judge Ronnie White is one that bears repeating. This is not just another nominee for Federal

court. There are some fine men and women who have been nominated and confirmed. Let me tell you a little bit about Judge Ronnie White.

He was the first African American city counselor in the city of St. Louis. That, in and of itself, does not sound very impressive, but when Judge White explained his childhood growing up in one of the poorest sections of St. Louis, in one of the poorest homes and struggling throughout his life to earn an education and to go to law school—he was bused as a young student to one of these newly integrated schools. He recalled other children throwing food and milk at him and the other African American students coming off the bus. Life was not easy. He wasn't looking for sympathy. He was looking for a chance, and he got the chance. He went to law school, became the first African American city counselor in St. Louis. He became the first African American in Missouri history to be appointed to the appellate court of the State, and he became the first African American in the history of the State to serve on the Missouri Supreme Court.

If you visit St. Louis, you can't miss the arch. That is really the thing you think of right away. But within the shadow of the arch is a building which is historically so important to that city, State, and to our Nation. It is the St. Louis courthouse. It is a white, stone building, very close to the Mississippi River. The reason why this building is so historically significant is that it was in this courthouse that the Dred Scott case was argued and tried twice. It was on the steps of this courthouse before the Civil War that African Americans were sold as slaves.

When Ronnie White was appointed to the Missouri Supreme Court, he chose that old courthouse in St. Louis to take his oath of office. The St. Louis Post Dispatch, in commenting on that setting and his selection as the first African American to the Missouri Supreme Court, said:

It is one of those moments when justice has come to pass.

It certainly was. And as you listen to Judge White's testimony, you understand that this wasn't a matter of pride for his family in being nominated to the Federal district court. It wasn't just a matter of pride for his colleagues on the Missouri Supreme Court. It had to be a source of great pride for thousands of African Americans to see this man overcome such great odds to finally get a chance to serve on the Federal district court.

He never had that chance. The reason he didn't have that chance was that after 2 years of having his nomination pending before this Senate, after being approved twice by the Senate Judiciary Committee, after finally finding his name on the calendar of the Senate to be voted on to become a Federal district court judge, John Ashcroft decided to kill his nomination.

And he did it. He did it. He came to the floor, after speaking to his colleagues on the Republican side, and said that Judge Ronnie White was procriminal. He cited several decisions made by the judge and said that they were ample evidence that this man did not have appropriate sensitivity to become a Federal judge with a lifetime appointment when it came to enforcing our laws. Judge Ronnie White's name was then called for a vote.

It was defeated on a partisan vote. Every Republican voted against it. This is rare in the history of the Senate. It doesn't happen very often. Our review said it hadn't happened for 40 years, that a nominee was brought to the floor, subjected to that kind of public criticism, and defeated.

Frankly, it wasn't necessary. If John Ashcroft had decided that he wanted to stop Ronnie White, there were a variety of ways for him to do it, quietly and bloodlessly. But he didn't choose those options. He chose instead to attack this man and to attack him on the floor of the Senate.

When we were interrogating John Ashcroft about his criticisms, he said, the law enforcement groups are the ones who really told me that Ronnie White was not a good choice.

It is true that there was a local sheriff, whose family had been involved in a murder in a case where Judge Ronnie White had handed down a dissenting opinion, who sent a letter to John Ashcroft saying they objected to him. That is true. But it is also true that the largest law enforcement community in the State of Missouri, the Fraternal Order of Police, endorsed Ronnie White, and that the vast majority of law enforcement officials in that State endorsed Ronnie White for this Federal district courtship.

Sadly, he was defeated and, in the process, I am afraid, faced the kind of humiliation which no one should ever have to face—certainly not on the floor of the Senate.

I am troubled by John Ashcroft's willingness to distort a good judge's record beyond all recognition, to attack his character and integrity and to deliver this unjust condemnation on the floor of the Senate without ever giving Judge White an opportunity to respond and defend his name.

When Judge White appeared before the Judiciary Committee, it was clear to many of us that he deserved an apology for what had happened to him.

Why is this important in choosing a man to be Attorney General of the United States? When given the power as a Senator, I don't believe that John Ashcroft used it appropriately. The victim was a very good man.

There have been a lot of questions asked about the issue of reproductive rights of women and what the new Attorney General, John Ashcroft, would do with that authority. I know John Ashcroft's position. I respect him for the intensity of his belief in opposing Roe v. Wade for his entire public career. There are people in my State of Illinois and his State of Missouri who feel just as passionately on one side or the other side of the issue. It worries some that he would be entrusted with the authority and responsibility to protect a woman's right to choose and what he would do with it. He tried to set the issue aside in his opening statement by saying he accepts Roe v. Wade and Casey v. Planned Parenthood, two Supreme Court cases, in Ashcroft's words, as the ''settled law of the land.'' That, of course, raises questions. If it is the settled law of the land, what will he do in enforcing it?

One of the things that troubles me—and Senator MIKULSKI of Maryland raised this earlier—was the decision John Ashcroft made as attorney general of Missouri when there was an effort to have nurses provide women's health services in one of the poorest medically underserved sections of Missouri.

John Ashcroft attempted to block the nurses. He joined in filing a lawsuit against the nurses at their women's health clinic. These nurses were providing gynecological services, including oral contraceptives, condoms, and IUDs, Pap smears, and testing for venereal disease. He joined in suing these nurses to stop them from providing vital reproductive health services to low-income women in his home State.

As Governor in 1986, Senator Ashcroft signed a bill that defined life as beginning at fertilization, providing a legal basis to ban some of the most common and effective methods of contraception. In 1998 and 1999, Senator Ashcroft wrote letters to Senator BEN NIGHTHORSE CAMPBELL opposing a Senate amendment to require the FEHBP, the federal health insurance plan, to cover the cost of FDA-approved contraceptives, citing concerns that funding certain contraceptives was equivalent to funding abortifacients.

Nearly forty million women in America use some form of contraception. Would Attorney General John Ashcroft work to protect their right of privacy and their right to choose the medical services best for them and their families?

On the question of the ''settled law of the land''—Roe and Casey—we have had this contentious debate on the floor of the Senate for years about a partial-birth abortion ban. Many of us have said we can agree to a ban so long as it not only protects the life of the mother but women who face grave health risks. Those who introduced the amendment—Senator SANTORUM of Pennsylvania and others—have refused to include that second phrase ''health risk'' as part of the bill. Recently, in a Supreme Court case, they considered a Nebraska partial-birth abortion ban, and the Supreme Court concluded that unless you protect the health of the mother, protecting the mother's life is not enough on a partial-birth abortion ban. They cited as the reason for it the same Casey decision which Senator Ashcroft described as the ''settled law of the land'' to make certain that it was clear.

Senator SCHUMER of New York and I asked Senator Ashcroft as Attorney General, if the Santorum partial-birth abortion ban comes to him by either the President asking whether he should veto it or Senator Ashcroft as Attorney General trying to decide whether to defend it, and it does not include the protection of a woman's health, what will he do. The answer to me seems fairly obvious. If the Casey decision is the settled law of the land, he would have to say the SANTORUM bill we considered before the Senate is unconstitutional, inappropriate, and inconsistent with Supreme Court decisions. That seems obvious to me.

Senator Ashcroft would not answer the question.

The clarity of his statement, his opening statement, disappeared. His answers were tentative and, unfortunately, very unsettling. The Attorney General must diligently protect women's rights in America—rights repeatedly confirmed in the Supreme Court. Senator Ashcroft's public record and his testimony before the Judiciary Committee leave that in doubt.

Senator Ashcroft has made troubling, at times shocking statements regarding the lynchpin of our American system of justice, the judicial branch of government. He is fond of the phrase ''judicial despotism'' and even used this as the title of a speech he gave before the Heritage Foundation. In it he vows to ''fight the judicial despotism that stands like a behemoth . . .'' over our great land. He tells us that ''people's lives and fortunes'' have been ''relinquished to renegade judges,'' judges the labels ''a robed, contemptuous intellectual elite.'' He speaks of America's courts as ''out of control'' and the ''home to a 'let-them-eat-cake elite' who hold the people in the deepest disdain.''

Senator Ashcroft went on to say: ''Five ruffians in robes'' on the Supreme Court ''stole the right of self-determination from the people'' and have even directly ''challenged God. . . .'' So grievous are the actions of the Federal Judiciary, according to Senator Ashcroft, ''the precious jewel of liberty has been lost.''

These statements come from a speech Senator Ashcroft gave on judicial despotism. I suggest to my colleagues who have not read it that they do. Is this a person with such a deep mistrust of the character of justice in our great land that we should entrust him with the office of Attorney General?

Many years ago, during the Roosevelt administration, Supreme Court Justice Frank Murphy served as Attorney General and created the Civil Liberties Union to prosecute local officials who abused and even murdered blacks and union organizers. He summed up his constitutional philosophy in one sentence: ''Only by zealously guarding the rights of the most humble, the most unorthodox and the most despised among us, can freedom flourish and endure in our land.'' Could Senator Ashcroft rise to this awesome and often unpopular standard as our Attorney General?

We recently celebrated again the birthday of Dr. Martin Luther King, Jr. It was a huge gathering in the city of Chicago. Mayor Daley has an annual breakfast. I attended another breakfast sponsored by Rev. Jesse Jackson. Literally thousands of people came out to pay tribute to Dr. Martin Luther King, Jr. I am old enough to remember when Dr. Martin Luther King, Jr., was alive, and I can recall in the midsixties that Dr. Martin Luther King, Jr.'s visit to the city of Chicago was not welcome. He announced he was coming to Chicago to march in the streets of Cicero and other neighborhoods to protest racial segregation. Many people—Democrats, Republicans, and independents alike—were saying: Why is he doing this? Why is he stirring things up?

It is easy today to forget how unpopular Dr. Martin Luther King, Jr., was with the majority of Americans during his life. It was only after his assassination and our reflection on the contribution he made to America that the vast majority of Americans now understand that although he was unpopular, he was right. Dr. Martin Luther King, Jr.'s life, fighting for civil rights, tells an important story. When you are fighting for the rights of those discriminated against because of sexual orientation, when you are fighting for the rights of women, poor women in particular, when you are fighting for the rights of African Americans and Hispanics, it is often unpopular. But it is the right thing to do.

The Attorney General, more than any other Cabinet officer, is entrusted with protecting the civil rights of Americans. We know from our history, defending those rights can be controversial. I find no evidence in the public career of the voting record of Ashcroft that he has ever risked any political capital to defend the rights of those who suffer in our society from prejudice and discrimination.

As I said in the committee yesterday, it is a difficult duty to sit in judgment of a former colleague, but our Nation and our Constitution ask no less of each Member of the Senate. That is why I will vote no on the nomination of John Ashcroft to serve as Attorney General.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. If the Senator from Michigan will yield, I think we were going to go back and forth.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. LEVIN. Mr. President, I ask unanimous consent that after the Senator from Alabama has concluded, I be recognized.

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

Mr. SESSIONS. I was looking for Senator WARNER. In the absence of Senator WARNER, I will mention a couple of things.

How long will the Senator from Michigan speak?

Mr. LEVIN. Perhaps 15 minutes.

Mr. LEAHY. If I might, the agreement the distinguished Senator from Utah and I had—obviously an informal agreement—was that following the normal procedure in such a debate, we would be going from side to side. The distinguished Senator from Illinois has just spoken; the distinguished Senator from Alabama was going to speak. The normal rotation would go back to this side, and it would be the distinguished senior Senator from Michigan. That is without time agreements for any Senator.

Mr. REID. If the Senator from Alabama will yield.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. As I said this morning, we want to try to wrap up this debate in the near future. I know how fervently the Senator from Alabama feels about this issue, but I do say every time someone says something, we are not going to finish this debate. The Senator from Alabama has already spoken very eloquently—which was referred to this morning by Senator NICKLES, about what a great statement he made, and I heard part of his statement, and it was extremely good.

My point is, if the people on the other side of the aisle want us to finish this debate sometime tomorrow, we are going to have to be cut a little bit of slack and be able to proceed with our statements. Otherwise, we are going to go over until next week.

Mr. SESSIONS. I understand that is the position of the other side, that they would like this side to hush and have their full say all day.

I see the Senator from Virginia is here. I yield to the Senator from Virginia such time as he desires.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. If I could enter into a unanimous consent request sequencing the next two Senators: The Senator from Virginia be recognized, and after the Senator from Virginia has finished, then I be recognized, which is a modification of a previous unanimous consent.

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

Mr. WARNER. Mr. President, I am happy to accommodate the leadership and the floor managers. Would the Senator care to modify it now and take that time?

Mr. LEVIN. We were alternating.

Mr. WARNER. Does the Senator want to modify a unanimous consent request?

Mr. LEVIN. We just did.

Could the Senator from Virginia give us a time indication.

Mr. WARNER. I will take not more than 10 minutes if that is agreeable to my colleagues.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I join the many Members today to support

the nomination of our former colleague—our friend, indeed—John Ashcroft, to serve as the Attorney General of the United States.

Article II, section 2, of the Constitution provides that the President shall name and, with the advice and consent of the Senate, shall appoint judges of the Supreme Court and all other officers of the United States.

Thus, the Constitution provides a role for both the President and the Senate in this process. The President has the power to nominate; the Senate has the power to render advice and consent on the nomination.

In fulfilling the constitutional role of the Senate, throughout my career—some 23 years I have been privileged to represent the Commonwealth of Virginia—I have always tried to give fair and objective consideration to both Republican and Democratic Presidential Cabinet-level appointees; as a matter of fact, all appointees.

Traditionally, a President, especially after taking office following a national election, should be entitled to select individuals who he believes can best serve this Nation and his goals as President. It has always been my policy to review Cabinet nominees to ensure that the nominee has the basic qualifications and the basic experience to ensure that nominee can perform the job to which he has been nominated, to ensure that the nominee also will enforce the laws of the land that are key—and that is instrumental—in the consideration now being given to this important post of the Attorney General of the United States, and to ensure that the nominee possesses a level of integrity and character that the American people deserve and expect from public officeholder.

Therein, perhaps, rests the widest margin of discretion that should be exercised by the Senate. All 100 members have brought to bear in this Chamber, and in other areas in which we daily work to serve the Senate, experience that has enabled us to win the public office as Senator. That experience has fine-honed every Member of this Chamber in one way or another, such that he or she can judge facts, nominees, and the entirety of the situation to determine, does that individual have the integrity or do they not have that integrity?

That is a very important function we perform.

I say to my colleagues, and to my constituents, and to those who are interested in my views, that John Ashcroft has the qualifications and the experience and the integrity to undertake this important office.

Former Senator John Ashcroft from Missouri recently lost his election bid to the Senate under most unusual circumstances, not unlike the circumstances that faced my State at one time, when we lost one of our most valued public servants, a public servant who was contending for the office of the U.S. Senate, who had beaten me fairly and squarely in basically a convention or modified primary type situation. I was in strong support of that individual. Then his light plane one night crashed.

I have had that experience. I shared it with my friend, John Ashcroft, because he was so deeply shaken by this tragedy. There is not a one of us who couldn't say, ''Well, it could have been me,'' the way we have to travel across our States, across our land, in these small planes and many other modes of conveyance at all hours of the day and night.

John Ashcroft approached that tragic situation in a very balanced and fair manner. To some extent, he counseled with several of us. But it was a very difficult decision as to how he should conduct himself for the balance of that campaign. I think he did it admirably. He did it with great courage and respect for the tragedy that had befallen his State.

If I ever had any doubts about John Ashcroft, the manner in which he handled that tragic situation will forever place in my mind that this man has the integrity, not only to be Attorney General but to take on any public office of this land.

Our colleague served in the Senate from 1994 to 2000, serving as a leader in the passage of welfare reform legislation and fighting for lower taxes, strong national defense, greater local control of education, and enhanced law enforcement.

Prior to his service in the Senate, John Ashcroft served as Governor of Missouri from 1985 to 1993 and attorney general of Missouri from 1976 to 1985. He dedicated over 28 years of his life to public service—over a quarter of a century. If he had flaws in his integrity, they would have been carefully documented, I am sure, in that period of time.

I would like to add this, again based on having the privilege of serving in this Chamber many years and having gone through many hearings for Cabinet nominees and other nominees, this was a very thorough hearing. Legitimate questions can be asked as to how fair it might have been in some instances, but it was unquestionably thorough. It was prolonged—there is a question of the necessity of the length of it—but anyway, it was thorough.

In my opinion—and I say this with the deepest respect to the members of the committee and most especially to this nominee, John Ashcroft, and I say to my good friend, the ranking member, whom I have admired these many years in the Senate—John Ashcroft emerges as a better, a stronger, a more deeply committed man as a consequence of this process. I feel that ever so strongly. Each of us who has gone through these stressful situations that we confront from time to time in our public office—those of us who go through those situations—and withstand the rigors of such an examination, in all likelihood emerge a stronger person.

I see my friend standing. Does he wish to comment?

Mr. LEAHY. Mr. President, if I could, and I do not wish to interfere in any way in the Senator's time.

Mr. WARNER. Mr. President, I think this is an important point, certainly to this Senator. I value the views of my friend.

Mr. LEAHY. I respect the views of the distinguished Senator from Virginia, who has been my friend from day 1 in this place. I knew him before in his other capacities, such as Secretary of the Navy. I have cherished, at home, a souvenir from the bicentennial year which I received from him. He has been a man to whom I have gone for counsel on a number of issues. I refer to him as my Senator away from home because I spend the week in Virginia when we are in session.

He and I, of course, disagree on this nomination. I understand he stated his strong views on it. I have stated mine. I promised two things to both the then President-elect and Senator Ashcroft. I promised them two things when they called me to tell me they were going to nominate him: No. 1, that there would be questions, tough questions, but I would conduct a fair hearing. I believe I did. The nomination actually came to the Senate Monday of this week, the official papers. We are moving to go forward with this. Everybody in the Senate knows approximately how the vote will come out.

I tell the Senator from Virginia of a conversation I had. As he can imagine, prior to my announcing my opposition to Senator Ashcroft, I called Senator Ashcroft to tell him what I was going to say and notified the White House what I was going to say. But I suggested one thing. I don't think I divulge any confidence with Senator Ashcroft who spoke about what he has gone through. It might have been the same thing the Senator from Virginia said. I suggested what he do after he is sworn in is that he meet quietly and privately with a number of Senators and House Members of both parties—those who have an interest in law enforcement issues, interests that affect the Justice Department—meet on a private, off-the-record basis, hear their suggestions or their criticisms, and vice versa. He assured me that he would.

He asked me also if I would be willing to help bring Members who had voted against him or spoken against him to those meetings. I assured him I would do that, too. The Senator from Virginia makes a good point.

I think the debate is good. I hope Senators on both sides of the aisle will listen to the debate.

Again, I use this opportunity to mention one more time how much I have enjoyed the friendship and the wise counsel of my friend from Virginia.

Mr. WARNER. Mr. President, I thank my distinguished colleague. If I may say with deep respect to him as a friend first, and as a Senator second, I

think he agrees with my basic proposition that he emerges from this process a stronger and a more deeply committed public servant.

Mr. LEAHY. I do, yes.

Mr. WARNER. Certainly from that standpoint, that alone would give everyone a basis on which to cast a vote in favor of this nomination.

For those who are concerned about Senator Ashcroft's nomination, it is important to remember that once John Ashcroft is confirmed as our next Attorney General, he will serve at the pleasure of the President.

This time honored phrase, ''At the pleasure of the President,'' has been used by Presidents throughout American history to show the American people that the President is the final arbiter of accountability for his Cabinet members.

And, also, I'd like to remind my colleagues in the Senate, and more broadly the American people, of the promises John Ashcroft has made and the oath that he will take. John Ashcroft has promised to every American that he will uphold the law of the land whether he disagrees with such a law or not. Once confirmed as Attorney General, John Ashcroft will raise his right hand and swear to uphold the law of the land.

When John Ashcroft makes a promise that he will uphold the law of the land, and when he takes that oath of office to uphold the law of the land, I take him at his word.

(The remarks of Mr. WARNER pertaining to the introduction of S. 225 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. WARNER. Mr. President, I yield the floor and thank my colleagues.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, the Senate will soon vote on whether or not one of our former colleagues and friend, Senator John Ashcroft, should be confirmed to the position of Attorney General of the United States. In the vast majority of Cabinet nominations, the decision is an obvious one. Most of a President's nominees to his Cabinet receive overwhelming, if not unanimous, support by the Senate, and that is as it should be. When it comes to Cabinet appointees, we as a Senate are willing to give the President wide berth in his choice, knowing that, unlike the lifetime appointment of Federal judges, the President must be able to choose appointees who can carry out his program during his term, people who share his values, his vision and his ideals. But the Constitution also requires us to exercise our judgment. The deference owed the President is due deference, not unlimited deference.

In his inaugural address to the Nation, President Bush laid out the vision and ideals he will seek to carry out, visions and ideals which I believe most of us share. He said:

> The grandest of these ideals is an unfolding American promise that everyone deserves a chance, that no insignificant person was ever born.

And he called on Americans ''to enact this promise in our lives and our laws.'' He then made this pledge: ''I will work to build a single nation of justice . . .'' The Department of Justice is the place above all where the chance to further the vision of ''a single nation of justice'' resides.

Like the rest of my colleagues, I know Senator Ashcroft in his role as Senator from, and as advocate for, the State of Missouri. I consider him a friend. But today we are not called upon to judge Senator Ashcroft as a friend or colleague, as a Senator representing his home State, or as a nominee for any other post but Attorney General of the United States—at this time in our history and keeping in mind the goal of building a ''single nation of justice.''

The Attorney General does not mechanically enforce the law. His job is not a matter of simply applying a specified law to a specified set of facts. Great discretion resides with the Attorney General and the proper functioning of the Department of Justice requires that the public—all the public—feels that discretion will be exercised with balanced and deliberative judgment.

There are many times when a prosecutor has within his grasp the power to prosecute or take a pass, and in that decision lies the lives of the people involved and their families. A commitment to enforce the law of the land is the beginning point, not the ending point. The discretion exercised by the Attorney General is not critical in the easy or obvious matters that do not require the Attorney General's most considered judgment, but in the complex and unclear ones where a commitment simply to enforce the law does not resolve the complexities, and where balanced deliberation is essential.

If America is to build a ''single nation of justice,'' the Department of Justice should have as its head someone whose record demonstrates evenhandedness and whose rhetoric seeks to assure the American people of fair and balanced consideration, rather than division and distrust. More than 25 years ago, at his swearing-in ceremony, Edward Levi, Attorney General under President Ford, reflected this sentiment by stating if we are going to achieve ''our common goals: among them domestic tranquility, the blessings of liberty and the establishment of justice'' through the enforcement and administration of law, then it takes ''dedicated men and women to accomplish this through their zeal and determination, and also their concern for fairness and impartiality.''

While Senator Ashcroft's rhetoric over the years reveals his zeal and determination, it has not reflected the same concern for impartiality and fairness. I have concluded that his record and his rhetoric are so divisive and polarizing that his nomination will not provide the necessary confidence all Americans are entitled to have in the fairness and impartiality required of the Department of Justice. Here are four examples:

First is his position and his effort with respect to the nomination of Judge Ronnie White as a Federal District Judge for the Eastern District of Missouri. It was unfair and inappropriate to maintain Judge White, a distinguished jurist on the Missouri Supreme Court, had ''a slant toward criminals'' and was ''against . . . the culture in terms of maintaining order,'' as Senator Ashcroft did in his speech to the Senate on October 4, 1999. It was unjust to say Judge White practices ''procriminal jurisprudence'' and will use his ''lifetime appointment to push law in a procriminal direction.'' It was an unfounded and unfair characterization of Judge White to assert that Judge White ''has been very willing to say: We should seek, at every turn, in some of these cases to provide an additional opportunity for an individual to escape punishment.'' It was a significant distortion of Judge White's record for Senator Ashcroft to say in the same speech to the Senate that Judge White's ''opinions, and particularly his dissents, reflect a serious bias against a willingness to impose the death penalty,'' given the fact that Judge White voted with then-Governor Ashcroft's appointees in death penalty cases 95 percent of the time.

Moreover, it was unfair that Senator Ashcroft did not raise any reference to the death penalty or any of his concerns about Judge White's record before or at Judge White's confirmation hearing. Judge White was not given the chance to respond to these allegations during the consideration of his nomination. Rather, these personal attacks came well after Judge White had appeared before the Judiciary Committee. When asked at his own confirmation hearing whether he treated Judge White fairly, Senator Ashcroft said:

> I believe that I acted properly in carrying out my duties as a member of the committee and as a member of the Senate in relation to Judge White.

In responding in that fashion, he neither defended his characterizations, qualified them or withdrew them. Senator Ashcroft's response therefore left standing as his current view his claims and statements with respect to Judge White.

Second is Senator Ashcroft's interview with Southern Partisan magazine, a publication which has been described as a ''neo-confederate.'' Senator Ashcroft not only granted an interview to Southern Partisan magazine, he commended the magazine for helping to ''set the record straight.'' He said:

> We've all got to stand up and speak in this respect, or else we'll be taught that these people were giving their lives, subscribing their sacred fortunes and their honor to some perverted agenda.

While in that interview Senator Ashcroft expressed support for Southern Partisan's message, he later said that he did not know much about Southern Partisan and did not know what it promoted. Fair enough.

But since his interview with Southern Partisan, much has been said about the magazine in the media and at Senator Ashcroft's own confirmation hearing. Southern Partisan was described as a ''publication that defends slavery, white separatism, apartheid and David Duke'' by a media watch group.

In 1995, Southern Partisan offered its subscribers T-shirts celebrating the assassination of Abraham Lincoln. In the same year, an author of an article in that publication alleged ''there is no indication that slavery is contrary to Christian ethics.'' In 1990, another article praised former Ku Klux Klan Grand Wizard David Duke as ''a Populist spokesperson for a recapturing of the American ideal.''

In 1996, an article in the magazine alleged ''slave owners . . . did not have a practice of breaking up slave families. If anything, they encouraged strong slave families to further the slaves' peace and happiness.'' In 1991, another writer printed in the publication wrote, ''Newly arrived in New York City, I puzzled, 'Where are the Americans?' for I met only Italians, Jews, and Puerto Ricans.''

I take Senator Ashcroft at his word that he did not know much about Southern Partisan magazine when he praised them for helping to ''set the record straight,'' in his words. I take him at his word. But where was the immediate disgust and repudiation when he learned what he had inadvertently praised? And, after the inquiries of others, why not make a prompt inquiry to satisfy himself that he had not inadvertently advanced the purpose of a racist publication? Even in his written responses to the Judiciary Committee, he said he only rejects the publication ''if the allegations about [the] magazine are true.''

More than 2 years after the original interview he gave to that magazine, it appears he never took it upon himself to inquire about the magazine's purpose, to see for himself if the allegations were true, and, if so, to correct the record.

A person being considered for the office of Attorney General—the single most important person charged with enforcing our Nation's civil rights laws in a fair and just manner—should accept the obligation to make that inquiry if the American people are to have faith that their Attorney General will ''build a single nation of justice.''

As a third example, I am troubled by Senator Ashcroft's previous speeches on drug treatment. In 1997, Senator Ashcroft told the Claremont Institute:

> A government which takes the resources that we should devote toward the interdiction of drugs and converts them to treatment resources . . . is a government that accommodates us at our lowest and least instead of calls us to our highest and best.

During the same year, he addressed the Christian Coalition Road to Victory and said:

> Instead of stopping drugs at the border, we're investing in drug treatment centers. Instead of calling America to her highest and best by saying ''no'' to drugs, we're accommodating drug users with treatment. . . .

Again, it is not just Senator Ashcroft's views on drug treatment that are troublesome—although they are—it is his choice of words, his rhetoric, that is so divisive and so polarizing. To suggest, as Senator Ashcroft does, that those who are crippled by addiction to drugs and who seek treatment are somehow the ''lowest and least'' violates President Bush's own inaugural promise that ''no insignificant person was ever born'' and that we will ''build a single nation of justice.''

When I asked Senator Ashcroft in a written question what he meant by ''lowest and least,'' to give him an opportunity to comment or to explain or to confirm the clear impression that those words create, his response was a nonresponse.

A fourth example is Senator Ashcroft's opposition to James Hormel's nomination for Ambassador to Luxembourg. Senator Ashcroft stated in press accounts that he opposed Mr. Hormel's nomination because Mr. Hormel ''actively supported the gay lifestyle.'' Senator Ashcroft also said a person's sexual orientation ''is within what could be considered and what is eligible for consideration'' with respect to the qualifications to serve as an Ambassador.

To suggest that a person could not represent America's interests or should be judged professionally because of sexual orientation is inappropriate and divisive.

When pressed on this issue by the ranking member of the Judiciary Committee, Senator Ashcroft further responded in writing:

> I did not believe [Hormel] would effectively represent the United States in Luxembourg, the most Roman Catholic country in all of Europe.

To suggest that Luxembourg would not welcome Mr. Hormel's nomination is not true. Luxembourg has outlawed discrimination based on sexual orientation, and its Government specifically said they would welcome James Hormel as Ambassador. And, most importantly, to fail to retract such contentious statements about a person because of his sexual orientation adds further doubt that all our people will have confidence that this nominee will strive to build that single nation of justice for which the President has called.

In summary, I am deeply troubled by Senator Ashcroft's record of repeatedly divisive rhetoric and sometimes simply unfair personal attacks, such as what he has said and done about Judge White, his passive acceptance of the message of Southern Partisan, his statements about drug treatment as accommodating the ''lowest and least,'' and his statements about Mr. Hormel's qualifications to serve his country because of his sexual orientation.

Senator Ashcroft has frequently engaged in ''us versus them'' rhetoric. He frequently rejects moderation and has even criticized some members of his own party for engaging in what he characterized as ''deceptions'' when they ''preach pragmatism, champion conciliation [and] counsel compromise.''

Senator Ashcroft, in his confirmation hearings, in his written answers to questions posed by a number of Senators, including myself, either reaffirmed some of his divisive statements or simply did not explain the extreme language. His refusal to comment on some of the most troubling past statements leaves them standing as his current views.

His language and his approach to issues in terms of ''us versus them'' would not prevent me from voting for his confirmation for most positions in the Cabinet. But more than any other Cabinet member, the Attorney General, as the chief law enforcement officer of the United States, is charged with the responsibility of assuring that the Department of Justice's goal is equal justice under the law for all Americans. And although I consider John Ashcroft a friend, I will vote no on the nomination of John Ashcroft for Attorney General of the United States.

Mr. President, I yield the floor.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. DEWINE. Mr. President, I rise in support of the nomination of John Ashcroft. I have had the opportunity, for the last several weeks, as a member of the Judiciary Committee, to listen to the testimony and to listen to what has turned out to be fairly extensive hearings.

The John Ashcroft I have known for 6 years, and whom most of us have known for 6 years—some have known a lot longer—does not really bear much resemblance to the individual who has been described by those who have attacked him during this process. I must say, he does not bear much resemblance to the individual whom some of my colleagues have pictured, both in debate on the Senate floor and in the Judiciary Committee.

The truth is that the John Ashcroft on whom we are going to vote, whose nomination we are taking up, whose nomination we will vote on tomorrow, is the same John Ashcroft we have known for 6 years.

He is a man of integrity, a man of honesty, and a man of courage. He is also a man who has taken controversial positions, a man who has cast in his lifetime thousands of votes. I don't think it should come as a shock to us that someone who has been in public office for a quarter of a century would have taken controversial positions. We would worry if he had not.

This is a man who served as assistant attorney general of the State of Missouri, who served for 8 years as their

elected attorney general, who served for 8 years as Missouri's elected Governor and then, for 6 years, as Missouri's elected U.S. Senator. He is a man who served as a member of the Senate Judiciary Committee.

It should come as no surprise that he has taken positions on many issues. It should come as no surprise that he has cast thousands of votes. And, yes, he clearly does have a long track record.

It should not come as a surprise that a record of a quarter of a century would generate criticism, or that it would generate a lot of criticism.

I said, when the Judiciary Committee hearing started, I sometimes get the feeling that the longer someone is in office, the more positions they have taken and, frankly, the better qualified they are, the more controversial their nomination probably is. And if you wanted someone with no controversy, the President would find someone to nominate who had virtually no track record to shoot at.

The fact is, this Attorney General nominee, this individual, John Ashcroft, after he is confirmed, will ultimately be judged as Attorney General not by any one particular position he will take or any one particular decision he will make.

If you look back over the last half a century, look at the Attorneys General and look at how history judges them. It is not the day-to-day decisions. It is probably a handful of big decisions to which we look. But even more important than that is probably the perception that we have about what type of person the Attorney General was: How did they conduct their office? What kind of respect did they have? Did they bring honesty and integrity and courage to that job?

The job of Attorney General is different. It is different in many respects than any other Cabinet position. It is different because this individual has to be adviser to the President, has to be able to give the President confidential, good advice. But he or she is more than that. He or she is the person who stands for law enforcement and, in a sense, is the chief law enforcement officer of this country.

The Attorney General has to be someone who can tell the President yes when the President needs to be told yes, but also, much more importantly, can look the President in the eye and tell the President no when the President has to be told no.

The Attorney General is ultimately someone who on certain occasions will disagree with the President. How that person conducts the office under those circumstances may define that person's tenure as Attorney General and how history judges that individual. It ultimately comes down to is the person a person of integrity, someone of honesty, someone of courage, someone who brings honor to the office, someone who cares passionately about justice.

My experience with John Ashcroft over the last 6 years is that clearly he is such an individual. I have not always agreed with John. John and I have voted differently on certain issues—some high profile; some not so high profile. I don't think that is relevant.

What is relevant is, does this President have the right to have his nominee—I think he does—and is this a nominee who will conduct the office with integrity and with honesty. I have no doubt that history will judge John Ashcroft in a favorable light. As they look back on his tenure as Attorney General of the United States, people will say: I may have agreed with him; I may have disagreed with him on different issues. He may not always have been right, but I think he was a man of honesty, a man of goodwill, and he brought honor to the office.

I conclude by urging my colleagues to vote for John Ashcroft, a man who I believe will be a very excellent Attorney General at a time in our country's history when we need someone who will carry out the duties of that job with all the problems that we face as a country, all the challenges that we have, and who will, in fact, bring the expertise that that particular job needs.

I believe John Ashcroft has the experience, has the background, and has the integrity to be a very excellent Attorney General.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from New York.

Mr. SCHUMER. Thank you, Mr. President. I thank my colleagues on both sides of the aisle for their statements. This is what the Senate is supposed to do on very important issues of the day—deliberate as carefully as possible. We are doing that, and we are doing that very carefully in the Senate.

Mr. President, I rise in opposition to the nomination of John Ashcroft to be Attorney General of the United States. I do this with no glee or exultation. I do this without any feeling of joy. In fact, I believe this is a sad day in so many ways. In a certain sense, it is a sad day for John Ashcroft and his family. They have been through a lot in these past weeks. It is sad because while so many of us have disagreed with John Ashcroft's views and at times we thought his methods were untoward, he has devoted himself to public service, which I believe is a noble calling. In the heat of battle, it is not easy for those who speak against him and, certainly for Senator Ashcroft and his family, to hear people speaking against him.

It is a sad day for me because it is never easy opposing a nominee and a former colleague. I believe that one gives the President the benefit of the doubt in terms of appointments. It is the President's Cabinet. He won the election. Yes, it was close. But I said then and believe every bit as much today that the closeness of the election should do nothing to undermine the legitimacy of the Presidency. I explained that I wanted to give the President his choice. And to have to oppose somebody, no less a colleague, is not easy and requires some thought and fortitude. So it is a sad day for me as a Senator. It is a sad day for the Senate because we are so divided on this nomination.

One of the things I have greatly appreciated since moving from the other body is the comity that still reigns here to a significantly greater extent than it does in the House and perhaps than it does in the body politic. We still are friends across the aisle. We fight hard. But when we can agree, we are much happier than when we disagree. That is the whole tone of the body. The Senator from West Virginia, more than probably any other person here, has made it clear to all of us that is what we aspire to be.

It is a sad day when the Senate is so staunchly and strongly divided when we would all, I think, prefer to be united. I don't believe division is coming from this side of the aisle. If we were truly bipartisan, we all would have supported Senator Ashcroft. No. I believe that when the President nominated Senator Ashcroft, he was well aware that someone of Senator Ashcroft's hard-right views would stir opposition, or should stir opposition. I don't accept in any way what some have said—that if this body were truly bipartisan, Senator Ashcroft would be confirmed 100–0.

You could argue that if the President were truly bipartisan, he might not have nominated Senator Ashcroft. For that reason, I think it is a sad day for the President. He has, in my judgment, had a good beginning to his term. He is reaching out. The message he sent during the campaign that he wished to work with people from both sides of the aisle in large part has been met, at least in these very early days of his administration.

One of my roommates was GEORGE MILLER, one of the stronger Democrats in the House. And he spent some time with the President and is utterly amazed and pleased with the President's attitude.

But this is particularly a sad day for the Presidency because this is the one place, more than any other, in the early morning of his administration where he has sent a nomination that is not, in my judgment, one that reaches out to the middle of the country, one that says I do want to be bipartisan.

At his inauguration the President said, ''While many of our citizens prosper, others doubt the promise, even the justice, of our own country.'' Unfortunately, this choice for Attorney General has given many in our country even more reason to doubt this promise of justice.

Finally, it is a sad day for our country. The elections we went through created a lot of pain for a lot of people. There is a good portion of America that feels disenchanted and even

disenfranchised. This nomination, in my judgment, is the one position in the Cabinet where unity and ability to reach out to every part of the American people is called for and, more than any other, this nomination, sadly, threw salt on the wounds of those who felt disenfranchised.

It is a sad day—a sad day for Senator Ashcroft, a sad day for those of us who feel an honor-bound duty to oppose him. It is a sad day for the Senate. It is a sad day for the new President. It is a sad day for America.

With that said, it is important that we all recognize what the opposition to this nomination is not based on. It is not based on Senator Ashcroft's religion. It makes no difference whether he be Christian, or Jew, or Muslim, or Zoroastrian. His faith is a gift. As a person of faith myself, and a different faith than his, but deep and abiding faith, I respect his faith. I think it is a wonderful faith.

I think all things being equal, I would like to see a nominee for any high position in this land hold such a position of faith. But his faith, while it is a wonderful thing, and wonderful for many, respect for his faith does not mean one simply supports him. I wouldn't do that for anybody because of their own personal belief. I think it is unfair for some to say that because of one's faith, one should adopt an issue.

As many of my colleagues have said, this is a significant and important nomination. I think I should give my view of this. It is time to set the record straight that those of us who are taking issue with Senator Ashcroft's years of activist opposition to causes and ideals in which we believe so deeply, are basing that on his record as Governor, as State attorney general, and as Senator, and, emphatically, not on his religious faith.

About a month ago, when the process of this nomination first got underway, there was a lot of anger and even fury in our country. It didn't come from the leaders of a few groups; it came from citizens of different walks of life, of different races, of different genders, and of different sexual orientation, who, once they became familiar with Senator Ashcroft's record, said, How is this man going to be as Attorney General?

Given the view I stated earlier, I like to give the President the benefit of the doubt and am willing to support Cabinet members with whom I disagree ideologically if nominated by the President.

I decided to jot down on a piece of paper what I thought the hearings and ultimately the vote on the Ashcroft nomination should really be about. Frankly, I was concerned that with the torrent of opposition charges, countercharges, and a whirlwind of politics, the real issues on which we should focus would be obscured or consumed by other forces. I sat down at my kitchen table in Brooklyn on a Saturday morning and tried to formulate what this nomination debate should boil down to, at least in the opinion of one Senator. This is what I wrote:

> We should carefully analyze the functions of the Attorney General and then closely scrutinize Senator Ashcroft's record to determine whether he can fully, impartially, and adequately perform all of those functions. But merely asking if he can do the job is unhelpful. The hearings must probe into the nominee's positions on each of the many different areas of law that the Attorney General must enforce. These range from antitrust and environmental laws to drug and gun laws to hate crimes, voting rights, and clinic protection laws.

After 3 weeks of statements, questions, answers, hearings, and now votes, I still think this statement cuts to the heart of the matter and has guided me ever since this process began.

What are the functions of the Attorney General? And what is the Ashcroft record? These are the two essential questions.

The duties of the Attorney General primarily involve: (1) enforcement of all Federal laws, both civil and criminal; (2) litigating the constitutionality of all Federal laws and regulations, including before the Supreme Court; (3) advising the President, the agencies, and even Congress on the constitutionality of laws and various federal actions; (4) judicial vetting and selection; (5) representing all of the federal agencies in litigation; and (6) supervising the U.S. attorneys.

This job is the most sensitive and one of the most powerful positions in the Cabinet.

Importantly, all of these complicated duties require the Attorney General to exercise enormous judgment and enormous discretion. Much of the power of the Attorney General adheres in this discretion, which is not constrained by law. Following law, to me at least, isn't enough—although it is an important threshold question.

I think it is fair and reasonable to examine Senator Ashcroft's public positions over the years, as well as how he has exercised the judgment and discretion and power vested in him. When we look at that record—and we did very closely in the hearings—we see a very stark picture of a man on a mission, a man who with passion and with zeal sought to advocate and enact the agenda of the far right wing of the Republican Party.

On civil rights, as Governor he fought voluntary desegregation—that is, voluntary desegregation—and vetoed bills designed to boost voter registration in the inner city of St. Louis. More recently, as Senator, he opposed the Hate Crimes Prevention Act, which would have strengthened the Federal response to hate crimes motivated by race, color, region, or national origin, and would have extended the law to cover crimes targeting gender, sexual orientation, and disability.

We all know about the Bob Jones speech and the Southern Partisan Review and the Ronnie White debacle. I do not believe John Ashcroft is a racist. I don't just say that. He has appointed people of color to judicial and executive positions. His wife teaches at Howard University. But I think when you put all these pieces together, what you see is a pattern of insensitivity to the long and tortured history our country has had with race.

When several of my colleagues on the committee asked him for some feeling of remorse, given this record, we didn't see any. There wasn't any new sensitivity that showed itself.

The Attorney General of our country should not be insensitive. He should be just the opposite. The Attorney General, more than any other Cabinet minister, should be acutely aware and sensitive on the issue of race, which de Tocqueville, over 150 years ago, said would be the one thing that would stop America from greatness.

I do not believe this nomination for Attorney General meets that criteria.

On choice, Senator Ashcroft has been at the helm for decades leading the drive to overturn Roe v. Wade and eviscerate a woman's right to choose. His beliefs are heartfelt; they are sincere. However, in my judgment, they are wrong. He has led the charge to enact new abortion hurdles and restrictions. I am not saying that Senator Ashcroft should be rejected for being pro-life. I was happy to vote for Tommy Thompson to be the Secretary of HHS despite the fact that I disagree with his views on choice. And I believe that a pro-life position is not at all a disqualification for Attorney General, as much as I would prefer to see someone pro-choice.

Let me say to my colleagues on the other side of the aisle, if someone was nominated for Attorney General who was vehemently pro-choice, who simply did not just espouse a pro-choice position, but in his or her career spent decades trying to find ways of expanding the law so that, say, abortion on demand, for 9 months, would be perfectly legal, wouldn't Members be more upset and raise a louder voice than against a nominee who was simply pro-choice? Of course. Thus we who believe in the pro-choice side say it is not because Senator Ashcroft is pro-life that we oppose him but because of the vehemence and extreme position of his views. He hasn't been just anti-choice. He has been one of the most outspoken anti-choice crusaders in the country. It is not his belief that abortion is murder that makes me oppose him. It is his past willingness to bend and torture the law to serve his desire to eliminate, totally eliminate, even in rape and incest, a woman's right to choose that makes me oppose him.

This is not simply what he said but what he did when he had executive power, when he became the attorney general of Missouri. He didn't relinquish his role of a passionate advocate against choice, as he says he will now do. He joined in a suit against nurses who dispensed contraceptives. He sued

the National Organization of Women under the antitrust laws to muzzle their attempt to pass the ERA. He tried to pass statutes that end abortion. He tried to pass constitutional amendments to do the same.

For John Ashcroft, at least when he was Senator, ending abortion by any means necessary was the end all and be all of his political career.

There was some discussion in the hearings that some of the groups opposing this nomination were doing it to raise money and raise their profiles. I resent that. Let me say when you sit down with people in these groups and look them in the eye, what you see is fear, fear that we will start moving back to the days before Roe v. Wade, fear that back-alley abortions will again be the norm, fear that equal rights for women will become a figment of the past. Some may feel these fears are unfounded, but the motivation is not mercenary or crass, it is as deep and as heartfelt as the speeches I have heard from some of my colleagues supporting Senator Ashcroft.

Senator Ashcroft also, Mr. President, has been a leader in the charge against gun control. He has fought to kill legislation that would have made it easier to catch illegal gunrunners dealing with the issue of enforcement. He has vociferously opposed even the child safety locks and the assault weapons ban. These were some of the main issues with John Ashcroft's record that were examined at the Judiciary Committee hearings. To be fair, Senator Ashcroft took us on. He directly confronted many of those issues and unequivocally asserted that as Attorney General, he would uphold and enforce and defend all the laws of the land whether he agreed with them or not.

At the start of the hearings, I asked Senator Ashcroft the following question: When you have been such a zealot and impassioned advocate for so long, how can you just turn it off?

His answer was: I'll be driving a different car. There's nothing to turn off.

And our hearings in the committee revolved around this question: Given his past, what kind of future as Attorney General would he have? As I said at the committee vote yesterday, after all these hearings, all the witnesses, all the studying of the record, and Senator Ashcroft's testimony, the conclusion for me is clear. I do not believe that Attorney General Ashcroft can stop being Senator Ashcroft. I am not convinced that he can now step outside the ideological fray he has been knee-deep in, set his advocacy to one side and become the balanced decisionmaker with an unclouded vision of the law that this country deserves as its Attorney General.

Ironically, I don't think Senator Ashcroft disagrees we need a balanced Attorney General. That is why he went to great lengths during the hearing to portray himself as now being different than the Senator Ashcroft we all knew. He was not saying that someone of such vehement and strong opposition, he was not saying that somebody so far to the right should be Attorney General, but he was saying he was a different person or would be a different person as Attorney General than he was as Senator. Every Senator will have to judge for himself or herself whether he can do that, even if he should want to. I do not think he can. In my opinion, John Ashcroft's unique past will indelibly mark his future, making his nomination a source of anger and fear to so many in the country.

I have one other point in this area. John Ashcroft, at least to so many in this country, has had the appearance of not being concerned about these issues, even if you do not agree with the reality. Many would dispute that. They would say the reality is there, too. I would myself. John Ashcroft has the appearance of not being concerned about issues of deep concern to these groups: to African Americans, to Latinos, to women, to gay and lesbian people. Just the appearance of such unfairness would make it much harder for him to be Attorney General. That ''appearance'' argument to me is not dispositive, but it weighs into the mix.

Let's assume for a minute, let's just accept on its face the argument that Senator Ashcroft can devote himself solely to the administration of existing law. Let's assume he will not challenge Roe—which he did say at the hearing. He said he would not roll back civil rights enforcement; he would not do away with the assault weapons ban. This is an appealing way to look at the nomination. Our better angels want to believe this will be the future of the Justice Department.

But in reality when you really explore it and don't avoid it, this is a naive perspective on the powers of the Attorney General. Just saying that Senator Ashcroft will enforce and respect existing law ignores the reality that the Attorney General has vast power and discretion to shape legal policy in the Federal judiciary, unhindered by any devotion to existing law.

My good friend from Wisconsin, Senator FEINGOLD, has argued that simply enforcement of the law is enough, and he will give Senator Ashcroft the benefit of the doubt that he will enforce the law.

I would argue, no, that while you certainly give the President the benefit of the doubt in terms of an appointment, ideology has to enter into it because the Attorney General does so many things that are not simply enforcing the law but are rendering opinions in choosing judges, areas of discretion. I do not think even if one ascribed to Senator FEINGOLD's argument—and I say it with due respect; he is a man of deep principle and I respect his decision. He argued eloquently in committee yesterday, and I know he thought long and hard about it. But even if you assume someone would enforce the law fully, you could never rule out ideological disposition. If Bull Connor had been nominated for Attorney General, my guess is we would all say, even if we were certain he would enforce existing law, we would be certain he should not be Attorney General, based on his past, based on his ideology.

Senator Ashcroft is not Bull Connor; he was a bigot. Senator Ashcroft is not. But we all have to draw the line at some point. And we all do.

It is easy to say ideology will never enter into our decision, voting for a nomination. In reality, that principle is virtually impossible to maintain when given nominees of ideologies to the far side, one way or the other—far left or far right. It is logical because the job of Attorney General is not just enforcing the law, as important as that is. As I mentioned before, it contains vast discretion. For example, the Attorney General will decide what cases will or will not be pursued in the Supreme Court. That is not just following the law.

He will help draft new legislation and give influential commentary on proposals circulating in Congress. That is not just enforcing existing law.

He will, perhaps, be the most significant voice in the country when it comes to filling vacancies, particularly on our court of appeals.

Regarding the Supreme Court, most of us believe the President, with advice from the Attorney General, will make each decision. But at least if the past is prologue, for court of appeal judges, in the vetting process, the bringing of them forward, the Attorney General has enormous say and weight.

It is an enormous power. Every one of these is an enormous power. And none of them will be hindered at all by Senator Ashcroft's newfound devotion to existing law.

The argument that concerns me the most is the selection of Federal judges, or the one of these arguments, because these Federal judges will serve for decades. They often have the last word on some of the most significant issues our society faces. It is safe to expect that the principles that have guided Senator Ashcroft's views on judicial nominations in the Senate will be the exact same principles that will guide him as Attorney General. This is not ''following the law.''

Assuming, arguendo, that we believe Senator Ashcroft will follow existing law in his law enforcement capacity, there is no reason to believe in this capacity what he did in the Senate will be any different than what he does as Attorney General. And, as Attorney General, of course, he will have significantly more power and the same largely unbounded discretion in influencing who becomes a Federal judge—much more than he did as a Senator. As a Senator, he was willing to fully flex his ideological muscle and use power over nominations in a disturbing and divisive way.

In my 2 years in the Senate, the Ronnie White vote, led by Senator Ashcroft's decision to use the Republican caucus to kill the nomination, was the bleakest, most divisive and destructive moment I have experienced in my short stay in the Senate. It was a moment utterly lacking in—to use our President's words in his inaugural—civility, courage, compassion, and character.

But the Ronnie White nomination was just the most visible attempt by Senator Ashcroft to kill a nomination. The list goes on and on: Fletcher, Satcher, Lann Lee, Morrow, Sotomayor, Paez, Dyk, Lynch, Hormel—and there are others.

In just one term in the Senate, Senator Ashcroft devoted himself to opposing—and when possible scuttling and derailing—any nominee, no matter how well qualified and respected, who was in some way objectionable to his world view. It is virtually an inescapable conclusion that with the new power he would have over the selection of judges, Senator Ashcroft would seek out those who agree with his passionate views on choice and civil rights, on a separation of church and state, and gun control, among other issues, when he reviews judges.

I urge my colleagues to read the short article called ''Judicial Despotism'' that Senator Ashcroft wrote a few short years ago. This was not something written 25 years ago when he was a young man forming his views. In ''Judicial Despotism,'' he vows to stop any judicial nominee who would uphold Roe v. Wade. Nothing could be more results oriented. In the hearings, Senator Ashcroft said he would be law oriented, not results oriented, but this is as results oriented as it gets.

If he is confirmed, I pray that more moderate souls prevail in the selection of judges. But as it now stands, this nomination poses an enormous threat to the future of the Federal judiciary, and I would oppose the nomination for that reason alone.

As I said when I started, this is a sad day—not a day for exultation, for happiness, for parades. It is sad when the Nation is divided. It is sad when a man who has served so long is the focal point of such intense opposition. It is sad when those of us who want to support a new President cannot. It is sad when, as a nation, a nation trying to bind itself together, we find salt thrown in those wounds.

I just hope, and I believe, that we will have better days to look forward to.

Mr. President, I yield the floor.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

PROVIDING FOR AN ADJOURNMENT OF THE HOUSE OF REPRESENTATIVES

Mr. HATCH. Mr. President, as in legislative session, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 18, an adjournment resolution, which is at the desk. I further ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from West Virginia reserves the right to object.

Mr. BYRD. I thank the Chair. What are the terms of the adjournment resolution?

The PRESIDING OFFICER. The clerk will report the resolution.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 18) providing for an adjournment of the House of Representatives.

Mr. HATCH. It only affects the House and takes them out until next Tuesday.

Mr. BYRD. I thank the Senator. I have no objection.

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

The concurrent resolution (H. Con. Res. 18) was agreed to, as follows:

H. CON. RES. 18

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Wednesday, January 31, 2001, it stand adjourned until 2 p.m. on Tuesday, February 6, 2001.

NOMINATION OF JOHN ASHCROFT TO BE ATTORNEY GENERAL OF THE UNITED STATES—Continued

The PRESIDING OFFICER. The Senator from West Virginia, Mr. BYRD, is recognized.

Mr. BYRD. I thank the Chair.

Mr. President, I daresay that each of us has received an enormous amount of correspondence and a plethora of phone calls about the nomination of Senator John Ashcroft to be Attorney General of the United States.

The favorable correspondence tends to emphasize support for the Senator's policy priorities and appreciation of his reputation for honesty and integrity.

The unfavorable correspondence tends to emphasize concern about the Senator's policy priorities and disapproval of the standards that he applied as a United States Senator and in previous offices that he held, but particularly to the standards he applied with regard to the disposition of Presidential nominations.

Mr. President, I speak today for myself as a Senator from the State of West Virginia, as one who has sworn an oath 16 times to support and defend the Constitution of the United States against all enemies foreign and domestic.

I have heard arguments pro and con with respect to this nomination. I am not here to argue the case at all. I am here merely to express my support for the nomination of John Ashcroft to be Attorney General of the United States. I will not fall out with anyone else who differs from my views. As I say, I am not here to debate my views. I know what my views are. I am going to state them, and they will be on the record. I do not fault anyone else on either side of the aisle or on either side of the question. This is for each Senator to resolve in his or her own heart and in accordance with his or her own conscience.

With respect to that provision in the U.S. Constitution, investing in the U.S. Senate the prerogative, the right, and the duty of advising and consenting to nominations, I find no mandate as to what a standard may be. I am not told in that Constitution that I can or cannot apply a standard that is ideological in nature. I have no particular guidance set forth in that Constitution except exactly what it says. And I am confident, without any semblance of doubt, that as far as ability is concerned to conduct the office of Attorney General, there can be no question about Senator John Ashcroft's ability to conduct that office.

He has held many offices. He has been a Governor of the State of Missouri. He has been a United States Senator. He has been an attorney general of the State of Missouri and, as I understand it, he has been the chairman—I may not have the title exactly right—of the National Association of Attorneys General of the United States. These are very important offices. They are high offices. They are offices that reflect honor upon the holder thereof.

To have been selected for these high offices, John Ashcroft must have enjoyed the respect and the confidence of the people of Missouri and of his colleagues, other Attorneys General throughout the United States.

I, myself, do consider ideology when I consider a nominee, for this office, Attorney General, and in particular for the offices of Federal district judgeships or appellate judgeships, and U.S. Supreme Court Judgeships; yes, I do. I apply my own standards of ideology, and lay them down beside the record, if there be such, of a nominee. And I may reach a judgment based on ideology.

I have no problem with others who want to apply the criterion of ideology. I have no problem with those who say it should not be applied. This is for each Senator to determine.

It is our understanding, based on Senator Ashcroft's record, certainly based on news reports, and other sources from which we might reach a judgment, that Senator Ashcroft is a conservative. I personally have no problem with that. I consider myself a conservative in many ways; in some ways a liberal.

This nomination has been heatedly debated. There have been great and strong passions exhibited. That is all right. I do not have any problem with that. I am glad that Members of the Senate take a matter such as this so seriously. We can feel strongly about these things

I happen to be a Senator who believes that when it comes to judges, they ought to be conservative. I think that if there is going to be a department of our Government that wishes to be liberal, then that is up to the people, if they wish to elect persons with liberal outlooks, liberal philosophies, to the U.S. Senate or to the House of Representatives—the legislative branch. It is up to the people.

The Chief Executive may be a liberal; he may be a conservative; or he may be both liberal in one instance, conservative in another. Who knows what liberal is and what conservative is? The beauty is in the eye of the beholder—in many instances, certainly. But in my own eye, looking at ROBERT BYRD—and who can see ROBERT BYRD from within?

There is a poem—''Just stand aside and see yourself go by.'' I try to look at myself every now and then, especially as I pass the mirror.

When you get all you want in your struggle for pelf
And the world makes you ''King'' for a day
Then go to a mirror and look at yourself
And see what that guy has to say.
For it isn't your father, or mother, or wife
Whose judgment upon you must pass
The fellow whose verdict counts most in your life
Is the [man looking] back from the glass.

But as I see myself, I consider myself to be a liberal on economic matters, generally; and a conservative on social matters. Newspapers indicate that the vehemence of the opposition to this nomination is, in a measure, for the purpose of sending a ''shot across the bow'' of the Executive, so that in the future when it comes to Supreme Court nominations, the President will be very careful not to send up a conservative.

I do not have a very big gun, but my little shot across the bow would be: Mr. President, send us conservative judges. That is the one department of the Government that I think should be conservative. It should not make the laws. It should not consider itself a perpetual and traveling constitutional convention. It should construe the Constitution and the laws that the legislature makes.

The President was elected as a conservative. He did not get my vote, but he was elected as a conservative. I think that when it comes to the appointment of Federal judges, I hope he will nominate conservatives. That is what he ought to do. He told the people he was conservative; and they should expect that of him.

But entirely aside from that—and this Senator speaks only for himself in this regard—I think appointments to the Federal bench should be of a conservative bent. Judges have no business trying to make the laws.

As far as I am concerned, any other Senator may apply his own standards and say whatever he wants to. I only have to answer for one person, and that is the old boy looking back from the glass when I pause in front of the mirror.

I have heard no Senator indicate opposition to the nominee on the basis of the nominee's religion. I have heard none. But there have been a few little insinuations in some newspapers, in the columns, to the extent that part of the opposition to this nominee may be on the basis of his being a Christian, his adhering to the Christian religion.

Mr. President, I salute the nominee for being someone who has a religion. I think more public officials should have a strong religious bent, and should be willing to enunciate their faith, whether it be Methodist, Jewish, Catholic, Muslim, Baptist, whatever. That is fine.

I am glad that there are people who bring to the realms of government a religious faith. We need more of that. One does not need to be driven into the closet because he has religious faith. One should not allow himself to be driven in the closet. I do not attempt to foist my faith on others, but I can listen to any of them when it comes to their prayers. I can listen—listen—with respect, and I can hear what they say.

I have a son-in-law who is from Iran. He grew up in a family of devout Muslims. Five times a day did my son-in-law's father look toward Mecca and pray. I could have no better son-in-law, none better. I am proud of him. It does not matter to me what a man's religion is. It matters more that he has a religion. It is like the rules of the Senate. It does not matter so much what a rule of the Senate is. What matters most is that there be a rule to go by.

In this regard, I remember the beginning days of the Continental Congress in 1774. That First Continental Congress met on September 5, 1774. The next day, one of the members—it may have been Cushing or Clark, Cushing of Massachusetts or Clark of New Jersey—stood to his feet and moved that there be prayer at the beginning of each session. John Jay, who was an orthodox Congregationalist, objected, as did, I believe, John Rutledge of South Carolina, objected on the basis that this might cause some dissension, some argumentation, so on.

Whereupon Samuel Adams—the real firebrand of the Revolution, along with Patrick Henry—stood to his feet and said: I am no bigot. I can hear a prayer by any of them.

He, too, was a Congregationalist. I could listen to any of them, Adams said. ''I move that Mr. Duche, an Episcopalian clergyman, desired to rend prayers to the Congress tomorrow morning.''

I feel the same as did Samuel Adams. I can listen to any of them. We all stand before one God, and he will be our judge. Whether I am a Methodist or Baptist or Episcopalian or Catholic or Jew won't put me at the head of the line. It is my belief in that Creator, the use of my talents as he gave them to me, and my own conscience that will count.

I am for Mr. Ashcroft. I praise him, if he has a religion that he is willing to stand up for. I am not suggesting that he is going to use that in one way or the other as he has to deal with problems that will come before him as Attorney General, but I would much rather believe a man who puts his hand on that Bible and swears to support and defend the Constitution of the United States against all enemies foreign and domestic, I would feel safer believing that that individual will adhere to his oath than I will have faith in an individual who has no manifestation of religion whatsoever or who has no religion.

Here is a man who puts his hand on the Bible, the book our fathers and mothers read, and swears an oath before Almighty God and man. When he says that while he was a Senator he enacted laws but when he becomes Attorney General he won't enact laws any longer, he will enforce the laws, I should think that it would be cynical not to take that man at his word. What else can we demand? A pound of flesh?

I take him at his word. He is a conservative. I am a conservative. He may be to my right on some issues. That is neither here nor there. He will have sworn that he will uphold, support, and defend the Constitution, that he will enforce the law as he found it. I shall believe him.

I wonder if Hugo Black would be confirmed by the Senate in today's political environment. He was confirmed by the United States Senate prior to the revelation that he had been a member of the Ku Klux Klan. He had already been confirmed before that revelation appeared in the Hearst papers in 1937. That is the year in which I married my wife, Erma, 1937. He had already been confirmed.

But there was an effort to have the Supreme Court reject him after that information came to light, but the Supreme Court denied that petition. I am sure that in light of his past, had it been known when the Senate confirmed him, Hugo Black may never have had the opportunity to be the great jurist that he became. So we cannot always look at a person's past and make an accurate judgment. And who am I to look at anybody's past? Look at my own. Someone has said that no man's past will bear looking into. I think it is probably true.

We are talking here in regard to Mr. Ashcroft's past positions on various issues. But when he took those positions, he took them not as Attorney General of the United States, not as one who enforces the laws of the United States.

As a legislator now for 54 years, going on 55, I have taken many controversial positions on issues. I think I would be constitutionally capable of

putting aside my opinions, as I have expressed them in the past—and many of mine have been very strongly expressed—I would be capable, I would like to think, of putting those aside and enforcing the laws of the land without fear or favor, hewing to the line, if called upon to be the Attorney General of the United States. It was never a job I would want. I think Mr. Ashcroft can do that.

The Constitution merely states that the President shall appoint public ministers with the advice and consent of the Senate.

As I say, this is not a specific standard, nor even a mandate to review particular features of the nominee's background or capabilities. Rather, we are enjoined to employ our judgment, a faculty which—however much we may lament it—focuses on different factors in considering nominees for different public offices and varies its approach in response to the needs of the times. Thus, when it comes to our duty to provide advice and consent on Cabinet nominations, we are plainly in an area where reasonable minds can differ, not only about the criteria, but even about the proper result given particular criteria. No amount of pressure politics—and no slickly packaged talking points—can alter this fundamental fact.

I do not subscribe to the view that, barring the taint of criminality or dishonesty, the President is entitled to have his nominations confirmed. I do not subscribe to that view. That is not what the Constitution says. I do subscribe to the view that law enforcement officials of good will and ability can separate their policy preferences from the performance of their official duties.

There is a distinct difference between the role of a Senator as the drafter of laws and the role of the Attorney General as the enforcer of laws. Once Senator Ashcroft places his left hand on the Bible and swears to uphold the laws of the United States, he will be required to enforce even those laws about which he harbors serious reservations. Not only that, but given the fact that John Ashcroft is as I said, is reputed to be a deeply religious man.

I know not whether he is or isn't. I have never been one who has been close to Mr. Ashcroft. I never served on any committee with him. My conversations with him have been very, very few.

He and I have not voted alike on many occasions. So I don't come here today supporting Mr. Ashcroft because I know him well, or because we have been bosom friends, or because we served on committees together, or even because he is a U.S. Senator. But I believe that that solemn vow will be taken seriously by him.

I am attempting to discharge my duty under the Constitution. That is the way I see it.

Let me quote Senator Ashcroft's own words on that subject: ''As a man of faith, I take my word and my integrity seriously,'' he said. ''So, when I swear to uphold the law, I will keep my oath, so help me God.''

What more can I ask? Shall I go behind these words and dig up what he might have written on this subject or that subject? Those who feel differently may do so. But in this case, all things being considered, I have reason to believe that when he says he is a man of strong religious faith, he means what he says when he takes the oath. I believe him.

During his confirmation hearings, he stated that he understands this obligation and fully intends to honor it. For example, he indicated that he ''will vigorously enforce and defend the constitutionality'' of the law barring harassment of patients entering abortion clinics, despite any misgivings he might have about that law.

I take him at his word. Although, I do not agree with all of Senator Ashcroft's views, as I have already indicated, I have no cause to doubt Senator Ashcroft's word or his sincerity regarding his fealty to an oath he will swear before God and man.

As far as I am personally concerned, it would be an act of supreme arrogance on my part to doubt his intention to honor such an oath. I will not prejudge him in such a manner.

Given Senator Ashcroft's background, the position to which he has been nominated, and his assurances to the Senate that he will faithfully uphold the laws of the United States, I believe he should be confirmed.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, thank you.

Mr. President, we have heard a lot said by my Republican friends and others that Senator Ashcroft's nomination is opposed by ''hard left'' or ''extremist'' groups who are ''far out of the mainstream'' of American politics. I see a pretty broad group here in these extreme or out of the mainstream groups. I will read for the RECORD the names of those who oppose this nomination.

Alliance for Justice, AFL–CIO, American Federation of Teachers, American Federation of State, County and Municipal Employees, American Jewish Congress, Americans United for Separation of Church and State, Asian Pacific American Labor Alliance, Baptist Joint Committee, California Teachers Association, Campaign for Tobacco Free Kids, Coalition to Stop Gun Violence, Friends of the Earth, General Board of Global Ministries of the United Methodist Church, Handgun Control, Hispanic Bar Association of the District of Columbia, The Interfaith Alliance, Japanese American Citizens League, Justice Policy Institute, Leadership Conference on Civil Rights, National Asian Pacific American Legal Consortium, National Consumers League, National Council of Jewish Women, National Council of Juvenile and Family Court Judges, National Education Association, National Rehabilitation Association, National Voting Institute, Organization of Chinese Americans, Inc., Sierra Club, United Auto Workers, US Action, Victims Rights Political Action Committee, Violence Policy Center, Youth Law Center.

I ask unanimous consent that this more complete list of the organizations and individuals opposing this nomination be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GROUPS OPPOSED TO THE NOMINATION OF JOHN ASHCROFT

AIDS Action, AFL–CIO, Alliance for Justice, American Association of University Women, and ACLU.

American Federation of Teachers, American Federation of State, County and Municipal Employees, American Jewish Congress, Americans for Democratic Action, and Americans United for Separation of Church and State.

Asian Pacific American Labor Alliance, Baptist Joint Committee, Bar Association of San Francisco, California Teachers Association, and Campaign for Tobacco Free Kids.

Center for Reproductive Law and Policy, Coalition to Stop Gun Violence, Common Cause, Common Sense for Drug Policy Legislative Group, and Democracy 21.

Earth Justice Legal Defense Fund, Feminist Majority, Friends of the Earth, General Board of Global Ministries of the United Methodist Church, and Handgun Control.

Hispanic Bar Association of the District of Columbia, Human Rights Campaign, The Interfaith Alliance, Japanese American Citizens League, and The Justice Policy Institute.

Lambda Legal Defense and Education Fund, Inc., Lawyers Committee for Civil Rights Under Law, Leadership Conference on Civil Rights, Mexican American Legal Defense and Educational Fund, and Missouri Legislative Black Caucus.

Mound City Bar Association, NARAL, NAACP, National Office, NAACP, St. Louis Branch, and NAACP, Mississippi State Conference.

National Abortion Federation, National Asian Pacific American Legal Consortium, National Asian Pacific American Bar Association, National Association of Criminal Defense Lawyers, and National Black Women's Health Project, Inc.

National Coalition Minority Businesses, National Consumers League, National Council of Jewish Women, National Council of Juvenile and Family Court Judges, and National Education Association.

National Family Planning and Reproductive Health Association, National Voting Rights Institute, NOW Legal Defense Fund, National Partnership for Women & Families, and National Rehabilitation Association.

National Task Force on Violence Against Health Care Providers, National Voting Institute, National Women's Law Center, Organization of Chinese Americans, Inc., and People for the American Way.

Physicians for Social Responsibility, Planned Parenthood, Public Campaign, Rainbow Push Coalition, Religious Coalition for Reproductive Choice, and St. Louis Black Leadership Roundtable.

Schiller Institute, Sierra Club, Texas Legislative Black Caucus, UAW, US Action, and Victims Rights Political Action Committee.

Violence Policy Center, Voters for Choice, Wisconsin Legislative Black & Hispanic Caucus, Women's International League for

Peace and Freedom, Women's National Democratic Club, and Youth Law Center.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, when the roll is called on the nomination of John Ashcroft to Attorney General of the United States, I will vote ''no.''

The position of Attorney General is not comparable to other Cabinet positions. As head of the Department of Justice, the Attorney General has enormous independent responsibility and authority, neither of which is subject directly to direction by the President.

The Attorney General also has enormous discretion in choosing where to use the power to prosecute and when to go to court to assert the rights of the People. Historically, the Attorney General is the officer who has enforced the Voting Rights Act and the other civil rights laws which have transformed our nation for the better in the last half century.

Given the great power which has been lodged in this office, it is important that the American people have confidence in the fairness and impartiality of the occupant of that office. It is clear to me that many in our country lack that confidence in John Ashcroft. His past actions and statements raise legitimate concerns about how he would carry out the duties of Attorney General. It is those legitimate concerns that lead me to oppose his nomination.

What are those concerns?

Other Senators have cited actions and statements which they find objectionable. I will mention three.

First, the decision to oppose Judge Ronnie White's nomination to the U.S. District Court for Missouri. In my view, the decision to oppose Judge Ronnie White was both unfortunate and unfair. Judge White's record and views were distorted in the debate on the Senate floor. Perhaps even more disturbing was the way in which Senator Ashcroft determined to oppose Judge White's nomination. Each of us here in the Senate knows that we have ample opportunity to voice objections about judicial nominees from our own state long before a nomination ever reaches the Senate floor. In the case of Judge White, Senator Ashcroft chose to delay serious objection to Judge White until the question came before the full Senate for debate. During that debate, Judge White, the highest ranking African-American jurist in Missouri, was publicly humiliated. This treatment was anything but fair. It was a sad day in the United States Senate.

A second reason for my opposition to Senator Ashcroft's nomination is his implacable opposition to the appointment of Bill Lann Lee to head up the Civil Rights Division at the Justice Department in the previous administration. Senator Ashcroft's opposition was clearly based on Mr. Lee's support for upholding the nation's laws as they pertain to affirmative action. Mr. Lee testified that he would enforce the Supreme Court's rulings on affirmative action, including those that restricted affirmative action. Senator Ashcroft opposed Mr. Lee's nomination, presumably because he feared that Mr. Lee would actually uphold the law of the land in that regard.

The third reason for my vote will be Senator Ashcroft's opposition to James Hormel as President Clinton's choice to be Ambassador to Luxembourg.

I have never met Mr. Hormel. I was not involved in the committee deliberations on that nomination, but as far as I can determine, Mr. Hormel was opposed because of his admission that he is gay. No other credible explanation for opposing Mr. Hormel has been offered of which I am aware.

It is my view that the person entrusted with responsibility to fairly and evenhandedly administer the law should not be suspected of discriminating against any nominee on that basis.

Other actions and statements could be cited, but I will stop with those three. They are, in my view, legitimate concerns, and in my view those concerns require a vote against Mr. Ashcroft to be our next Attorney General. The position of Attorney General is far too important to our Nation. Our Nation is one that needs to be united rather than further divided at this point in our history. I do not believe he is the right person for this job.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. LEAHY. Mr. President, I ask unanimous consent to have printed in the RECORD a number of editorials regarding his nomination from the New York Times, USA Today, the Akron Beacon Journal, St. Louis Post-Dispatch, and the Pittsburgh Post-Gazette.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Jan. 27, 2001]

WHAT ASHCROFT DID

(By Anthony Lewis)

BOSTON.—Even some conservatives are embarrassed now by the way Senator John Ashcroft killed the nomination of Ronnie White to be a federal judge. He told his Republican colleagues that Judge White, of the Missouri Supreme Court, had shown ''a tremendous bent toward criminal activity.'' It was a baseless smear.

But it was not just dirty politics. It was dangerous, in a way that casts doubt on Senator Ashcroft's fitness to be attorney general.

Judge White was attacked by Senator Ashcroft because, in 59 capital cases before the Missouri court, he had voted 18 times to reverse the death sentence. In 10 of those 18 the court was unanimously for reversal. Senator Ashcroft hit at cases in which Judge White dissented.

For appraisal of Judge White's record in those cases I rely on Stuart Taylor Jr. of The National Journal, a conservative who is widely respected as a legal analyst. He wrote: ''The two dissents most directly assailed by Ashcroft in fact exude moderation and care in dealing with the tension between crime-fighting and civil liberties.''

One of the dissents was in a horrifying murder case—the murder, among others, of a sheriff. Mr. Taylor wrote that Judge White's ''conclusion was plausible, debatable, highly unpopular (especially among police) and (for that reason) courageous. For John Ashcroft to call it 'pro-criminal' was obscene.''

In short, a judge who wrote a thoughtful, reasoned dissent in a murder case was told that it disqualified him for a federal judgeship. Think about what that means for our constitutional system.

Judicial independence has been a fundamental feature of the American system for 200 years and more. We rely on judges to enforce the Constitution: to protect our liberties. But a judge who does so in a controversial case is on notice from John Ashcroft that he may be punished. The judge must reject the constitutional claim, however meritorious, or face a malicious smear.

There is a slimy feel to Senator Ashcroft's behavior with Judge White. One of the Republicans who voted against the judge at Senator Ashcroft's urging, Arlen Specter of Pennsylvania, told Judge White the other day, ''the Senate owes you an apology.'' Commentators have urged Senator Ashcroft to apologize, but he has refused.

That same sense of slipperiness is evident in another matter: Senator Ashcroft's role in blocking the nomination of James Hormel to be ambassador to Luxembourg in 1998. Mr. Hormel is gay. Senator Ashcroft explaining his opposition, said Mr. Hormel ''has been a leader in promoting a lifestyle,'' and that was ''likely to be offensive'' in Luxembourg.

But 10 days ago, when Senator Patrick Leahy, a Democrat of Vermont, asked whether he had opposed Mr. Hormel because he is gay, Senator Ashcroft replied, ''I did not.'' Why, then, had he opposed the nomination? Senator Leahy asked.

''Well frankly,'' Senator Ashcroft replied, ''I had known Mr. Hormel for a long time. He had recruited me, when I was a student in college, to go to the University of Chicago Law School [where Mr. Hormel was then an assistant dean]. . . . I made a judgment that it would be ill advised to make him an ambassador based on the totality of the record.''

After that testimony, Mr. Hormel wrote Senator Leahy that he had not ''recruited'' Mr. Ashcroft or anyone to Chicago, which needed no recruiting; that he could recall no personal conversation with Mr. Ashcroft then and had not seen him for nearly 34 years. He added that he had asked to talk with Senator Ashcroft in 1998 about the Luxembourg nomination but had gotten no response.

Trying now to appear as someone who will act equitably to all, Senator Ashcroft was not man enough to admit that he had opposed Mr. Hormel because of his sexual orientation. He resorted instead to the false suggestion that he was well acquainted with Mr. Hormel over decades and his ''record'' was bad.

Supporters of Senator Ashcroft say it is improper to object to him because of his ideolgy—a president should be free to have cabinet members of whatever ideology he chooses. Even with the greatest latitude for

the cabinet, Senator Ashcroft's extreme-right politics make him a dubious choice for attorney general. But what makes him, finally, unfit for the job is that, in Stuart Taylor's words, ''A character assassin should not be attorney general.''

[From the USA Today, Jan. 26, 2001]

ASHCROFT RIGHTS RECORD BEARS CAREFUL WATCHING

OUR VIEW: HIS TESTIMONY SAID ONE THING; HIS RECORD ANOTHER

When Senate Democrats forced postponement of a vote Wednesday on a confirmation of John Ashcroft, it was less a victory than a delay of the inevitable. Ashcroft will be attorney general. But whether Ashcroft will perform that office's most vital role—protecting citizens against abuses of power they can't combat themselves—remains very much in doubt.

History has shown this to be the most lasting accomplishment of many attorneys general. Herbert Brownell Jr., who served Dwight D. Eisenhower, advised federal intervention when the doors to a Little Rock school were barred to the first black students. As John F. Kennedy's attorney general, Robert Kennedy led the government's fight against racial violence in the South. And most recently, Janet Reno worked to assure women their constitutional right to an abortion free from threat or violence.

There will be quick and ample opportunity for a confirmed Ashcroft to show such leadership on everything from voting to abortion rights. But the troubling questions remain: Will the nation get the man of measured views portrayed at his recent confirmation hearings? Or the ferocious ideologue who served in the Senate and as Missouri's attorney general and governor?

Ashcroft said all of the right things about being willing to uphold the law. But grudgingly upholding it and actively fighting for it are very different. Ashcroft's long public record raises questions about his commitment, which were enhanced at hearings last week when he distorted, evaded and strained credulity in key areas, particularly civil rights:

Fighting integration. Ashcroft has shown no inclination to fight for civil rights and indeed battled for years against a voluntary St. Louis busing plan that grew out of a lengthy court case. Assertions at last week's hearings that he favors integration were undercut when he twisted his own record.

Ashcroft told senators that Missouri was not a party to the desegregation lawsuit, that it was ''found guilty of no wrong'' and that when ''the court made an order, I followed'' it. All distortions. The state was sued in 1977, Ashcroft's first full year as attorney general. Judges repeatedly found state officials liable, once calling them ''primary constitutional wrongdoers.'' A federal judge threatened contempt proceedings against the state for defying orders. And in 1984, another judge wrote, ''if it were not for the state of Missouri and its feckless appeals, perhaps none of us would be here.''

Meanwhile, according to news accounts, Ashcroft rode the case to higher office: He bragged about his unbridled opposition and the threatened contempt citation. And he ran a scathing TV ad suggesting that a GOP primary opponent was too soft on busing.

Insensitivity on race. Ashcroft's Missouri history doesn't mean he's an overt racist. Money was at issue as well as integration in the St. Louis case. But he certainly seems indifferent to minority concerns. Given ample opportunity to explain his acceptance of an honorary degree from Bob Jones University, a bastion of racial bias, and his praise for a neo-Confederate magazine, Ashcroft offered limp evasions. He ''should do more due diligence'' on the magazine, he said, and he'll continue to speak at places here he can ''unite people.'' That doesn't sound like a man who would use the power of his office to fight racial bias.

Ideology over justice. Ashcroft, who ferociously opposed several Clinton nominees with whom he differed ideologically, displayed no better sense of fairness even as he sought Senate approval.

He repeated his harsh attack on an African-American Missouri Supreme Court judge, whom he had labeled ''pro-criminal.'' Ashcroft torpedoed the judge's 1999 nomination to the federal bench even though the judge voted to uphold 70% of the death sentences he reviewed. Also, Ashcroft evaded specific questions about opposition to Clinton nominee James Hormel as ambassador to Luxembourg. According to news accounts, Ashcroft criticized Hormel, a gay businessman, for supporting ''the gay lifestyle.''

Presidents get, and in most cases deserve, wide latitude to pick a top team that reflects their philosophy, but that comes with a price: They bear responsibility for their appointees' actions. President Bush, who can't afford to offend minority voters by abandoning civil rights, may hold tight rein on the Justice Department. Moreover, much will depend on those named to key jobs just below attorney general, particularly the department's civil rights chief. Those nominees deserve particular scrutiny.

Ashcroft himself faces several early tests of his commitment to fairness. He'll decide whether the U.S. government pursues allegations of voter discrimination in Florida in the presidential election. He'll help determine whether race has been used wrongly to draw new congressional districts nationwide. He'll play a major role in picking new federal judges and potentially Supreme Court justices. And he'll influence the nation's stand on future restrictions on abortion and on the use of race in government hiring and college admissions.

If Ashcroft indulges ideology over fairness, Bush will surely pay the price. But so, too, would Americans who most need the law's protection. That would be the real tragedy.

[From the Akron Beacon Journal, Jan. 24, 2001]

THE PRESIDENT'S MAN—THE UGLY STORY OF THE RONNIE WHITE NOMINATION REVEALS WHAT A DISAPPOINTING CHOICE GEORGE W. BUSH HAS MADE

Trent Lott has declared that John Ashcroft will easily win confirmation as attorney general. The Senate Judiciary Committee was expected to vote today. That has been postponed. Still, the forecast of the Senate majority leader will likely prove true in a week or two. A majority of senators will consent to the choice of George W. Bush.

A president deserves to surround himself with Cabinet officers and advisers in whom he has confidence. That is part of even the slenderest mandate a president may win. It ensures that responsibility for an administration falls on the person who occupies the Oval Office.

Those who've described the confirmation hearings on the Ashcroft nomination as among the toughest ever forget the raucous sessions over Clarence Thomas and Robert Bork, to name just two. The politics involved have been plain. The president hoped to reassure arch conservatives with his choice. Liberal interest groups have kept their own lists, noting the performance of Democratic allies in the Senate.

All of the clatter might have been dismissed as business as usual until Ronnie White, the first black man to sit on the Missouri Supreme Court, testified at the confirmation hearing. Bill Clinton appointed White to a position on the federal district court. In 1999, Sen. Ashcroft, a fellow Missourian, almost singlehandedly defeated the White nomination, and the way he did so raises questions about his judgment.

Ashcroft misled his colleagues. He rallied law enforcement organizations to oppose the White nominations, all the while leaving the impression they had come forward on their own. He grossly distorted the White record, describing the judge as ''pro-criminal'' and ''with a tremendous bent toward criminal activity.'' He painted the portrait of a judge determined to reverse death sentences.

In truth, White voted to uphold the death penalty in 41 of 59 cases before the Missouri high court. He sided with the majority in 53 of those cases. Ashcroft defended his opposition last week, arguing that he considered the ''totality'' of the judge's record. If anything, that record, as White quietly and powerfully made obvious, has reflected sound reasoning and a dedication to the law (as many police groups acknowledge).

Sen. Arlen Specter, a Pennsylvania Republican, felt the duty to apologize to White for the way he had been treated. The judge framed the issue of Ashcroft's nomination: ''The question for the Senate is whether these misrepresentations are consistent with the fair play and justice that you all would require of the U.S. attorney general.''

The White nomination doesn't tell the entire story of John Ashcroft. As a former state attorney general, governor and senator, he is highly qualified to lead the Department of Justice. He has governed from the center and with integrity, enforcing the law whether he has agreed with its direction or not.

His zealotry has also been front and center. He has yet to explain clearly his opposition to James Hormel to be ambassador to Luxembourg, except to suggest that he was offended because the nominee was gay. He persisted in playing racial politics with a lengthy school desegregation case in St. Louis.

The Ashcroft record raises the question: Why didn't George W. Bush nominate someone else to be attorney general, someone who better reflected the themes of his inaugural address, conservative, yes, but far less polarizing and tempted by expediency? Fair play? Justice? John Ashcroft is the president's man.

[From the St. Louis Post-Dispatch, Jan. 25, 2001]

A QUESTION OF FITNESS

ATTORNEY GENERAL

John D. Ashcroft has spent the better part of his political career at odds with core values of the Constitution—equality, religious freedom, judicial independence and individual autonomy. Now he is nominated to be the people's guardian of those values. The conflict between his record and the duties of the office raises serious questions as to whether John Ashcroft should be confirmed as attorney general.

Disagreeing with Mr. Ashcroft is not reason enough to oppose him. Presidents are entitled, generally, to their pick of Cabinet members. if Mr. Ashcroft were the nominee for secretary of agriculture there would be no problem. But the attorney general vets federal judges, enforces civil rights laws, safeguards the reproductive rights of women and determines the legal position of the United States.

Can Mr. Ashcroft fairly vet federal judges when he believes the judiciary is full of ''renegade judges'' who have created a ''judicial tyranny'' where courts are ''nurseries for

vice?'' Can he guard judicial independence when he has repeatedly denied judgeships for political reasons? Can he enforce the civil rights laws when he has doggedly fought school desegregation, affirmative action and gay rights? Can he protect women seeking abortions when he considers abortion murder?

John Ashcroft is indisputably a man of principle. The problem is those principles put him at odds with the Constitution, with contemporary notions of equality and with the mainstream of the American public.

JUDICIAL INDEPENDENCE

Judicial independence is the rock that anchors our judiciary. But Mr. Ashcroft has undermined independence with his attacks on judicial nominees.

Mr. Ashcroft's hostility to judicial independence is an important lesson of the much-told story about his opposition to Ronnie White as a federal judge. Mr. Ashcroft may have been motivated by a feud with Mr. White over abortion policy. But by basing his attack on Judge White's death penalty decisions, Mr. Ashcroft sent a chill through the ranks of state judges hoping to be promoted to the federal bench. Mr. Ashcroft said Mr. White was ''pro-criminal'' because he had voted to overturn death sentences. In fact, Mr. White had upheld 35 of the 55 death sentences.

Mr. Ashcroft focused on Judge White's lone dissent to the conviction of James R. Johnson in the gruesome murder of a sheriff, two sheriff's deputies and a sheriff's wife. Judge White spoke of his ''horror at this carnage'' and said Johnson ''deserved to die'' if he was not insane. But he concluded that Johnson's lawyer was so incompetent that he had not received effective counsel.

A lone dissent in the case that arouses such public passion is the essence of judicial independence. Charles Blackmar, a retired Supreme Court judge, called Mr. Ashcroft's attack ''tampering with the judiciary.''

Mr. White is not a perfect man, nor is he the nation's keenest jurist. But he upheld the highest values of a judge in his dissent. Will Mr. Ashcroft reject for the federal bench those judges with the temerity to overturn a death sentence?

Mr. Ashcroft's record in Missouri raises similar questions. Judicial nominees say that Mr. Ashcroft asked them their views about abortion before deciding whether to nominate them.

CIVIL RIGHTS

Mr. Bush says that Mr. Ashcroft ''has a strong civil rights record.'' As evidence he cites Mr. Ashcroft's appointment of eight African-Americans to Missouri judgeships, a past commendation from the Mound City Bar Association, an endorsement by the Limelight newspaper, his support of Lincoln University and his signing of bills honoring Martin Luther King and establishing Scott Joplin's home as a historic site.

The appointment of eight black judges is a substantive accomplishment. The rest is résumé padding. Mr. Ashcroft was only marginally involved in the Scott Joplin house. The Limelight is a free, marginal publication, by no means the largest or most influential African-American newspaper in St. Louis. The Mound City Bar Association, a black lawyers' group, does not support Mr. Ashcroft because of the ''insidious'' way he killed Mr. White's nomination.

The actual Ashcroft civil rights record is weak and regressive. As state attorney general he denied that the St. Louis schools were segregated. He lobbied members of the Reagan Civil Rights Division to switch sides in the St. Louis school desegregation case, and eventually became the desegregation plan's chief opponent.

That plan offered responsible politicians the chance to support phased, voluntary desegregation. But Mr. Ashcroft insisted on calling it ''mandatory busing'' and leveled a devastating anti-busing TV ad at his opponents in the 1984 governor's race. U.S. District Judge William L. Hungate summed up Mr. Ashcroft's behavior as ''feckless,'' saying he ''voluntarily rode (the desegregation) bus to political prominence.''

In 1997 Mr. Ashcroft led the opposition to Bill Lann Lee, the Asian-American head of the Civil Rights Division. First, he distorted Mr. Lee's position on affirmative action, saying he favored quotas. Then, he said Mr. Lee should be rejected for holding a position at odds with the Supreme Court's, when in fact Mr. Lee favored affirmative action in limited cases where the Supreme Court said it could be used.

In 1999 Mr. Ashcroft accepted an honorary degree from Bob Jones University, a fundamentalist Christian college that banned interracial dating until last March. Mr. Ashcroft's claim that he did not know about the university's discriminatory policies stretches credulity. The college's tax exempt status was a huge controversy during the Reagan administration.

Mr. Ashcroft's civil rights record raises serious doubts about his commitment to ''equal protection'' under the law—a seed of liberty scarified by the flames of the Civil War and brought to fruition by the civil rights movement.

WOMEN AND REPRODUCTIVE FREEDOM

Mr. Bush says Mr. Ashcroft ''has a solid record'' on women's issues, citing his appointment of Ann Covington to the Missouri Supreme Court and his support for money to combat violence against women.

But the Women's Political Caucus ranked Mr. Ashcroft last in the nation for appointing women while he was governor of Missouri. As Missouri's attorney general, he opposed the Equal Rights Amendment. When the National Organization for Women boycotted Missouri for opposing the amendment, he stretched antitrust laws to sue the group.

In every office that he has held, Mr. Ashcroft has fought abortion. He supported a Human Life Amendment even before Roe v. Wade. In his view, Roe and its ''illegitimate progeny have occasioned the slaughter of 35 million innocents.''

As Missouri's attorney general, he personally sought to limit abortion in an argument to the Supreme Court. As governor, he signed the law that led to the 1989 Supreme Court decision that came within one vote of overturning Roe. Mr. Ashcroft has said his top priority is the Human Life Amendment; it would only allow an abortion to save the life of the mother. There would be no exception for rape or incest. Nor could states pass laws permitting abortion. Its tenet that life begins at conception raises questions about the legality of birth control pills, IUDs and the abortion drug RU–486, which Mr. Bush may also seek to restrict.

Mr. Ashcroft has supported a partial birth abortion bill that does not include an exception for the health of the mother, even though the Supreme Court says that exception is required.

Mr. Bush says he does not think the nation is ''ready'' to overturn Roe and says he will focus on bills such as one outlawing partial birth abortion. Mr. Bush and Mr. Ashcroft have also said they will uphold the law protecting women's access to abortion clinics. But Mr. Ashcroft would have ample room as attorney general to advocate positions that would undermine Roe. And he could help pick Supreme Court justices who would read it out of the Constitution.

RELIGIOUS FREEDOM

Organized prayer in the public schools is unconstitutional. The First Amendment says the government can't tell us when or how to worship. Yet Mr. Ashcroft has long supported organized school prayer. He also supports school vouchers, as does Mr. Bush, that would direct large sums of public money to church schools. As attorney general, Mr. Ashcroft would have the lead role in developing the administration's legal arguments in favor of vouchers. His opposition to four decades of Supreme Court decisions raises questions as to whether he believes in the boundary between church and state.

Perhaps, in several hours of testimony before the Senate Judiciary Committee this week, Mr. Ashcroft can explain why the nation should not feel uneasy with his stewardship of values and principles at war with his own. Perhaps he can reassure the American people that he will enforce principles he has spent a quarter of a century—his entire career in public life—fighting. But how could a man swear to uphold constitutional values he rejects, without betraying his own core beliefs? And who would place his trust in a man willing to do so?

Mr. Ashcroft should certainly have a chance to explain how. But if Mr. Bush wanted a uniter, not a divider, he has the wrong man at Justice.

[From the Pittsburgh Post-Gazette, Jan. 24, 2001]

ASHCROFT: STILL NO—SENATE HEARINGS DON'T ALTER THE CASE AGAINST HIM

The Senate Judiciary Committee could vote as early as today on the nomination of former Missouri Sen. John Ashcroft to be U.S. attorney general. Before last week's hearings by the committee, the Post-Gazette suggested that Mr. Ashcroft was the wrong man for the job. Nothing that transpired in the hearings changed our view.

It is true that Mr. Ashcroft, who was nominated by President Bush as a gesture to religious conservatives, assured senators he would enforce laws he didn't agree with. He even made a specific commitment not to seek a reversal of Supreme Court decisions legalizing abortion, which he called ''settled law.''

Almost four years ago, in a lecture to the Heritage Foundation, Mr. Ashcroft had a different description of the high court's abortion rulings. Referring to a 1992 decision reaffirming Roe vs. Wade, he complained that in that ruling ''the Supreme Court challenged God's ability to mark when life begins and ends.'' In the same lecture, he echoed a familiar conservative critique of what he called ''appalling judicial activism.''

As we observed before, the question is not whether Mr. Ashcroft can put aside his history of being an extreme critic of the federal courts and of some of the statutes and court decisions he will have to enforce. The question is why the Senate should force him to perform the intellectual contortions that transformation would require.

In raw political terms, it made sense for George W. Bush, who received significant support from the religious right in his election campaign, to make what one of his aides called a ''message appointment'' that would please that constituency. Senators who see the world differently—like Pennsylvania's Arlen Specter—are under not obligation to follow suit by confirming Mr. Ashcroft.

Yet Mr. Specter went on record early saying he would support Mr. Ashcroft ''unless something extraordinary'' developed in the confirmation hearings. Predictably, no such ''smoking gun'' materialized. Moreover, the witness Ashcroft opponents had most counted on, Missouri Supreme Court Judge Ronnie White, while eloquent, was in some ways a disappointment. Judge White, an African American, declined an opportunity to impute

racism to then-Sen. Ashcroft's disgraceful derailment of his nomination to the federal bench.

But the issue wasn't whether Mr. Ashcroft is a racist. It was that he unfairly distorted Judge White's record by branding him as ''pro-criminal.'' That charge is more understandable in the context of Mr. Ashcroft's general attitude toward judges he considers appalling activists and subverters of the divine will.

There is no need to impugn Mr. Ashcroft's integrity or his legal skills to oppose his nomination. Unlike other Cabinet officers, the attorney general is beholden not just to the president who appoints him but also to a body of law that, in many respects, is uncongenial to John Ashcroft but vital to women, minorities and other Americans who find his demonization of the courts bizarre.

It was symbolism that led President Bush to nominate Mr. Ashcroft; senators who are uncomfortable with that symbolism—Arlen Specter among them, we hope—should reject the nomination.

Mr. HATCH. Mr. President, since we have a lull, I will take a few moments to make some points I think need to be made in light of some of the statements that have been made. We have been placing matters in the RECORD all day, and hopefully people will read the RECORD and realize some of the arguments that have been made are not only inconsequential but really not right.

Let me rise today to address some of the most common criticisms directed against Senator Ashcroft.

Certain allegations have surfaced again and again, and they misrepresent Senator Ashcroft's record and personal character. I will address some of the most invidious of these charges.

The primary criticism cited by my colleagues in opposition to Senator Ashcroft are his involvement with school desegregation and his actions taken against the nominations of Ronnie White and Bill Lann Lee.

First, let me address the criticisms made against Senator Ashcroft's role in the school desegregation cases in St. Louis and Kansas City. There has been a significant distortion of his role in these cases and there are some things that I would like to make clear.

First, John Ashcroft supports integration. He is not against desegregation and said so repeatedly during the four days of hearings and in response to numerous written questions on the subject. Senator Ashcroft testified, ''I have always opposed segregation. I have never opposed integration. I believe that segregation is inconsistent with the 14th amendment's guarantee of equal protection. I supported integrating the schools.'' Senator Ashcroft is deeply committed to civil rights and has stated that he intends to make this one of his top priorities if confirmed as Attorney General.

Second, all of Senator Ashcroft's actions with regard to desegregation occurred in his role as attorney general, as the legal representative of the State of Missouri. As the State attorney general he was required to defend the interest of the State, his client. The State opposed voluntary desegregation because it would lead to incredible costs for the State—estimates put the total cost of desegregation at an incredible $1.8 billion to the State. To put this in perspective, Missouri's fiscal year 2001 budget is $17 billion. At that time it was much less. In other words, he wanted to prevent, as did virtually everybody in government, a judicial raid on the state treasury, something that all of us ought to be concerned about.

Indeed, the combined costs of the St. Louis and Kansas City desegregation plans have been higher than the costs of desegregation in all the other states combined, with the exception of California. Moreover, the way the plan was structured most of the money was funneled to the white suburbs. In 1996, when the total cost of the program was $1.3 billion, only between $100 and $200 million went to the St. Louis schools. That doesn't sound like desegregation to me. Yet that is what these liberals have been arguing for.

The results of these court-ordered remedies have been truly unimpressive. For instance, test scores actually went down from 1990 to 1995. Scores on the Stanford Achievement Test went from 36.5 to 31.1 at a time when the national mean was 50. It doesn't sound like very good desegregation to me. The graduation rate has remained around an abysmal 30 percent. And as far as actual desegregation, the percentage of African-American students in the St. Louis schools has remained almost identical to what it was when the plan started, about 80 percent.

Yet our liberal friends, both in this body and in the outside groups, would have you believe Senator Ashcroft is doing a terrible thing against desegregation and against integration. And they just plain don't accept his very honest statements that he has always been for desegregation and for integration. He has never spoken against them.

It has been suggested that then-Attorney General Ashcroft's lack of enthusiasm for this plan demonstrates insensitivity toward the needs of the students in St. Louis.

It has been suggested that then-Attorney General Ashcroft's lack of enthusiasm for this plan demonstrates insensitivity toward the needs of the students in St. Louis. But given these unimpressive results and extraordinary costs, I think it seems perfectly understandable that many State officials from both political parties have consistently had doubts about this plan. Indeed, Senator Ashcroft's democratic successor as attorney general took the same position on behalf of the State of Missouri.

Third, some of my colleagues have charged that Senator Ashcroft misrepresented his involvement with the desegregation cases. This is also a significant distortion of Senator Ashcroft's responses to a flurry of questions. The Missouri school desegregation cases are extremely complex and involve a variety of different factual and constitutional issues. Perhaps Senator Ashcroft made some preliminary statements that were incomplete, but when questioned further, he clarified his answers. Moreover, in an extended response to a written question, he fully detailed Missouri's liability and involvement with the case.

Senator Ashcroft has acknowledged that the State was found liable for desegregation. However, the State was found liable only for an intra-district violation, that is a violation in the one district of St. Louis. The State was never at any time adjudged liable for an intra-district violation involving the St. Louis suburbs—this is the bottom line of a long and somewhat murky legal record.

The fact that Missouri was never found to have committed an interdistrict violation is easily proved. Consider that throughout 1981 and 1982 the parties and the court were preparing for a trial on the very question of interdistrict liability. It goes without saying that a trial on the point would have been unnecessary if liability had already been determined.

In fact there was never a trial on the interdistrict liability. This trial was averted because the suburban schools and the St. Louis Board of Education agreed to a consent decree. In fact, this settlement was hastened when the district court announced that it would have to consolidate city and county school districts if at trial liability is proved of an interdistrict violation. The threat of consolidating suburban and city school districts was enough to prompt the city and county to reach a settlement agreement, an agreement to which the State was not a party. The consent decree entered by the district court did not contain the necessary finding of liability for an interdistrict violation. Thus, a settlement was reached in which the State was required to pay for an inter-district remedy between the city and county although it had never been found liability of an inter-district violation.

Missouri's arguments on appeal against the district court's order had a strong legal basis. The Supreme Court had previously held in Milliken that a district court must find an interdistrict violation before it can order an interdistrict remedy. Indeed, such a remedy must also be narrowly tailored to fit only the particular constitutional violation. There was no finding of liability here, much less a determination by the court that the settlement met constitutional requirements.

Moreover, the State did not willfully refuse to comply with the district court's orders. What the district court ordered was for the parties to the litigation to enter into a voluntary plan for interdistrict transfers of students to suburban schools. But such a plan was an impossibility because the suburban school districts were necessary parties who were not before the court. No satisfactory plan was likely to be

produced under those circumstances. Indeed, no successful plan was produced until the suburban schools were joined and threatened by the district court directly with being placed by the court into the same school district as the city schools.

The district court did criticize the State, but it did not hold the State in contempt. Probably because the court realized that it had essentially ordered the State and other defendants to perform an impossibility.

Finally, Senator Ashcroft has been criticized for being overly litigious in the desegregation cases. But an electronic search reveals that Senator Ashcroft was actually the least litigious of the attorneys general who represented the State during any significant portion of this litigation. During the 8 years that John Ashcroft was attorney general, there are 18 entries relating to this case.

By comparison, during the 8 years William Webster was attorney general, there are 34 entries. And during the 7 years that Jay Nixon, a democrat, was attorney general, there are 22 entries.

Then-Attorney General Ashcroft did bring several appeals to the district court's action. But this is understandable given that the courts never found the State liable for an inter-district violation. A very key point, by the way. Senator Ashcroft's position on behalf of the State was eventually vindicated in the Kansas City school desegregation litigation. That line of cases culminated in Missouri versus Jenkins—in which the Supreme Court held that an interdistrict violation is required before a Federal court can impose interdistrict remedies.

In sum, Senator Ashcroft was a faithful advocate for the State of Missouri. He defended the interests of all state taxpayers through a series of legally justified appeals. The legal theories he advanced on behalf of the State were eventually vindicated by the Supreme Court. As Missouri attorney general he supported improved educational opportunities for children, not the failed and extremely expensive court-ordered remedies developed by the district court. Senator Ashcroft's actions contesting the details of a complicated court-ordered busing scheme does not mean that he opposed segregation. Quite to the contrary, Senator Ashcroft opposes segregation and supports integration, and he represented his client the State in good faith.

Some remarks have been made about some of the judge's crusty remarks. For those of us who have been in litigation before the Federal courts, we are kind of used to those crusty remarks from time to time. Frankly, because one single Federal judge of the approximately 800 district and Federal judges in this country makes a crusty remark, that should not be interpreted as condemnation of John Ashcroft or any other litigant before the court, nor was there any indication of any kind of censure by the court or contempt proceedings. As a matter of fact, it did not happen. Yet there have been allusions here on the floor that there should have been contempt proceedings. Come on, the law is pretty clear. This has been distorted. It is really offensive to have it distorted in a way that flies in the way of true civil rights, a man who basically has stood up for civil rights throughout his lifetime.

Another topic that has been brought up again and again is Senator Ashcroft's opposition to Judge Ronnie White. Mr. President, I am concerned that some of my colleagues continue to denigrate Senator Ashcroft for his involvement in the nomination of Judge Ronnie White. It has been said that Senator Ashcroft distorted Judge White's record and wrongly painted him as pro-criminal and antilaw enforcement.

But there were many reasons to vote against confirmation for Judge White. In fact, every Republican did so. I have reviewed Judge White's record and several of his dissenting opinions in death penalty cases, and I can understand Senator Ashcroft's opposition to Judge White's nomination to the Federal bench.

For instance in the Johnson case, the defendant was convicted on four counts of first-degree murder for killing three officers and the wife of the sheriff. Johnson was sentenced to death on all counts. On appeal, the Missouri Supreme Court upheld the decision, but Judge White dissented arguing for a new trial based on ineffective assistance of counsel. Judge White thought that Johnson deserved further opportunity to present a defense based on post-traumatic stress disorder. But the majority showed that there was no credible evidence that Johnson suffered from this disorder. Rather, it was clear that defense counsel had fabricated a story that was quickly disproved at trial. For instance, defense counsel stated that Johnson had placed a perimeter of cans and strings and had deflated the tires of his car. At trial, testimony revealed that police officers had taken these actions, not the defendant.

Further, Congressman KENNETH HULSHOF, the prosecutor in the Johnson case testified at Senator Ashcroft's hearings that it was almost impossible to make out an argument for ineffective assistance of counsel because the defendant ''hired counsel of his own choosing. He picked from our area in mid-Missouri what . . . I referred to as a dream team.''

Judge White has every right to pen a dissent in Johnson and other cases involving the death penalty. Similarly, every Senator has the duty to evaluate these opinions as part of Judge White's judicial record. And that's just what Senator Ashcroft did. At no time did Senator Ashcroft derogate Judge White's background.

I consider Judge White to be a decent man with an impressive personal background. He has accomplished a great deal and came up from humble beginnings. But his record of dissenting in death penalty cases was sufficiently troubling to cause Senator Ashcroft and others to oppose the nomination.

Some of our colleagues have impugned Senator Ashcroft's motives for voting against Judge White. But Judge White's nomination was strongly opposed by many of Senator Ashcroft's constituents and also by major law enforcement groups, including the National Sheriffs' Association and the Missouri Federation of Police Chiefs.

Sheriff Kenny Jones, whose wife and colleagues were killed by Johnson testified:

> I opposed Judge White's nomination to the federal bench, and I asked Senator Ashcroft to join me because of Judge White's opinion on a death penalty case . . . In his opinion, Judge White urged that Johnson be given a second chance at freedom. I cannot understand his reasoning. I know that the four people killed were not given a second chance.

Finally, some of my colleagues have alleged that Senator Ashcroft's opposition to Judge White was underhanded and done with stealth. Well, Senator Ashcroft voted against Judge White's nomination in committee. He expressed his disapproval at that time. If he had held up the nomination in committee without allowing it to proceed to the floor he would have been criticized for delay.

Indeed, Senator BOXER pleaded during a debate about several judges including Ronnie White:

> I beg of you, in the name of fairness and justice and all things that are good in our country, give people a chance. If you do not think they are good, if you have a problem with something they said or did, bring it down to the floor. We can debate it. But please do not hold up these nominees. It is wrong. You would not do it to a friend.

Thus, Senator Ashcroft was between a rock and a hard place as how to raise his legitimate concerns about Judge White.

Senator Ashcroft is a man of tremendous integrity, one of the most qualified nominees for Attorney General that we have ever seen. His opposition to Judge White was principled and in keeping with the proper exercise of the constitutional advice and consent duty of a Senator. I regret that we have needed to revisit this issue at such great length.

Now, Mr. President, let me address one final issue that continues to come up. Some critics of Senator Ashcroft have stated that he distorted Bill Lann Lee's record when he was nominated to head the Civil Rights Division. But this is simply not the case. Mr. Lee had a noted record of promoting and preserving race-conscious policies of questionable constitutionality. Opposition to Mr. Lee was not limited to Senator Ashcroft—nine Republicans on the Judiciary Committee opposed this nominee, including myself.

Let me say that I have the highest personal regard for Mr. Lee and the difficult circumstances in which his family came to this country, worked hard, and realized the American dream.

Despite this high personal regard, I was deeply concerned about Mr. Lee's nomination because much of his career was devoted to preserving constitutionally suspect race-conscious public policies that ultimately sort and divide citizens by race. At the time of his hearings, it was clear that he would have us continue down the road of racial spoils, a road on which Americans are seen principally through the looking glass of race.

Senator Ashcroft's principled opposition to Mr. Lee was firmly based in the record. The signs that Mr. Lee would pursue an activist agenda were clear at his hearings. At that time he narrowly defined the rule in Adarand and could not distinguish cases that he would bring as Assistant Attorney General from those he brought in the NAACP Legal Defense Fund.

Some have alleged that Senator Ashcroft's opposition to Mr. Lee was based on mischaracterizations. But Senator Ashcroft did not distort Mr. Lee's testimony. When Mr. Lee stated the test of Adarand versus Pena he said that the Supreme Court considered racial preference programs permissible if ''conducted in a limited and measured manner.'' While this might be correct in a narrow sense, it purposefully misses the main point of the Court's fundamental holding that such race-conscious programs are presumptively unconstitutional. Mr. Lee might have stated that strict scrutiny was the standard articulated in Adarand; however, when he described the content of this standard it was far looser than what the Supreme Court delineated. A ''limited and measured manner'' is a standard far more lenient than the strict scrutiny standard of ''narrowly tailored to serve a compelling governmental interest.'' Mr. Lee's misleading description can properly be assailed as a fundamental mischaracterization of the spirit of the law.

Senator Ashcroft has stated that he opposed Mr. Lee because of his record of advocacy and his distortion of precedent. These failures to properly interpret the law would have serious effects on Mr. Lee's ability to serve as Assistant Attorney General for Civil Rights. Senator Ashcroft's reasons for opposing Mr. Lee were amply supported by the record.

By contrast to Mr. Lee, Senator Ashcroft has repeatedly distinguished his role as a legislator and advocate from that of the Attorney General. He understands that his political advocacy gets checked at the door of the Department of Justice. Senator Ashcroft has repeatedly stated that he would enforce the law as it exists to protect the civil liberties of all Americans. He is committed to defending the constitutional rights of all individuals and has testified that he will make the enforcement of civil rights one of his topmost priorities. As Senator Ashcroft stated,

> My highest priority is to ensure that the Department of Justice lives up to its heritage of enforcing the rule of law, and in particular, guaranteeing legal rights for the advancement of all Americans. . . . [O]ne of my highest priorities at the Department will be to target the unconstitutional practice of racial profiling.

Senator Ashcroft's critics also allege that because Senator Ashcroft opposed the nomination of Bill Lann Lee to be Assistant Attorney General for Civil Rights, Senator Ashcroft will himself be unable to defend civil liberties. But this is an incredible and illogical leap. To oppose the race-conscious policies favored by Mr. Lee is to value the true principles of the civil rights movement—equality of opportunity for all Americans.

At the hearings and in supplemental questions, my colleagues have raised issues concerning Senator Ashcroft's plans for the Civil Rights Division of the Department of Justice should he be confirmed as Attorney General. Let me say that I am confident that Senator Ashcroft will fight for the civil rights and liberties of all Americans. He believes that everyone deserves an opportunity to succeed and that those at the bottom of our society may need a helping hand.

Senator Ashcroft strongly supports ''affirmative access'' programs. As he testified,

> We can expand the invitation for people to participate aggressively so that no one is denied the capacity to participate simply because they didn't know about the opportunities. We can work on education, which is the best way for people to have access to achievement.

Senator Ashcroft wants to encourage achievement and access to achievement. He wants to avoid what President Bush called the ''soft bigotry of low expectations'' that fuels many race-conscious programs.

It is true that Senator Ashcroft is skeptical about government programs that categorize people by race. Some of these programs might be unconstitutional under the Supreme Court's decision in Adarand versus Pena. That decision stated that all governmental racial classifications should be subject to strict scrutiny, that is such classifications must be narrowly tailored to serve a compelling governmental interest. The Supreme Court made clear that there was no such things as a ''benign'' racial classification, and that the government may treat people differently because of their race for only the most compelling reason. This view of governmental racial classifications comports with the development of constitutional protections for civil liberties. Senator Ashcroft is solidly with the Supreme Court on this issue.

We have no reason to doubt that Senator Ashcroft will work long and hard to defend the civil liberties of all Americans.

These are the points that are repeatedly used to denigrate Senator Ashcroft's character and motivation. But when the facts are examined, these charges simply do not stick. Senator Ashcroft is a man of tremendous integrity and probity and I hope that we move quickly to confirm him.

Mr. LEAHY. Mr. President, the Senator from Delaware was going to speak, but if I might, just before he does, and on this issue, the desegregation efforts in Missouri in 1992, when Jay Nixon first ran for attorney general in Missouri, he did recognize the need to settle the St. Louis and Kansas City desegregation issues. He said the State, the cities, and parents needed resolution and certainty after years of nonstop litigation. The St. Louis Post-Dispatch editorial summed up the differences under Jay Nixon. It said:

> Their differences in how the State should respond to the Federal court orders of desegregation for St. Louis and Kansas City schools is instructive. The Republican wants to keep fighting although the State lost the case long ago. The Democrat wants to have a settlement.

Mr. Nixon then followed through in this agreement. He was the first Missouri official to sign a resolution on behalf of the State, and he was a supporter of the law that provided the State funding to settle the St. Louis case. In both the settlement agreement and the law to implement it, then Governor, Governor Carnahan, provided the leadership that Governor Ashcroft did not provide.

Senator Ashcroft ran for Governor in 1984 as a strong opponent of the settlement, the settlement finally had in Missouri. He was 8 years as attorney general and 8 years as Governor. In those years he denied liability, opposed a fair settlement, and litigated the questions over and over again.

I will put in the RECORD in a moment a letter from Arthur Benson who, since 1979, has been lead counsel for the schoolchildren in the Kansas City desegregation litigation.

What he said in it is:

> While the case proved difficult to settle with the State, it did eventually settle because Jay Nixon and other Missouri officials wanted to settle rather than litigate, and because he wanted to refocus the time and efforts of state officials on improving education.

To this Senator's mind, this is a marked difference from what Senator Ashcroft had done. In any event, Senators have to make up their own minds.

I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ARTHUR BENSON & ASSOCIATES,
Kansas City, MO, January 30, 2001.

Hon. PATRICK LEAHY,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR LEAHY: Since 1979 I have been the lead counsel for the plaintiff schoolchildren in the Kansas City school desegregation litigation, now styled as *Jenkins et al.*, v. *Kansas City Missouri School District*, case number Case No. 77–0420–CV–W–1, United States District Court for the Western District of Missouri.

After January 1993 there was a marked change in the manner in which the then defendants of the State of Missouri were represented in this litigation. After January 1993 Attorney General Jay Nixon continued

to defend the legal positions of the State of Missouri defendants vigorously and well. At the same time, however, he never denied the State's responsibility for eliminating the vestiges of its prior de jure segregation. He also expressed interest in settlement, supported legislative initiatives in the Missouri legislature that would provide necessary underpinning for any settlement, and proposed alternatives to the courts in response to remedial proposals of the plaintiffs, all of which were changes from the litigation tactics of the state defendants in this case before 1993.

While the case proved difficult to settle with the State, it did eventually settle because Jay Nixon and other Missouri officials wanted to settle rather than litigate, and because he wanted to refocus the time and efforts of state officials on improving education.

Yours very truly,

ARTHUR BENSON.

Mr. LEAHY. I yield to the Senator from Delaware.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Mr. President, just a few moments ago, I had a phone conversation with Senator Ashcroft—it was not an easy call for me, and I suspect it was not an easy call for him—in which I shared with him my decision not to vote for his confirmation to be Attorney General for our country.

Unlike many of my colleagues in this body, I never served with Senator Ashcroft. We heard a lot about him today from those who know him better than I ever will. While some are full of praise and others are more critical, a number of characteristics about the man emerge. I want to reiterate some of those.

Even his critics will acknowledge that John Ashcroft is a person of intellect, someone with great energy, someone with a wealth of experience within his own State and here at the Federal level, a person of deep faith, someone who was gracious in defeat in his reelection campaign last November. If he were a nominee for Secretary of Education, Secretary of Energy, Secretary of Agriculture, or Secretary of Housing and Urban Development, my vote would be different; I would vote for him. But he is not. He is the nominee for Attorney General for our country.

Senator Ashcroft and I have some common roots. I share his deep faith. We are both Christians. I have been Governor of my State. He was Governor of his State. He nominated many people to serve in that capacity. I nominated many people to serve in that capacity as well, judges and people to serve on my cabinet. Governors of Delaware do not nominate the attorney general of our State. The person charged with law enforcement and prosecuting criminals in our State is the attorney general, who is independently elected.

Some have said to me that the President should have the right to his choice of his attorney. We need to remember that the Attorney General is not just the President's attorney. The President actually has his own attorney, and all Presidents for a long time have had their own attorneys. The Attorney General is the Attorney General for the country.

There was a fellow named George Wallace who used to be Governor of Alabama. Many of us remember him. When he would run for President, he knew he was not going to win. John Ashcroft is going to win. He will be confirmed today. He knows that, and I think we know that.

When George Wallace used to run for President, he would say to the voters who were skeptical to spend their vote on a guy who was not going to win: Send them a message.

I am struck by the people in my State, people of color, who have said to me in the last month or two since John Ashcroft's name was floated and ultimately submitted by President Bush, that even if Senator Ashcroft is confirmed as Attorney General, we need to send him a message, and the message is that people in my State, particularly people of color, are uncomfortable with this nomination. They are unconvinced that he will be forthright, that he will be consistent, that he will be persistent, that he will be a champion when it comes to ensuring that their civil rights are protected.

John Ashcroft comes from Missouri. It is a show-me State. There are people in my State, especially people of color—and I know there are others in Delaware and in other States—who are concerned about whether or not Attorney General John Ashcroft would ensure reproductive rights for women, civil rights for those who may have different sexual preferences than others of us, people who may feel differently about gun laws. Will this Attorney General enforce the laws of the land and protect those interests as well?

I have heard from too many people in my State—from the minority community—who have said we need to send a message to Washington, to the new administration, that they do not want to be forgotten. They do not want to be left behind. As much progress as we have made in providing a better, equal footing, a level playing field for people of color, we still have a long ways to go.

I regret I have to vote against our new President on this nomination. I will vote yes on every other one. This is one on which I have to take a different course.

I thank Senator Ashcroft for the conversation we just had a little bit ago. I am hopeful he is prepared to send all of us a message, regardless of where we are from, what our color is, what our sexual preference is, how we feel about a woman's reproductive right, and that is: As Attorney General he will enforce rigorously the laws of this land for all of us. I thank the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I rise to support the nomination of John Ashcroft, a person with whom I have had the opportunity to serve in the Senate for the 6 years he was here before ending that term after the last election.

I think the President of the United States has selected an outstanding nominee to head up the Justice Department. I look forward to working with him.

Despite the campaign that has been launched against him, he will be approved by a sizable margin so that he can do his work and do it without any guilt whatsoever about any of the accusations that have been made against him. I add my voice in support of his nomination.

Despite these well-publicized, well-financed attempts orchestrated by outside groups to smear his good name, I am thankful Senator Ashcroft will survive this reckless campaign that has snowballed into an avalanche of innuendo, rumor, and spin.

From the moment President Bush announced his choice for U.S. Attorney General, some predictable opponents immediately got to work. They circled their wagons and launched an all-out war on our former colleague and his nomination to be Attorney General.

In their zeal to pick a fight with the new administration, the debate in the Senate has melted down into a feeding frenzy for the left wing which sought in the process to lay down markers for their agenda.

Ironically, the President's nominee for the Nation's top law enforcement office in the country is arguably one of the most qualified candidates this body has ever had the privilege to cast its advice and consent on for the office of U.S. Attorney General. He was twice elected Governor of Missouri, served two terms there as the attorney general, and was for 6 years our colleague—all of that public service is remarkable for a person who will go on to be Attorney General.

He has the academic background and the legal background to also be a good Attorney General.

From the 6 years I had the privilege of working with John Ashcroft in the Senate, I can unequivocally say he is a man of his word. And what is so important about being a man of his word is that the case made against John Ashcroft is that in the Senate he pursued changes in law, he pursued public policies that maybe some did not agree with. But that is the job of a Senator: to vote for or against public policy you think is good on the one hand, bad on the other hand; public policy you might agree with on the one hand or might disagree with on the other hand.

They say he is not qualified to be Attorney General because of a lot of things he did in the Senate, representing his constituents—forthrightly arguing points he believed in, and voting on those points. But has integrity and honesty. And being a man of his word is so important because as Attorney General he will take an oath

to uphold the law. He is going to enforce that law, even law with which he does not agree.

He could even be in the position of enforcing some piece of legislation against which he voted on the floor of the Senate because he is a man of his word. And with all the criticism people have had of John Ashcroft, where they disagreed with him as a Senator, and then they criticize him as not being qualified or the right person to be Attorney General, they forget that because he is a man of his word, they have nothing to worry about.

In fact, he is such a man of his word that if he were to tell a fib, you would know it right away. He is that straight laced, that straightforward, that transparent of an individual, that he would tell you the truth because he could not lie. He couldn't get away with lying. And he knows he couldn't get away with lying. That is the sort of a person to have as Attorney General of the United States.

We are going to have a person who is going to be the chief law enforcement officer of the United States. You will never see him being the chief defense counsel for the President of the United States as we have seen over the last 4 or 5 years in the previous administration. John Ashcroft, put in that position, would resign from being Attorney General of the United States.

So the people who are making a case against his being Attorney General, because of votes and speeches and positions he has taken on the floor of the Senate, are comparing apples and oranges; and they are forgetting that a man of his word is going to do what he says, and he takes an oath to uphold the law and enforce that law; and it is going to get done. So I say, once again, he is unequivocally a man of his word.

He testified before the Senate Judiciary Committee that he will enforce the laws of this land, and he is going to do that for all Americans. He said that, and he is going to do it. And his saying that makes me fully confident that he will do so.

He has a sharp command of the law, having filled both shoes of Senator, Governor and state Attorney General. He understands the difference between advancing legislation as a Senator and enforcing the laws on the books as a state Attorney General. And along this line, he has been recognized by the leaders of other States in this area, because he was elected by the National Association of Attorneys General, and elected in another position by the National Governors' Association, to represent and lead their organizations while he was in those two positions for the State of Missouri.

As fellow midwesterners, John and I come from States where agricultural issues are key components of our economy, our culture, and our heritage. We have discussed at length how to address the challenges confronting family farmers in this new century. He shares my concern that we must foster competitive markets and that the family farmer is entitled to a level playing field—the same for independent producers—and he would say, beyond agriculture, fair competition is important for the small business people of America.

He would also say that for passengers in my State who pay extraordinarily high airline tickets to fly from Des Moines, IA, to Chicago, there has to be competition in the airline industry, particularly for rural America.

Based on my experience with Senator Ashcroft's work here in the Senate, I know he is committed to doing what is right for middle America as he enforces these laws that are already on the books. He knows, of course, that I will keep my lines of communication wide open between my office and his when it comes to fighting for the interests of rural America.

In addition to his exemplary professional credentials, there is another issue upon which his supporters and detractors alike agree, and that is, our former colleague, Senator John Ashcroft, is a man of principle. He is a man of his word. Just ask the people of Missouri who, not once but time and time again, placed their trust in him for high statewide elected office.

Senator Ashcroft's career has been stellar. During his career, Senator Ashcroft has worked to establish a number of things to keep all Americans safe and free from criminal activity.

For example, last year Senator Ashcroft introduced a bill to prohibit juveniles from possessing assault weapons and high-capacity ammunition clips. The Senate overwhelmingly passed this Ashcroft legislation. He also voted for the Gun-Free Schools Zone Act that prohibits the possession of a firearm within a school zone. Because the Clinton Justice Department had not made gun prosecutions a priority, Senator Ashcroft led the charge in directing the Justice Department to increase the prosecution of crimes committed with guns. In fact, he sponsored legislation to authorize $50 million to hire additional Federal prosecutors and law enforcement officers to increase Federal prosecution of criminals who use guns.

John Ashcroft's efforts against drug abuse and trafficking are equally as impressive. A leader in the national fight against the scourge of methamphetamine, John Ashcroft won enactment of the Comprehensive Methamphetamine Control Act of 1996, among other antidrug laws he got passed.

Senator Ashcroft has fought hard for the rights of women and to protect them from domestic abuse. He signed into law a bill, when he was Governor, that allowed women accused of homicide to present battered spouse syndrome evidence in the court in that State. He cosponsored, at the Federal level, the Violence Against Women Act that helped secure $100 million in increased funding to combat violence against women.

He voted for legislation that prohibits any person convicted of even misdemeanor acts of domestic violence from possessing a firearm.

As Governor, Senator Ashcroft appointed women to the State's appellate courts, including the first two women to the Missouri Court of Appeals and the first woman to the Missouri Supreme Court.

In regard to the tactics used against him, deploying distortion and demagoguery to advance their own agenda, groups inside the beltway, who probably have felt very secure for the last years because they had somebody in the White House who would advance their agenda, now feel a little shut out. They have banded together to engineer a controversy about John Ashcroft where none exists. They rushed to cast judgment, and in the process his opponents sought to paint John Ashcroft as a racist, as somebody tainted by his principles and unfit to lead the Department of Justice.

Obviously, in my view, these critics have been unable to make their case, and I think when this vote is taken, we will find out that they did not make their case.

Despite his critics' best efforts, accusations of racism and bias have not stuck. In fact, throughout his career, Senator Ashcroft has tried to protect the rights of minorities. He signed the Missouri hate crimes bill into law, and in the Senate he held the first-ever hearing on racial profiling. As Governor, he appointed a number of minority judicial candidates. His by-the-book approach to governing rises above and way beyond the decibel level of his detractors, the 200-some organizations that have banded together to make this clean-cut, honest American, great public servant, out to be some very bad person.

It is sad that the aggressive publicity generated by the special interest groups to derail this nomination has painted an unfair image of John Ashcroft in the minds of too many Americans. For example, contrary to the controversy surrounding the nomination to the Federal bench of Ronnie White, John Ashcroft does not have a racist bone in his body. If his opponents are keeping track of his support for black judges, it is ironic that they didn't care to publicize the fact that he, as Senator, voted for 26 out of 28 judges of African American descent. He nominated the first black judge to the appellate court as Governor of Missouri, and the St. Louis Black Bar Association praised him for diversity in his court appointments. The trumped-up charges of racism and bias took on a life of their own, but in fact they ring very hollow when we pull back the curtain of his opponents' red hot rhetoric.

In recent years, misrepresentations and baldfaced lies coming out of Washington have eroded the electorate's faith and trust in public officials, including all of us. Thankfully, that is not the way the majority of the American people operate. To the majority of

the American people, the end does not always justify the means. In fact, seldom is that true. But in the case of this opposition to John Ashcroft, any means is justified for the end they want—to let their grassroots members back home know that even though they don't have the President of the United States always carrying their agenda, as they did the last 8 years, they are going to be a force in this town. And they are a force in this town.

They are also telling Members of Congress, particularly left-of-center Members of Congress: You are on a short leash. We have to be reckoned with. Don't toy around with playing with the Republicans too much or a Republican President. It is also going to help them tremendously with their fund-raising. That is what is at stake here.

The majority of Americans do not operate that way. Not even a majority of their own rank-and-file members at the grassroots operate that way. I was a member of a labor union from 1961 to 1971. If there is one thing I learned as a member of the labor union—and I was voluntarily a member of the labor union because in my State, we have the right-to-work law, you don't have to join—I found out that the political agenda of the labor union leadership of Detroit or Washington, DC, did not represent the political philosophy of my members on the assembly line at the Waterloo Register Company in Cedar Falls, IA. They may have represented our economic interests of collective bargaining, but they did not represent the political interests of the commonsense, conservative blue-collar workers. It is the very same way with a lot of these organizations. When we go back to the grassroots of our States and interact with the rank-and-file members of a lot of these organizations, they do not treat us in our State the way these leaders might treat us out here, as evidenced by the fact of how they treat John Ashcroft. Misrepresentations and baldfaced lies that are used by this group are not the way my friend and neighbor, John Ashcroft, has built up an impeccable record of honest public service. His rock-solid integrity, legal background, and proven ability to uphold and enforce the law will restore the mission of the Justice Department.

It is clear to me that despite his personal beliefs, Senator Ashcroft has proven his ability to uphold the law without the influence of personal bias. For example, as Missouri attorney general, John Ashcroft protected the confidentiality of abortion records maintained by the Missouri Department of Health, even when they were requested by pro-life groups. He has voiced his opposition to violence and his belief that, regardless of his personal views on abortion, people should be able to enter abortion clinics safely. That is the law of the land. Senator Ashcroft's views on abortion are known. But as Attorney General, those laws would not be something that he could change, as one could as a legislator. As a Senator, as a policymaker, he could change some things he might not agree with and I may not agree with. It is still the law of the land, and we live by it.

Senator Ashcroft believes that people who commit acts of violence and intimidation should be punished to the fullest extent of the law. He knows that if you are going to have a civil society, you cannot tolerate violence on the part of pro-life people any more than you can tolerate violence on the part of union leaders on the picket line.

I conclude by saying that everyone in this institution comes to the Senate with a set of ideals and principles that serve as their guiding compass. Whether it is based upon conservatism, liberalism, or something else, or something in between, each of us in this Chamber has the privilege and responsibility to cast votes of conscience. When the Presiding Officer calls the yeas and nays on this nomination, I hope that the avalanche of unproven criticism will be put to rest as a result of that vote.

I want us to confirm John Ashcroft as our next Attorney General. I have listened to the opponents of John Ashcroft speak here. I have not heard every one of the speeches, but I had an opportunity to be on a television program with a colleague of mine from the other side of the aisle who is going to vote against this nomination, the Senator from Indiana, Mr. BAYH, a person of outstanding ethics, honesty, and moral values. His dad served in this Senate, was an outstanding leader and a person of moral and high ethical values as well.

I would vote for Senator BAYH to be Attorney General of the United States, if a Democrat President nominated him, because he is just the sort of person who, when you look at him, you just know this guy is not going to do something that is wrong. You know he is going to enforce the law.

I hope all of the people who are upright and of strong conviction on the other side, people who have high moral and ethical values—and I know my colleagues on the other side to be in that category—I hope they vote for John Ashcroft to be Attorney General. I could cast a vote for them as well for Attorney General, not because they are my colleagues, but because of what I have seen in their lives. I hope they truly have seen what is in John Ashcroft's life. And I hope those that are against him will have a little guilty feeling about voting against him, unless I see them differently from the way they are and I have been mistaken about John Ashcroft. But I haven't been mistaken about John Ashcroft, and I haven't been mistaken about my colleagues from the other side as well. I just hope there is a lot of soul searching in the next few hours before we vote because I think this Senator is entitled to an overwhelming vote of support to become the next Attorney General of the United States.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Ms. STABENOW. Mr. President, I regretfully rise today to oppose the nomination of John Ashcroft as Attorney General of the United States. As a new Member of the U.S. Senate, I did not have the opportunity to serve with former Senator Ashcroft. I have only his record and his testimony on which to make this decision. I come to this judgment after supporting almost all of President Bush's other Cabinet nominees. I believe that the President should be given broad latitude in choosing his Cabinet, but the Constitution clearly gives the Senate the responsibility of advice and consent. It is our responsibility to review the actions and backgrounds of the nominees and speak on behalf of the people we represent.

I have listened intently to the judiciary hearings—the questions and the answers—and I would like to commend my colleagues on the Judiciary Committee for the thoughtful and thorough process that was used on this critically important nomination. There is no question that former Senator Ashcroft has a long career of public service. It is that career and the record that he has created that I feel compelled to evaluate as the most important consideration in making my decision. I have always believed that actions speak louder than words, especially when there is a long and consistent public history of questionable actions.

This is especially important given the critical responsibilities and broad discretion given to the office of Attorney General. Let me list just a few of the actions that I find most disturbing. I was extremely troubled to learn of Senator Ashcroft's record as Missouri's attorney general when he strongly opposed a voluntary and court-ordered plan to desegregate many of the public schools in St. Louis. As the Governor of the State of Missouri, this nominee vetoed the Voter Registration Reform Act, which would have clearly increased the participation of minorities in the electoral process.

His record on other antidiscrimination issues is equally disturbing. From his opposition to the ultimately successful appointment of James Hormel as Ambassador to Luxembourg, simply because he was gay, regardless of his qualifications, to his refusal to answer questions during his confirmation hearing about whether he would discriminate against Americans by denying them the ability to gain security clearances simply because of their sexual orientation. His record on women's rights is just as troubling. He has consistently used every opportunity and every power he has had to block reproductive choice for women including the extreme position of suing public health

care nurses in the State of Missouri for providing basic gynecological and contraceptive services. In addition, his very vocal opposition to Roe vs. Wade and the basic reproductive rights of women is an issue that not only continues to worry me, but millions of women across this country.

For me personally, one of the most troubling aspects of his record, was Senator Ashcroft's unfair treatment of Judge Ronald White when he spearheaded the U.S. Senate's rejection of his nomination to the Federal bench. This action was highly unusual and extremely unfortunate for Judge White and for the U.S. Senate.

One of the most basic requirements of any nominee to be the U.S. Attorney General is an ability to exhibit a strong track record of fighting for the constitutional rights of all Americans—black, brown, or white, male or female, young or old, rich or poor. In my opinion, Senator Ashcroft's record clearly fails to satisfy that most basic qualification. To the contrary, he has established a 25-year track record of opposing equal opportunities and fair play for too many Americans.

The basic fact remains that the U.S. Attorney General is the people's lawyer, not the President's lawyer. He is the guardian of the constitutional rights of every American citizen. And I cannot in good conscience support a nominee who has spent much of the past 25 years opposing the constitutional rights of far too many of our citizens.

Thank you. I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, if I could engage my friend from Utah, the manager of this nomination, I know our friend from Kansas is here, and the Senator from Iowa spoke for quite a long period of time. The Senator from Michigan spoke for just a few minutes. I think it would be appropriate to have the Senator from California speak. She will probably speak for about 35 or 40 minutes.

Mr. HATCH. I believe Senator BROWNBACK was next.

Mr. BROWNBACK. Mr. President, if I could, I have about 10 minutes to speak. If I could, I would like to go in a back-and-forth order.

Mr. REID. We just didn't want another 2- or 3-minute speech that took 40 minutes.

Mr. HATCH. I rightfully understand that. If the Senator will speak for 10 minutes or less, we would appreciate it.

Mrs. BOXER. If we could have a unanimous consent agreement that following Senator BROWNBACK, Senator REID would be recognized, and then Senator BOXER.

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

The Senator from Kansas.

Mr. BROWNBACK. Thank you, very much. I appreciate the opportunity to be here to speak in favor of our colleague, Senator Ashcroft, to be Attorney General of the United States.

I serve on our Judiciary Committee along with the esteemed Presiding Officer.

I wonder sometimes who people are talking about when I hear people saying he is too far this way or that way to be Attorney General. I wonder. How did he win statewide elections in a swing State such as Missouri for so many different elections. How was he elected president of the National Association of Attorney Generals? How was he elected head of the National Governors' Association—bipartisan groups? If this guy is so far out there on these issues, how on Earth did he get elected to all of these positions? It just baffles me other than to say he is not extreme.

In most of his policy issues he has put forward, he cares strongly with passion. But there is a solid core of Americans, and in most cases a majority of Americans, who strongly believe in and agree with him on issues such as partial-birth abortion and other items. But that really is neither here nor there. The issue is whether he will enforce the law. That is what an Attorney General is required to do and is called upon to do and in States are elected to do. He has done that at the State level as an elected attorney general. He will do that as a national Attorney General, especially for the United States.

I am new to the Judiciary Committee with this session. I am looking forward to serving on that body. But what I found by this process that we have had in the treatment of John Ashcroft is that it is an extraordinarily unfair process, and I think quite undeservedly toward John.

Mr. President, I grew up in a town only about 20 miles from the State of Missouri in a small town called Parker, KS. I have had the opportunity to follow John's career for a long time. Our States share a common border. In the Senate, John and I served together on the Commerce and Foreign Relations Committee. Our offices were even down the hall from each other. John and I were neighbors here in Washington, and he even put me up in his house when my apartment building burned. I submit that he would do that for anyone who needed a roof over their head. But more important than geography or committee assignments, John Ashcroft is my friend. A friend who shared with me his honesty and integrity, his devotion to his creator, his principled character, and his steadfast belief that each of us is put here on Earth, to help our fellow man, and to leave the world a better place for all of our children.

Contrary to the assertions of those who make a living exacerbating the tensions that divide us as a nation, I know John Ashcroft is committed to our Nation's promise of equal justice for all.

President Bush made an outstanding choice for his Attorney General. John Ashcroft is one of the most qualified nominees for the office of Attorney General in history.

But even more impressive than his resume, Mr. President, are John Ashcroft's words and deeds. Article II, section 3 of the Constitution provides that the President of the United States, ''shall take care that the laws be faithfully executed.'' The Department of Justice is the primary government agency charged with the President's constitutional duty to faithfully execute the laws of the United States. John Ashcroft has fulfilled this function as two-time attorney general of the State of Missouri. In that role, John Ashcroft upheld law with which he personally disagreed, and which many of us in this body might disagree with. But as Missouri attorney general, he swore an oath to uphold the law, and he did. Mr. President, there are many issues on which many of us in this body disagree. But we are legislators, we write laws. That is not the role of the Attorney General of the United States. Mr. President, John Ashcroft raised his right hand swore before the Senate Judiciary Committee that he would faithfully enforce the laws of the United States, ''So help me God.'' As a person who feels fortunate to call John Ashcroft a friend, I don't think there is a stronger guarantee than that oath he took.

Some have called Senator Ashcroft's record on civil rights into question. This has been a program of distortion. As Missouri Governor, John Ashcroft signed Missouri's first hate crimes statute into law. As a U.S. Senator, John Ashcroft supported every African-American judicial nominee confirmed by the Senate. As chairman of the Judiciary Committee's Subcommittee on the Constitution, John Ashcroft convened a hearing on racial profiling with Senator FEINGOLD, stating on the record that racial profiling is unconstitutional. John Ashcroft's record speaks for itself; he is a man of integrity dedicated to equal justice under law. There have been other distortions of Senator Ashcroft's record.

Mr. President, I was heartened by Senator FEINGOLD's remarks in the Judiciary Committee executive session yesterday, in which he extended an olive branch of peace and cooperation to our side of the aisle, and we have a Senate more evenly divided than we have had for almost 50 years. Senator FEINGOLD has answered President Bush's call to change the tone in Washington. It is a bold step, a step I hope my colleagues on the other side of the aisle will follow. I had the opportunity to speak personally with the witnesses who testified both for and against John Ashcroft's nomination. Believe me, there is more that binds us together as a people and a nation than keeps us apart. Let us begin this Congress in that spirit which Abraham Lincoln used to help heal a nation, when he warned that ''A house divided against itself cannot stand.'' I intend to vote for John Ashcroft's nomination to be Attorney General of the United States. I encourage my colleagues, on both

sides of the aisle, to follow the spirit of Lincoln, and help renew the ties that bind us together, and to resist the temptation to use this process for political gain, and further divide us as a nation.

I think once John Ashcroft is approved as Attorney General of the United States, he will be an outstanding and extraordinary Attorney General for all American people.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I thank Senator HATCH and Senator REID for reserving this time for me.

As most people know, there were several Members who came out early with a position on John Ashcroft. Most came out for him before the hearings, and I came out against his confirmation. The people who came out for John Ashcroft before the hearings said they knew enough to know they were for him. I said, after looking at the record and being very familiar with the record, I could not support him. I actually asked then-President-elect Bush to reconsider his choice because I believed him when he said he wanted to unite the Nation rather than divide the Nation. I felt this nomination would be very divisive, would raise the very same issues that were raised during one of the most difficult campaigns that I certainly ever remember for President.

I think what I said was borne out. This Presidential election was a mandate. Many people think if all the votes had been counted, it might have come out a different way. That is not the point. The point is, because it was so divisive, whoever won, whether it was Al Gore or George W. Bush, whoever actually took the office—in this case the Supreme Court decided to stop the count, and George W. Bush became President—whoever was President had to know that this was a very divided Nation and that we needed to put up moderate people—moderate people—for important offices such as Attorney General, Interior Secretary, and the like.

For me, it is very rare to oppose a Bush Cabinet nominee. Out of all of them, I have opposed two. I have supported every other one. One thing John Ashcroft said is: I supported 90 percent of President CLINTON's judges.

Well, I supported 90 percent of George W. Bush's Cabinet picks. Therefore, when I choose to say no, it is because I feel very deeply and very firmly that John Ashcroft is not the right choice.

President Bush said he picked John Ashcroft because ''he has a commitment to fair and firm and impartial administration of justice.'' He told us that John Ashcroft is ''a man who has a good and decent heart,'' and he asked us to look into the heart of John Ashcroft.

Believe me, I have done that. And I have looked into the hearts of people who John Ashcroft has hurt. I believe this nomination should be rejected. I will be very specific.

Judge Ronnie White: Was John Ashcroft's treatment of Judge Ronnie White fair? Did he have a good heart when it came to dealing with Judge Ronnie White? Let's revisit it. The American Bar Association gave Judge White a unanimous qualified rating. Judge White was introduced at his nomination hearing for judgeship in front of the Judiciary Committee with glowing remarks by Senator BOND. With no warning, John Ashcroft championed the defeat of Judge White's nomination on the Senate floor.

I have been in elective life for 25 years; certain things you do not remember and a lot of things you do. I will never forget the day this Senate voted down Judge Ronnie White on a straight partisan vote—the first time in 50 long years that a judge nominee who had been passed favorably through the Judiciary Committee was so treated.

Why would I remember it so clearly? I thought a few people might vote no just as we have on many judge nominations. But I never thought that John Ashcroft would have rounded up and made it a big political issue that all the Republicans would stick with him on this vote. We all know, because we are not children in this body, there are other ways to treat someone who suddenly doesn't look like he will be confirmed. You bring it back to the committee, you have another vote. You don't do what they did to Ronnie White.

I remember that Congresswoman MAXINE WATERS, one of my good friends, came over from the House that day. She was here because she wanted to celebrate the fact that Ronnie White was going to get this judgeship. She and I looked at each other as the nomination went down. It was a humiliating defeat. It was a sad, sad day.

I compliment those Senators on the Judiciary Committee who apologized to Ronnie White. He never, ever should have been treated that way. It was unnecessary to do that to any human being.

So, yes, I have looked into John Ashcroft's heart. And I say how could someone with a good heart do that to another good person? I do not understand it.

I hope Senator FEINGOLD will be listening, too, when he says to President Bush: Why don't you renominate Ronnie White in the spirit of reconciliation?

During his floor remarks, John Ashcroft pointed to Judge White's dissent in a murder case. It was a horrific case. Yet John Ashcroft did not ask any questions of Judge White during the confirmation hearing or even afterwards in written follow-up questions about that case. I think a fundamental guarantee of our system of justice, particularly from someone who wants to be an Attorney General, is the right to give someone you are criticizing the right to be heard.

Judge Ronnie White did not have that right until the Democrats called him up during this hearing. I appreciate the fact that he had that hearing in front of the Republicans and Democrats of that committee. That nomination was sabotaged on the floor of the Senate. It was wrong; it was harsh; it was cruel; it was humiliating; and it was not necessary.

I think that speaks volumes about John Ashcroft's commitment to fairness. On the Senate floor, John Ashcroft said that Judge White was ''pro-criminal, with a tremendous bent toward criminal activity.'' In the Judiciary Committee hearings last week, Judge White noted that after a long career in public service, including elective office, he had never, ever heard himself described that way.

Judge White got the chance to set the record straight. He told the Judiciary Committee that he voted to affirm the death penalty 41 times out of 59 cases. And in 10 of the remaining 18, he joined a unanimous court in reversing. All together, Judge White voted with the majority of the court in 53 out of 59 cases. In only 6 cases did he dissent in a death penalty case, and in only 3 of those was he the sole dissenter. When you add this all up, it turns out that Judge White voted the same way as Ashcroft appointed judges—95 percent of the time.

How did Judge White feel about John Ashcroft's pro-criminal label? This is what he said. He told the Judiciary Committee, ''Senator John Ashcroft seriously distorted my record.'' And he very graciously left it up to the Senate to decide whether that kind of treatment is consistent with fair play and justice that an Attorney General is expected to have.

Conservative columnist Stuart Taylor of the National Journal has written that John Ashcroft's treatment of Judge White is enough to disqualify him for the position of Attorney General.

Of Mr. Ashcroft's actions in the Ronnie White matter, Mr. Taylor wrote that Ashcroft:

> . . . abused the power of his office by descending to demagoguery, dishonesty, and character assassination.

Those are not my words. Those are the words of Stuart Taylor, a conservative journalist for the National Journal.

Let's just say you think everybody is entitled to one mistake, to one mistreatment of another individual. Let's just say that. Unfortunately, in this case, I am going to point to a number of other examples.

Take the case of James Hormel. Ambassador Hormel was nominated in 1997 to be the U.S. Ambassador to Luxembourg. He was approved by the Senate Foreign Relations Committee by a vote of 16–2. One of those ''no'' votes was cast by Senator Ashcroft. Why did Senator Ashcroft oppose Ambassador Hormel, a very well-known businessman, a beautiful family—why?

Let's check the record. In 1998, when asked about the nomination of James Hormel, Senator Ashcroft said:

His conduct and the way in which he would represent the United States is probably not up to the standard that I would expect.

Senator Ashcroft continued:

He has been a leader in promoting a lifestyle. . .and the kind of leadership he's exhibited there is likely to be offensive to. . .individuals in the setting to which he will be assigned.

This is the comment of John Ashcroft on the nomination of James Hormel. Clearly, by this statement—

He has been a leader in promoting a lifestyle. . .and the kind of leadership he has exhibited there is likely to be offensive to. . .individuals in the setting to which he will be assigned.

To me, you don't have to have a degree in psychology to understand what John Ashcroft is saying. He is saying he is a leader in promoting a gay lifestyle. That is what he is saying.

This issue came up at the Judiciary Committee. When Senator LEAHY asked John Ashcroft if he opposed James Hormel because he was gay, Senator Ashcroft replied:

I did not.

He said:

I made a judgment that it would be ill-advised to make him an ambassador based on the totality of the record.

He went on to say:

I had known Mr. Hormel for a long time.

Ambassador Hormel responds:

There is simply no truth in Mr. Ashcroft's statement that he had any objective basis or personal knowledge upon which to vote against my nomination.

He went on to say:

He refused to give any specific example of anything in my record on which to base his opposition. I can only conclude Mr. Ashcroft chose to vote against me solely because I am a gay man.

Is this fair? I already talked about Ronnie White. Senator Ashcroft never had the courtesy to ask Ronnie White any questions about the case that he said disqualified Ronnie White for a judgeship. And he led a fight here on the floor such that we have not seen in 50 long years to defeat Ronnie White. And he refused to meet at that time with Ambassador Hormel.

Ambassador Hormel said: I want to meet with you, Senator Ashcroft.

No. He refused. And Mr. Hormel stated he cannot remember having a single conversation with the Senator.

Then, in his answers to a written follow-up question after the Judiciary Committee hearings last week, John Ashcroft changes his story. Ashcroft stated that:

[B]ased on the totality of Mr. Hormel's advocacy, I didn't believe he would effectively represent the United States in Luxembourg, the most Roman Catholic country in all of Europe.

So we have different answers. First, it was the totality of his knowledge of Mr. Hormel, whom he knew so well. Then Mr. Hormel says: He didn't even want to meet with me. And then he changes his answer again.

He hurt James Hormel deeply by not allowing that Ambassadorship to come up for a vote. I think that kind of hurt says to me that when I look at his heart, I don't see the kindness and the caring about other people.

So, you would say, OK, that was two. That was Ronnie White and James Hormel. Do we stop there? Unfortunately, we don't. We go to Margaret Morrow. Was John Ashcroft fair to Margaret Morrow, the first woman to head the Los Angeles Bar Association and the California Bar Association, nominated to the Federal district court in May of 1996, and not until 2 whole years later were we able to finally get a vote? And I must thank Chairman HATCH for that—by February 11, 1998.

Why did it take so long? Simple: John Ashcroft placed a secret hold on Ms. Morrow's nomination. The hold kept Morrow from having a vote on the Senate floor; it kept her from having a fair up-or-down vote.

I do not think that is fair. That was hurtful. He said she was an ''activist judge.'' In fact, Ms. Morrow had overwhelming Republican support, to the contrary.

Robert Bonner, a U.S. attorney appointed by Ronald Reagan, supported her. Many Senators from the Judiciary Committee, including Senator HATCH, supported her. James Rogan supported her. And yet he put this hold on her. Finally, we were able to get him to back off. For 2 years, that court ran without Margaret Morrow on it, and now she serves proudly after getting a vote of 67–28.

He was so out of line on that. A strong majority supported Margaret Morrow.

You have heard the stories: Ronnie White, James Hormel, Margaret Morrow, human beings with faces and hearts and pulses who were hurt by John Ashcroft, hurt deeply by John Ashcroft. But there is more.

Bill Lann Lee, was John Ashcroft fair to him when he was nominated to be Assistant U.S. Attorney for Civil Rights? When he arrived here in 1997, he had a long record at the NAACP of fighting discrimination. Yet even Lee's former corporate opponents came to lobby for him—what a wonderful person he is.

He supported the law, the law of giving people a chance, affirmative action laws. John Ashcroft did not like that law, which, by the way, he will be sworn now to uphold. He blocked Bill Lann Lee's nomination, and Bill Lann Lee never got an up-or- down vote. He served as an acting head of that division.

I know the story of Bill Lann Lee. He is an incredible example of the American dream. He worked his way up from the bottom of the economic ladder. His father ran a laundry where they sweated every single day to help their son get an education, and this is the way he was treated in the greatest nation in the world. It was hurtful. It was very hurtful to Bill Lann Lee. It was very hurtful to the people in this country who were looking to Bill Lann Lee as a role model.

This is what John Ashcroft said about Bill Lann Lee:

We don't need an individual who is trying to go against the Constitution as recently interpreted by the Supreme Court. We need someone who is going to say I'm here to provide the administration.

Bill Lann Lee said under oath that he would uphold the Constitution, just as John Ashcroft is saying he will. Yet he did not give Bill Lann Lee a chance. He hurt this man deeply.

That is a story of looking into the heart of someone. I think you have to be judged by not only your words but your deeds in totality, so I have not given one example; I have given four. I could give more. I will not.

I want to talk about the Southern Partisan. I want to talk about the fact that John Ashcroft as a Senator in 1998 gave an interview to the Southern Partisan magazine. Put in a most straightforward way, this magazine promotes racism.

This is a picture of a T-shirt that is advertised in this magazine. This is a portrait of Abraham Lincoln, and they sell this on a T-shirt. This is Latin. It says: ''Thus be it to tyrants.'' It is a picture of Lincoln: ''Thus be it to tyrants.'' Those are the words that were uttered by the assassin of Abraham Lincoln. Abraham Lincoln was quoted by Senator BROWNBACK, and he made a beautiful speech. This is sold by this magazine. The words of John Wilkes Booth are underneath: ''Thus be it always to tyrants.''

In his interview, John Ashcroft praised the magazine and its mission:

Your magazine also helped set the record straight. You've got a heritage of doing that, of defending southern patriots. Traditionalists should do more. I've really got to do more. We've all got to stand up and speak in this respect or else we will be taught that these people were giving their lives, ascribing their sacred fortunes and their honor to some perverted agenda.

Now he says he did not know about the magazine. Let's look at that.

First of all, there was an amazing exchange in the committee between Senator BIDEN and John Ashcroft. Senator BIDEN gave John Ashcroft the opportunity to denounce this magazine. He said: What do you think of it now that you know what they do, what they stand for, the T-shirt, and the rest? John Ashcroft basically did not answer him. Senator BIDEN was taken aback because he had the opportunity to say: This is a racist magazine; I'll never talk to them. He did not say it. He said: I deplore what is deplorable. That was his response to Senator BIDEN.

He had a chance. He said:

On the magazine, frankly, I can't say that I knew very much at all. . . . I've given magazine interviews to lots of people . . . and I regret that speaking to them is being used to imply that I agree with their views.

If you go back to what he said when he spoke to them, he said:

Your magazine also helped set the record straight. You've got a heritage of doing that, of defending southern patriots. . . .

So how does he say he never heard of the magazine when you look at his quote and he knows of the magazine, because he says:

Your magazine also helped set the record straight. You've got a heritage of doing that, of defending southern patriots. . . .

And it goes on. It does not ring true. He had a chance in simple language to say: I will never talk to them again. He did not do it.

We could look at Bob Jones University, and I will not go into the details of that, but we have to believe that he knew about the racist policies when he accepted their degree because those policies were the subject of a huge Supreme Court case that was decided when he was attorney general of Missouri.

The case was Bob Jones v. the United States. It was on the front page of the major newspapers when it was decided. In that case, the Supreme Court reversed the university's tax exempt status because of the racist policy that John Ashcroft said he did not know about. But he was an attorney general at the time that decision came down.

Again, I think he could have said more at the hearings to distance himself from the university's policies.

These are the things that say to me, out of the 280 million Americans in our country, there has to be someone who is better suited for this job.

We have heard a lot about a woman's right to choose. Regardless of your feelings on it—I happen to be of a mind that the Government has no business telling a woman about her reproductive health care in the beginning of a pregnancy, which is Roe v. Wade; that is the law of the land—I would hope we could come together when it comes to preventing unwanted pregnancies by contraception. That seems to be an area of common ground where both sides could come together. Because if you do not get pregnant, if you do not want a child, you do not have to have an abortion. It works. It will lower the number of abortions.

But when John Ashcroft was attorney general, he sued nurses who were giving contraception to women. Let me repeat that. He went against settled law in Missouri when he was attorney general. He tried to stop nurses, through the courts, from handing out contraception. It was settled law that those nurses could do it, but John Ashcroft argued that Missouri law did not allow for it.

The Missouri Supreme Court ruled against John Ashcroft. It strongly pointed out his interpretation was out of step with settled law. This is what the Missouri Supreme Court had to say:

We believe the acts of the nurses [providing contraceptives, breast and pelvic exams] are precisely the types of acts the legislature contemplated. . . .

The Court believes that it is significant that while at least forty states have modernized and expanded their nursing practice laws during the past fifteen years, neither counsel nor the Court have discovered any case challenging nurses' authority to act as the nurses herein acted.

In other words, in 40 States, not one other attorney general ever sued nurses and tried to stop them from providing these services to women. On this occasion, it was in rural clinics. So when John Ashcroft says he is going to uphold settled law, I am sure he said that when he was the attorney general of Missouri.

Then, if we look at other issues concerning women, he also sued the National Organization for Women. When he was an attorney general in the 1980s, he sued NOW to stop their campaign to win ratification of the Equal Rights Amendment. Now, maybe he does not agree with the Equal Rights Amendment, he does not want women to be equal through the Equal Rights Amendment. Maybe he does not believe it is necessary, for whatever reason. But to sue a woman's organization for 3 years—losing at every step but never giving up; taking it to the U.S. Supreme Court after the Circuit Court of Appeals, and they all rejected his arguments—it seems to me, since that was also settled law in a case from 1961, we have to question: What does he mean when he says he will accept settled law?

Voluntary desegregation: Others have spoken about this. How do you fight a voluntary desegregation plan that everyone came together and said was a good way to help our kids? Well, he figured out how to do it. And I will tell you, his rhetoric was very strong. He called the voluntary plan an ''outrage against human decency'' and an ''outrage against the children of this State.''

The conservative Economist magazine described Ashcroft this way—and it turned out he and his opponent were both arguing:

The campaign quickly degenerated into a context over who was most opposed to the plan for voluntary racial desegregation . . .

The court roundly criticized then-Attorney General Ashcroft. They said:

The court can only draw one conclusion . . . the state has, as a matter of deliberate policy, decided to defy the authority of this court.

From the St. Louis Post-Dispatch in 1982, Ashcroft was ''making himself a familiar advocate before the Supreme Court, most often as the antagonist of civil rights interests.''

So here you have a nominee, who is supposed to firmly uphold the civil rights laws, being called an antagonist of civil rights interests in an article in 1982.

This was an election where many African American voters believed they were disenfranchised. They are looking at this Senate and thinking they cannot believe that this is the individual George Bush would put before us. Why do I say that? Because there is a case on point about voter registration. While John Ashcroft was Missouri Governor, he vetoed a bill that would have allowed volunteers to register voters in the largely African American city of St. Louis; in other words, a bill to allow the League of Women Voters to encourage voter registration.

The very interesting bottom line of this case is, in the white parts of the county he allowed this voter registration to go on. When he vetoed the first bill, he said he had a problem with it. But then he vetoed it again. It seems to me that anyone who believes that we ought to have our voting rights be sacred in this Nation would have problems voting for this nominee.

The St. Louis Post-Dispatch noted at the time:

Gov. John Ashcroft has decided that [some citizens] . . . should continue to be treated differently from others on the matter of voter registration.

So, Mr. President, I am sure you are glad to hear I am about to sum up, to finish. What I have tried to do in this presentation is to speak from my heart because that is what George Bush asked me to do. He said: Look in your heart and look in the heart of John Ashcroft. I believe that he meant for me to do that.

In my advise and consent responsibility, I have looked into the heart of John Ashcroft. And how can I do it? By looking at the way he treats other people. My mother taught me to do that. You can say a lot of things in life. You can tell your kids, be good to your neighbor, but if they see you walk past your neighbor, if your neighbor is lying on the street, they know something is not right.

When I talk to people and see people such as Ronnie White—a beautiful family man, qualified, the American dream personified—humiliated on the Senate floor, I cannot look away from that. When I see Margaret Morrow hanging and twisting in the wind for 2 years because John Ashcroft put a secret hold on her, I have to look at that. When I see James Hormel, a distinguished man, humiliated, hurt, turned down for an Ambassadorship because he happened to be a gay man, I cannot look away from that. And when I see Bill Lann Lee, whose father and mother sweated in a laundry so that he could get the American dream—when I see him hurt and humiliated—I cannot look away from that.

Maybe my colleagues can, and they see other things that I do not see. I respect them so much. And I respect their right to feel strongly, just as I do on the other side of this issue. But I have taken this time because I feel so deeply about this.

The Attorney General is the Nation's guardian of civil rights, of human rights, of women's rights, of the environment, of sensible gun laws. He or she must be moderate to bring the country together. What did John Ashcroft say about moderates? He said:

There are two things you find in the middle of the road: A moderate and a dead skunk, and I don't want to be either.

Mr. President, I have looked into the heart of John Ashcroft. I do not think he is the right person for this job.

I yield the floor.

Mr. HATCH. Mr. President, another topic that keeps being brought up again and again is Senator Ashcroft's opposition to Judge Ronnie White. I am concerned that some of my colleagues continue to denigrate Senator Ashcroft for his involvement in the nomination of Judge Ronnie White. It has been said that Senator Ashcroft distorted Judge White's record and wrongly painted him as pro-criminal and anti-law enforcement.

But there were many reasons to vote against confirmation for Judge White. In fact, every Republican in the Senate did so. I have reviewed Judge White's record and several of his dissenting opinions in death penalty cases, and I can understand Senator Ashcroft's opposition to Judge White's nomination to the federal bench.

For instance in the Johnson case, the defendant was convicted on four counts of first-degree murder for killing three officers and the wife of the sheriff. Johnson was sentenced to death on all counts. On appeal, the Missouri Supreme Court upheld the decision, but Judge White dissented arguing for a new trial based on ineffective assistance of counsel. Judge White thought that Johnson deserved further opportunity to present a defense based on post-traumatic stress disorder. But the majority showed that here was no credible evidence that Johnson suffered from this disorder. Rather, it was clear that defense counsel had fabricated a story that was quickly disproved at trial. For instance, defense counsel stated that Johnson had placed a perimeter of cans and strings and had deflated the tires of his car. At trial, testimony revealed that police officers had taken these actions, not the defendant.

Further, Congressman KENNETH HULSHOF, the prosecutor in the Johnson case testified at Senator Ashcroft's hearings that it was almost impossible to make out an argument for ineffective assistance of counsel because the defendant ''hired counsel of his own choosing. He picked from our area in mid-Missouri what . . . I referred to as a dream team.''

Judge White has every right to pen a dissent in Johnson and other cases involving the death penalty. Similarly, every Senator has the duty to evaluate these opinions as part of Judge White's judicial record. And that's just what Senator Ashcroft did. At no time did Senator Ashcroft derogate Judge White's background.

I consider Judge White to be a decent man with an impressive personal background. He has accomplished a great deal and come up from humble beginnings. But his record of dissenting in death penalty cases was sufficiently troubling to cause Senator Ashcroft and others to oppose the nomination.

Many of my colleagues have impugned Senator Ashcroft's motives for voting against Judge White. But Judge White's nomination was strongly opposed by many of Senator Ashcroft's constituents and also by major law enforcement groups, including the National Sheriffs' Association and the Missouri Federation of Police Chiefs.

Sheriff Kenny Jones, whose wife and colleagues were killed by Johnson, testified, ''I opposed Judge White's nomination to the federal bench, an I asked Senator Ashcroft to join me because of Judge White's opinion on a death penalty cease. . . in his opinion, Judge White urged that Johnson be given a second chance at freedom. I cannot understand his reasoning. I know that the four people killed were not given a second chance.''

Finally, many of my colleagues have alleged that Senator Ashcroft's opposition to Judge White was underhanded and done with stealth. Well, Senator Ashcroft voted against Judge White's nomination in committee. He expressed his disapproval at that time. If he had held up the nomination in committee without allowing it to proceed to the floor he would have been criticized for delay.

Indeed, Senator BOXER pleaded during a debate about several judges including Ronnie White,

> I beg of you, in the name of fairness and justice and all things that ace good in our country, give people a chance. If you do not think they are good, if you have a problem with something they said or did, bring it down to the floor. We can debate it. But please do not hold up these nominees. It is wrong. You would not do it to a friend.—Cong. Rec. S. 11871, Oct. 4, 1999.

Thus, Senator Ashcroft was between a rock and a hard place as to how to raise his legitimate concerns about Judge White.

Senator Ashcroft is a man of tremendous integrity, one of the most qualified nominees for Attorney General that we have ever seen. His opposition to Judge White was principled and in keeping with the proper exercise of the advice and consent duty of a senator. I regret that we have needed to revisit this issue at such great length.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER (Mr. ALLARD). The Senator from Arizona.

Mr. KYL. I ask unanimous consent to have an op-ed piece, which responds to one of the points that Senator BOXER was raising, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JOHN ASHCROFT, AMERICAN PARTISAN

(By Thomas G. West)

Frustrated by the absence of any real dirt on Senator John Ashcroft, his ideological enemies have descended into dishonesty and distortion. He is being attacked as a racist and a defender of slavery. A quotation from his 1998 interview with ''Southern Partisan'' magazine has been denounced with particular venom.

Those circulating that quotation suggest that Ashcroft was praising the confederate cause, including slavery. But in context he was praising the antislavery principles of America's Founding Fathers. I should know, because he was talking about my book.

Here is how the full quotation reads in the original: ''Ashcroft: Revisionism is a threat to the respect that Americans have for their freedoms and the liberty that was at the core of those who founded this country, and when we see George Washington, the founder of our country, called a racist, that is just total revisionist nonsense, a diatribe against the values of America. Have you read Thomas West's book, ''Vindicating the Founders''?

''Interviewer: I've met Professor West, and I read one of his earlier books, but not that one.

''Ashcroft: I wish I had another copy: I'd send it to you. I gave it away to a newspaper editor. West virtually disassembles all of these malicious attacks the revisionists have brought against our Founders. Your magazine also helps set the record straight. You've got a heritage of doing that, of defending Southern patriots like [Robert E.] Lee, [Stonewall] Jackson and [Jefferson] Davis. Traditionalists must do more. I've got to do more. We've all got to stand up and speak in this respect, or else we'll be taught that these people were giving their lives, subscribing their sacred fortunes and their honor to some perverted agenda.''

Ashcroft's language is telling. It is a clear reference to the final words of the Declaration of Independence, where the signers ''pledge to one another our lives, our fortunes, and our sacred honor.'' The ''perverted agenda'' to which Ashcroft alludes is the ideology of proslavery, which he is utterly rejecting here.

''Southern Partisan'' has been described, correctly, as a magazine that defends the South in the Civil War. But Ashcroft has just pointed out, correctly, that ''liberty''—not slavery—was ''at the core'' of the founding, and that Washington was not a racist. His praise of the three Confederate leaders, therefore, must be taken in context as an expression of respect for men of honor and talent, but in no way for the proslavery policies of the Confederacy.

Ashcroft was deploring, quite sensibly, that people are being taught to despise and hate the Founders, instead of respecting them for creating the first country in history dedicated to the principle that ''all men are created equal.''

My ''Vindicating the Founders'' shows that this dedication led directly to the abolition of slavery in the northern states, and to the 1787 law banning slavery from the territories north of the Ohio River. These states became the American heartland that later, following Lincoln's lead, stood up for the founding principles, won the Civil War, and abolished slavery throughout the country.

Contrary to opponents of his nomination, taken as a whole this interview shows that Ashcroft is an admirer of the ''liberty that was at the core'' of the American founding. He is therefore likely to be especially respectful toward the original meaning of the Constitution, which was designed to secure ''the blessings of liberty to ourselves and our posterity.''

The deeper point that Ashcroft was pointing to is this: Liberals today generally agree with Bill Clinton, who said in a 1997 speech that Thomas Jefferson's view of equality meant that ''you had to be white, you had to be male, and . . . you had to own property.'' Because Clinton and other liberals misunderstand the founding so badly, they believe in a ''living Constitution'' whose meaning changes to keep up with the times. Or, as Clinton put it in the same speech, our history is the story of ''new and higher definitions—and more meaningful definitions—of equality and dignity and freedom.''

John Ashcroft believes in the original definition of equality and liberty: that all human beings deserve to be free and to keep the property they earn with their own hands, rather than have it taken away by a government that pretends to know better than they do what to do with that property.

In the incoming Bush administration, with Ashcroft as Attorney General, perhaps America has a chance to go back to the genuine principles of the Founders, without trying to come up with ''new and higher definitions'' of them, as has been the habit of the past eight years.

Ashcroft has also been unjustly vilified for a speech at Bob Jones University in 1999. His words, ''We have no king but Jesus,'' have been denounced as narrow and bigoted—as if the Constitution had some sort of religious test that excludes serious Christians from public office. Yet in that speech, as in the ''Southern Partisan'' interview, Ashcroft singled out for his highest praise the Founders' inclusive vision of equal rights for all.

To his Bob Jones audience, Ashcroft quotes with reverence the Declaration's famous phrases, including ''endowed by our Creator with certain inalienable rights.'' He celebrates the fact that Christians, indeed most Americans, believe these rights come from ''our Creator,'' not from a merely ''civic and temporal'' source in ''Caesar'' or ''the king.'' For, as Ashcroft knows, if our rights come merely from government, then government may one day decide to take them away.

In this conviction he expresses his agreement with the greatest statesmen and heroes of the past, from Washington and Jefferson to Lincoln and Reagan.

Based on these two Ashcroft pronouncements—his ''Southern Partisan'' interview, and his Bob Jones speech—a fair-minded reader would conclude that Ashcroft is just the kind of man that America needs as its next Attorney General: a man devoted, to the depth of his heart, to the great principle of the equality of men that has made America the greatest nation on earth.

Mr. HATCH. Mr. President, I wish to discuss some civil rights issues surrounding the nomination of Senator Ashcroft to be Attorney General. At the hearings and in supplemental questions, my colleagues have raised issues concerning Senator Ashcroft's plans for the Civil Rights Division of the Department of Justice should he be confirmed as Attorney General. Let me say that I am confident that Senator Ashcroft will fight for the civil rights and liberties of all Americans. He believes that everyone deserves an opportunity to succeed and that those at the bottom of our society may need a helping hand.

Senator Ashcroft strongly supports ''affirmative access'' programs. As he testified, ''We can expand the invitation for people to participate aggressively so that no one is denied the capacity to participate simply because they didn't know about the opportunities. We can work on education, which is the best way for people to have access to achievement.''

Senator Ashcroft wants to encourage achievement and access to achievement. He wants to avoid what President Bush called the ''soft bigotry of low expectations'' that fuels many race-conscious programs.

It is true that Senator Ashcroft is skeptical about government programs that categorize people by race. Many of these programs would be unconstitutional under the Supreme Court's decision in Adarand v. Pena. That decision stated that all governmental racial classifications should be subject to strict scrutiny, that is such classifications must be narrowly tailored to serve a compelling governmental interest. The Supreme Court made clear that there was no such thing as a ''benign'' racial classification, and that the government may treat people differently because of their race for only the most compelling reason. This view of governmental racial classifications comports with the development of constitutional protections for civil liberties. Senator Ashcroft is solidly with the Supreme Court on this issue.

Some of my colleagues and certain special interest groups have especially questioned Senator Ashcroft's ability to support and defend civil liberties because he opposed the nomination of Bill Lann Lee to be Assistant Attorney General for Civil Rights. Well, all but one Republican in the Judiciary Committee opposed this nominee. Let me say that I have the highest personal regard for Mr. Lee and the difficult circumstances in which his family came to this country, worked hard, and realized the American dream.

Despite this high personal regard, I was deeply concerned about Mr. Lee's nomination because much of his career was devoted to preserving constitutionally suspect race-conscious public policies that ultimately sort and divide citizens by race. At the time of his hearings, it was clear that he would have us continue down the road of racial spoils, a road on which Americans are seen principally through the looking glass of race. As the Supreme Court has held, that would be unconstitutional.

Indeed, it is now clear that we were right to oppose the nomination of Mr. Lee. Over the Senate's objections, President Clinton made a recess appointment of Mr. Lee to head the Civil Rights Division. His record has been one of pursuing constitutionally suspect, race-based policies at great cost to civil liberties.

Under Mr. Lee's leadership, the Civil Rights Division has waged a war against testing standards in public sector employment based on what he considers to be the ''adverse impact'' of such testing. He has repeatedly sought to replace objective hiring processes with devices designed to boost minorities.

In 1998, a federal judge, a Carter-appointee, assessed an unprecedented $1.8 million attorney fee award against the Civil Rights Division for a lawsuit against the city of Torrance, California. The Judge found the suit ''frivolous, unreasonable and without foundation.'' Despite this embarrassment, the Division continues to argue that using test results and hiring those who score best on the test is, in the words of one civil rights division deputy, ''the worst possible way to select applicants.''

Furthermore, under Mr. Lee, the Civil Rights Division has continued the legal challenge to Proposition 209, a measure that prohibited government discrimination of Californians on the basis of race, gender, or national origin. These suits continue despite the fact that Proposition 209 has repeatedly been upheld by federal courts.

Finally, under Bill Lann Lee, the Division continued to defend the federal contract set-aside struck down by the Supreme Court in Adarand.

At the time of Mr. Lee's nomination I made a lengthy speech on this floor. I regret that Mr. Lee's tenure has shown that my concerns were not unfounded. Mr. Lee's actions show that he was unable to distinguish the substantive role of being a law enforcer for all citizens from being a private activist litigator charged with pushing the limits of the law.

Senator Ashcroft's principled opposition to Mr. Lee has been vindicated over time. Not only was Mr. Lee an activist, but he continued to pursue his activist agenda once in a position of trust for all Americans. The signs that he would do this were clear at his hearings at which he narrowly defined the rule in Adarand and could not distinguish cases that he would bring as Assistant Attorney General from those he brought in the NAACP Legal Defense Fund.

By contrast, Senator Ashcroft has repeatedly distinguished his role as a legislator from that of the Attorney General. He understands that his political advocacy gets checked at the door of the Department of Justice. Senator Ashcroft has repeatedly stated that he would enforce the law as it exists to protect the civil liberties of all Americans. He is committed to defending the constitutional rights of all individuals and has testified that he will make the enforcement of civil rights one of his topmost priorities. As Senator Ashcroft stated, ''My highest priority is to ensure that the Department of Justice lives up to its heritage of enforcing the rule of law, and in particular, guaranteeing legal rights for the advancement of all Americans. . . . [O]ne of my highest priorities at the Department will be to target the unconstitutional practice of racial profiling.''

Senator Ashcroft will be a faithful guardian of our civil liberties, and it is for this reason and many others that I wholeheartedly support his nomination to be Attorney General.

Mr. President, some claim that Senator Ashcroft will not uphold the law with regard to abortion.

I think it would be appropriate at this time to set the record straight on John Ashcroft's record and commitments regarding abortion—an issue we have heard a lot about during this confirmation process.

While Senator Ashcroft's critics have spared nothing in their attempts to distort his record and create fear, Senator Ashcroft's record over 25 years as a public servant, and his testimony before the Judiciary Committee during his confirmation hearing, demonstrate his lifelong commitment to the rule of law and his respect for the uniquely

different roles of a legislator and a law enforcer. Senator Ashcroft has proven that he can objectively interpret and enforce the law—even where the law may diverge from his personal views on policy. His record and character demonstrate that he can be, as he has pledged, ''law oriented and not results oriented.''

Contrary to the fear-mongering of his critics, Senator Ashcroft will enforce the law protecting a woman's right to an abortion. He was very straightforward in his testimony before the Judiciary Committee when he stated that, in his view, Roe versus Wade is settled law and that the Supreme Court's decisions upholding Roe ''have been multiple, they have been recent and they have been emphatic.'' He said he would enforce the law as interpreted by the Supreme Court.

When asked whether he would seek to change the Supreme Court's interpretation of the law, Senator Ashcroft stated that ''it is not the agenda of the President-elect to seek an opportunity to overturn Roe. And as his Attorney General, I don't think it could be my agenda to seek an opportunity to overturn Roe.'' He also stated that as Attorney General, it wouldn't be his job to ''try and alter the position of the administration.''

Senator Ashcroft clearly recognized the importance of not devaluing ''the currency'' of the Solicitor General's Office by taking matters to the Supreme Court on a basis the Court has already stated it does not want to entertain. He noted that in this way, ''accepting Roe and Casey as settled law is important, not just to this arena, but important in terms of the credibility of the Department.''

He said he would give advice based upon sound legal analysis, not ideology or personal beliefs. He made a commitment that ''if the law provides something that is contrary to my ideological belief, I would provide them with that same best judgment of the law.''

From Senator Ashcroft, those are not just words. Throughout his career, he has demonstrated that he can do just that.

For example, as Missouri Attorney General, Senator Ashcroft did not let his personal opinion on abortion cloud his legal analysis. He protected the confidentiality of abortion records maintained by the Missouri Department of Health—even when they were requested by pro-life groups.

Likewise, when asked to determine whether a death certificate was required for all abortions, regardless of the age of the fetus, Attorney General Ashcroft—despite his personal view that life begins at conception—issued an opinion that Missouri law did not require any type of certificate if the fetus was 20 weeks old or less. His legal analysis was fair and objective and unaffected by what his policy views may have been.

There has also been, what I consider, unfounded skepticism over whether Senator Ashcroft would vigorously enforce clinic access and antiviolence statutes. Being pro-life is not inconsistent with opposing violence at clinics. The primary focus of the opposition has been the Freedom of Access to Clinic Entrances Act of ''FACE''. Senator Ashcroft supports the FACE law, and always has.

Senator Ashcroft testified specifically on how he would enforce FACE and other clinic access and antiviolence laws. He stated clearly that he would enforce these laws ''vigorously'', that he would investigate allegations ''thoroughly'' and that he would devote resources to these cases on a '''priority basis.''

He further stated that he would maintain the appropriate task forces which have been created to facilitate enforcement of clinic access and antiviolence statutes.

These statements are totally consistent with Senator Ashcroft's long record of speaking out against violence and his belief that the first amendment does not give anyone the right to ''violate the person, safety, and security'' of another.

Senator Ashcroft has always spoken out against clinic violence and other forms of domestic terrorism. He has written to constituents about his strong opposition to violence and his belief that, regardless of his personal views on abortion, people should be able to enter abortion clinics safely. He voted for Senator SCHUMER's amendment to the bankruptcy bill that made debts incurred as a result of abortion clinic violence non-dischargeable in bankruptcy.

Senator Ashcroft has always condemned criminal violence at abortion clinics—or anywhere for that matter—and believes people who commit these acts of violence and intimidation should be punished to the fullest extent of the law. As Attorney General he'll do just that.

Access to contraceptives is another area that I think Senator Ashcroft has been unfairly criticized. His critics make dire predictions about the future that are totally unsupported by Senator Ashcroft's testimony. Senator Ashcroft could not have testified any more clearly on the issue of contraception. He stated that: ''I think individuals who want to use contraceptives have every right to do so . . . [and] I think that right is guaranteed by the Constitution of the United States.'' He also testified that he would defend current laws should they be attacked. What more can he say? Is there anything a pro-life nominee could say to please the pro-abortion interest groups?

Senator Ashcroft's opponents take great pains to say that they do not oppose him on ideological grounds. Well you could have fooled me. Their argument is that someone who has been active in advocating a particular policy position cannot set that aside and enforce the law fairly. I don't believe they can be serious. Does this mean that a person of character and integrity who had been active in the prochoice movement could never be Attorney General? And what about the death penalty? Could we have no future Attorney General, regardless of how honest and well-qualified, who opposed the death penalty? Of course not. In fact, Republicans voted to confirm Janet Reno, despite her personal opposition to the death penalty, because she said she could still enforce the law even though she disagreed with it.

If this is not about ideology, then we should get to the business of confirming Senator Ashcroft. He has given strong and specific assurances to the Senate on abortion and other questions. These assurances are backed up by his proven record as Missouri attorney general and Governor. Most importantly, they are backed up by Senator Ashcroft's personal integrity and decency—characteristics he holds as is known personally by almost every Member of this body.

Members know John Ashcroft is a man of his word—it's time that they act on it and confirm him as Attorney General.

Mr. President, some have criticized Senator Ashcroft's handling of voter registration in Missouri. Some of my colleagues have charged that as Governor, John Ashcroft essentially blocked two bills that would have required the city of St. Louis Board of Election Commissioners to deputize private voter registration volunteers. These bills were opposed by both Democrats and Republicans in St. Louis. Opposition included the bipartisan St. Louis County Board of Election Commissioners, the St. Louis Board of Aldermen President Tom Villa, and St. Louis circuit attorney George Peach. Tom Villa was a noted Democratic leader, and St. Louis circuit attorney George Peach was a Democrat who was the prosecutor in the St. Louis area. All of these people opposed the legislative plan. The recommendations of these officials was one of the reasons that John Ashcroft vetoed the bills.

It was insinuated during the hearings that these actions were taken out of some kind of partisan or racial motivation, because the city of St. Louis is predominantly black and Democratic. But this implication is seriously discredited by the history of voter registration in St. Louis and earlier Federal court cases.

The city board has a long history of refusing to deputize private voter registration deputies, long before John Ashcroft appointed anyone to that board. Indeed, in 1981 a lawsuit was filed against the members of the St. Louis board concerning the failure to deputize voter registration deputies. The Federal District Court for the Eastern District of Missouri explicitly rejected charges of racial animus. The court found that the board properly refused to deputize volunteers to prevent

fraud and ensure impartiality and administrative efficiency. Moreover, these conclusions were sustained by the eighth circuit, in an opinion by Judge McMillan, a prominent African-American jurist.

Some have also claimed that then-Governor Ashcroft refused to appoint a diverse group of commissioners to the election board. This is simply untrue. Mr. Jerry Hunter, the former labor secretary of Missouri, testified that Senator Ashcroft worked hard to increase black representation on the St. Louis City Election Board, but his efforts were stalled by State senators.

Mr. Hunter testified that, ''Governor Ashcroft's first black nominee for the St. Louis City Election Board was rejected by the black State senator, because that person did not come out of his organization.'' When then-Governor Ashcroft came up with a second black attorney, this candidate was also rejected by two black State senators. As Mr. Hunter stated, ''[F]rom the beginning, any efforts to make changes in the St. Louis City Election Board were forestalled because the state senators wanted people from their own organization.'' Apparently for these State senators the political spoils system was more important than the voters of St. Louis.

Finally, my colleagues imply that these voter registration issues will make Senator Ashcroft less able to deal with allegations of voting improprieties resulting from the Florida vote in the Presidential election. Yet Senator Ashcroft has repeatedly testified, ''I will investigate any alleged voting rights violation that has credible evidence. . . . I have no reason not to go forward, and would not refuse to go forward for any reason other than a conclusion that there wasn't credible evidence to pursue the case.''

Mr. President, a number of my colleagues have continued to express concerns about Senator Ashcroft's actions with regard to conducting a telephone interview with a magazine called Southern Partisan. Their concern is what message that interview might have sent to the country. It is clear, however, that Senator Ashcroft has forthrightly and forcefully condemned racism and discrimination, and he has left no doubt or ambiguity regarding his views on that matter.

During his confirmation hearings, Senator Ashcroft said, ''Let me make something as plain as I can make it. Discrimination is wrong. Slavery was abhorrent. Fundamental to my belief in freedom and liberty is that these are God-given rights.'' And in his responses to written questions, he said, ''I reject racism in all its forms. I find racial discrimination abhorrent, and against everything that I believe in.'' It is clear to me that John Ashcroft believes in equal treatment under the law for everyone. He believes in it, and he has committed to fight to make it a reality for all Americans.

Now, as to the magazine itself, Senator Ashcroft contritely admitted that he does not know very much about it. He confessed that he should have done more research about it before talking to them. And he said that he did not intend his telephone interview—or any other interview he has participated in during his career—as an automatic endorsement of the editorial positions of those publications. John Ashcroft went even further than that. He said, ''I condemn those things which are condemnable'' about Southern Partisan magazine. This was a strong statement against any unacceptable ideas discussed in that publication. And it was the strongest statement possible from someone who did not personally know the facts.

Despite Senator Ashcroft's contriteness and strong words, some Senators and interest groups have demanded that Senator Ashcroft go out on a limb and add his derision based upon an acceptance at face value of all the negative allegations concerning that magazine. In my opinion, Mr. President, this led to one of the most profound moments of the confirmation hearings. A member of the committee pushed Senator Ashcroft to label the Southern Partisan magazine as ''racist''—even after Senator Ashcroft explained that he did not know whether that was true. The profound part was John Ashcroft's response. He said, ''I know they've been accused of being racist. I have to say this, Senator: I would rather be falsely accused of being a racist than to falsely accuse someone else of being a racist.'' This exchange tells volumes about Senator Ashcroft's moral character, deep sense of fairness, and his fitness for the office of Attorney General. It would have been a lot easier for him just to say, ''Yes, I agree with anyone who uses that term about someone else.'' Doing so would have saved him from further bashing by the committee and the press. It would have been politically expedient. But John Ashcroft choose to take the high road, not to heap disdain onto something he didn't know about just because it would have suited his interests to do so. This was a vivid example of good judgment and good character.

This is not to say that John Ashcroft defended anything about the magazine. Clearly he did not. In fact, when Senator BIDEN asked him whether the magazine was condemnable because it sells T-shirts that imply that Lincoln's assassin did a good thing, he answered: ''If they do that, I condemn'' it. And he clarified that ''Abraham Lincoln is my favorite political figure in the history of this country.'' What John Ashcroft did was state his absolute intolerance for racism and bigotry, and he did so honestly without creating a straw man, a scapegoat, or a fall guy.

I think we need to ask anyone who is not satisfied with John Ashcroft's answers what they really want. What do his accusers think justice is? I surely hope that no one in this body would say that justice means the knee-jerk condemnation of things they do not know about, so long as that condemnation is politically expedient.

Mr. President, I think this issue has shed light on why John Ashcroft will be a fair and principled Attorney General. As he told the Judiciary Committee, ''I believe racism is wrong. I repudiate it. I repudiate racist organizations. I'm not a member of any of them. I don't subscribe to them. And I reject them.'' These are straightforward words from an honest man. I look forward to having such a man running our Department of Justice.

Mr. President, I heard one of my colleagues today criticize Senator Ashcroft's view of the second amendment. While I disagree with these vague criticisms, I do believe that one of the biggest challenges that Senator Ashcroft will face as Attorney General is to increase the prosecution of federal gun crimes. Where there is little consensus in Congress regarding new gun control legislation, there is widespread consensus that current gun laws can and should be prosecuted more vigorously.

While the Clinton administration has increased the regulation of licensed gun dealers, it has not increased the prosecution of Federal gun crimes in a like manner. For example:

Between 1992 and 1998, prosecutions of defendants who use a firearm in the commission of a felony dropped nearly 50 percent, from 7.045 to approximately 3,800.

It is a Federal crime to possess a firearm on school grounds, but the Clinton Justice Department prosecuted only eight cases under this law in 1998, even though more than 6,000 students brought guns to school. The Clinton Justice Department prosecuted only five such cases in 1997.

It is a Federal crime to transfer a firearm to a juvenile, but the Clinton Justice Department prosecuted only six cases under this law in 1998 and only five in 1997.

It is a Federal crime to transfer or possess a semiautomatic assault weapon, but the Clinton Justice Department prosecuted only four cases under this law in 1998 and only four in 1997.

As his testimony to the Senate Judiciary Committee made clear, Senator Ashcroft will reverse this trend and make gun prosecutions a priority. In the Senate, John Ashcroft was one of the leaders in fighting gun crimes. For example, in response to the decline in gun prosecutions by the Justice Department, Senator Ashcroft sponsored legislation to authorize $50 million to hire additional Federal prosecutors and agents to increase the Federal prosecution of criminals who use guns.

In addition, Senator Ashcroft authored legislation to prohibit juveniles from possessing assault weapons and high-capacity ammunition clips. The Senate overwhelmingly passed the Ashcroft juvenile assault weapons ban in May of 1999.

Senator Ashcroft voted for legislation that prohibits any person convicted of even misdemeanor acts of domestic violence from possessing a firearm, and he voted for legislation to extend the Brady Act to prohibit persons who commit violent crimes as juveniles from possessing firearms.

In order to close the so-called ''gun show loophole,'' Senator Ashcroft voted for legislation, which I authored, to require mandatory instant background checks for all firearm purchases at gun shows.

Senator Ashcroft sponsored legislation to require a 5-year mandatory minimum prison sentence for Federal gun crimes and for legislation to encourage schools to expel students who bring guns to school.

Senator Ashcroft voted for the Gun-Free Schools Zone Act that prohibits the possession of a firearm in a school zone, and he voted for legislation to require gun dealers to offer child safety locks and other gun safety devices for sale.

As a former state attorney general and president of the National Association of Attorneys General, Senator Ashcroft knows that criminal laws are useless if not enforced. Given his proven commitment to fighting gun violence, there can be little doubt that Attorney General Ashcroft will make gun prosecutions a priority for the Justice Department.

Mr. President, I would like to address one more issue concerning Senator Ashcroft's position on gun enforcement. Some special-interest groups have made the ridiculous assertion that an Ashcroft Justice Department would not defend the constitutionality of certain gun laws. As Senator Ashcroft noted at his hearing, there is a longstanding policy for the Solicitor General's office to defend Federal statutes in court if there is a reasonable basis for doing so. In other words, the Justice Department will defend Federal statutes even if that particular administration does not agree with the statute as a matter of policy. This longstanding policy applies to all Federal statutes, except those which infringe on the prerogatives of the President. This longstanding policy promotes the integrity and the consistent administration of Federal law.

At his confirmation hearing, in response to Senator KENNEDY, Senator Ashcroft pledged to ''vigorously defend'' the constitutionality of the ban on possession of firearms by persons convicted of domestic violence. In fact, Senator Ashcroft voted for the legislation that prohibited persons convicted of domestic violence from possessing firearms. And in response both to Senators FEINSTEIN and KENNEDY, Senator Ashcroft pledged to maintain the Justice Department's position of defending the constitutionality of the assault weapons ban. In short, Senator Ashcroft made clear that the Justice Department would defend and enforce Federal gun laws whether or not he agreed with such laws as a matter of policy.

Senator Ashcroft's record as Missouri attorney general supports his pledge to defend and enforce gun laws regardless of his personal beliefs. For example, as the attorney general of Missouri, John Ashcroft issued an opinion which interpreted state law to prohibit prosecuting attorneys from carrying concealed weapons, even though some prosecuting attorneys conducted their own investigations and faced dangerous situations. This is a classic example of John Ashcroft upholding the law even when he did not agree with it.

In short, John Ashcroft is a man of integrity and great ability. With John Ashcroft as Attorney General, I am confident that the Justice Department will enforce Federal gun laws with unprecedented zeal.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. ROBERTS. Mr. President, I rise today, as many of my colleagues have done, in support of my friend and our friend, Senator John Ashcroft, to be Attorney General of the United States.

It is always interesting, as the distinguished Senator from California has indicated, to look at people's views in a situation such as this. And I must say that while I respect the Senator's views and her comments, I guess what I will describe as allegations, I do have a different view. This does not add up to the John Ashcroft I know as a neighbor.

We have heard the debate. It has been considerable. We have all heard the charge that Senator Ashcroft is somehow not fit to serve as Attorney General. But that really does not square with the John Ashcroft I know.

We in Kansas have watched our neighbor and observed his record for a great number of years. We think we know this man. Again, I don't think the record really squares with the charges and the allegations that have been tossed about for the last several weeks.

As Missouri attorney general, John Ashcroft strictly enforced laws that differed from his own beliefs. I repeat that. That seems to be the crucial issue here. He strictly enforced laws that actually differed from his own beliefs, including firearms—we have heard a lot of talk about firearms—whether prosecuting attorneys could actually carry concealed weapons; here is one on abortion and that dealt with the confidentiality of hospital records on numbers of abortions that were performed; whether a death certificate was legally required for fetuses under 20 weeks; church and state; the availability of funds for private and religious schools, and the distribution of religious materials in public schools; quite a few environmental regulations; and also in regard to affirmative action.

If Senator Ashcroft could not honestly enforce the law, wouldn't somebody have documented such an instance by now in relation to these laws he did enforce that involved strong beliefs with which he did not agree? I don't think they have, despite the rhetoric.

I will talk a little bit about experience. John Ashcroft, regardless of your view about his stance on the issues or his ideology or selected quotes, is the most experienced Attorney General nominee in American history. Boy, that is a strong statement, but consider the facts. Of the 67 persons who have served in that office since the founding of the Republic, only one, John Ashcroft, has served as State attorney general—that is two terms—and Governor of his State—two terms—and as a U.S. Senator with service on the Senate Judiciary Committee.

As Missouri AG, John Ashcroft was elected the president of the National Association of Attorneys General. As Missouri Governor, he was elected chairman of the National Governors' Association. If John Ashcroft's execution of these earlier public trusts was as far ''out of the mainstream'' as his critics now claim, wouldn't his fellow State attorneys general or Governors, including Democrats, have noticed and said something?

His colleagues universally admire his devotion to his faith. Mr. BYRD, the distinguished Senator from West Virginia, spoke to that earlier today and made some excellent comments. Does that not imply he is then a man of conscience, that he will do what he says he will do? John Ashcroft himself said:

> My primary personal belief is that the law is supreme; that I don't place myself above the law, and I shouldn't place myself above the law. So it would violate my beliefs to do it.

He will enforce the law.

Perhaps the most serious of the charges against the Senator, our former colleague, is that he is somehow—and I don't like to use this term, but it has been bandied about—a racist because of his opposition to Justice Ronnie White. I do not think, in knowing the man and in looking at the record very carefully, there is any evidence of racial bias in Senator Ashcroft's record.

Among other initiatives—and this has been said before on the floor, and it deserves repeating—this is a man who signed Missouri's first hate crimes statute into law. He signed into law the bill establishing a Martin Luther King, Jr., holiday in Missouri. He appointed the first African American woman to the Missouri Court of Appeals. He has been a leader in opposition to racial profiling.

In my personal view, there were good reasons that Senator Ashcroft opposed the White confirmation and that every Republican Senator then voted no. Justice White, during his tenure on the Missouri Supreme Court, was notable for his anti-death-penalty and procriminal bias, which led to strong bipartisan opposition from the law enforcement community to his lifetime appointment to the Federal bench.

Let me point this out. More than 70 percent of all elected officials in Missouri, including sheriffs, are Democrats; and 77 of the 114 Missouri sheriffs, including many Democrats, were on record in unprecedented opposition to Justice White's confirmation. The Missouri Federation of Police Chiefs and the National Sheriffs Association were also against that confirmation. I voted no. I did not know at the time when I cast that vote of Justice White's African American status. I didn't know that. As a matter of fact, in talking with fellow Republicans, many of us did not know that. John Ashcroft never mentioned that. That wasn't the reason we opposed him.

Senator Ashcroft's opponents accuse him of being out of the mainstream and in support of private ownership of firearms. They say his support of firearms as a guard against government tyranny is ''talk of a madman.'' I think we ought to look at the record.

As State attorney general and Governor, John Ashcroft conscientiously enforced both State and Federal gun laws, even those with which he disagreed. That again is the crucial issue. His record does contrast sharply with the CLINTON Justice Department's failure to enforce existing Federal gun laws, even while calling for new ones.

The second amendment to the U.S. Constitution was adopted to preserve a traditional right of the people as a guard against government encroachment, and that point is beyond dispute. If John Ashcroft is ''a madman'' or ''out of the mainstream,'' so were James Madison, Alexander Hamilton, Thomas Jefferson, Noah Webster, Abraham Lincoln, Hubert Humphrey, and other notable Americans who held that same view.

Despite the harsh words being hurled in Washington about this nomination, many in our Nation's heartland, in Kansas and Nebraska, Oklahoma, Missouri, know, understand, have seen him up close and personal as neighbors. We know he is an outstanding public servant and will make an outstanding Attorney General.

Listen to what the Atlanta Journal and Constitution has to say about this nomination:

Ashcroft is certainly conservative, and he is certainly religious. But 88 percent of his fellow citizens report that religion is important or very important in their lives, a figure that has barely varied over the past 20 years. Seventy percent or more believe the nation would be better off if it were more religious, and 79 percent favor prayer or at least a moment of silence in the public schools. So who's out of the mainstream?

Ashcroft strongly opposes abortion on moral grounds; 55 percent of the people say it is ''morally wrong most of the time.'' The nominee would like to see sharp restrictions on when an abortion would be legal; only 28 percent of Americans think it should be legal under any circumstances. He absolutely opposes partial-birth abortion; so do 66 percent of Americans. Who are the extremists on this issue?

Actually, none of these attacks on Ashcroft's beliefs has much real meaning because he has already demonstrated, as Attorney General of Missouri, that he is perfectly capable of following the law as it is, rather than as he might wish it were.

Again, that is the basic point I make.

Maybe it is difficult for his opponents to believe that he could so carefully separate his personal views from his task as chief enforcer of the nation's laws because they have so much trouble doing that themselves. But we believe he can and will do so and that the American mainstream which was invoked so frequently at his hearings will be well served and satisfied with the job that he will do.

I certainly agree that America will be well served with Senator Ashcroft's confirmation by the Senate. I intend to vote for him. I urge my colleagues to do the same.

One other thing: John Ashcroft and I spent a little time together—3 days—up in the wilds of Alaska. We were up there at the invitation of Senator TED STEVENS. There is a fishing contest up there. The Presiding Officer is very skilled, by the way, in taking part in that whole fishing contest. The proceeds are used to improve the habitat on the Kenai River.

We had a great deal to say to each other, both Senator Ashcroft and myself, when we were fishing in that kind of circumstance. We didn't talk about anything that involved racism, or Bob Jones University, or selected quotes, or whatever; we talked as individuals and as friends. I did not hear a bitter or prejudicial word. We talked about what things mean in life basically. We talked about family and of the Lord's creation. We talked as fellow men. We talked about the privilege to serve in the Senate. We told a lot of stories about human beings, we talked a lot about fishing, and we talked a lot about friendship. I think when we can spend time with a man in that kind of circumstance, we really get to know him.

Personally, I just want to say I am having a lot of trouble figuring out whom the critics are talking about in regard to the John Ashcroft I know and respect. I think he will make a great Attorney General. And, quite frankly, I think at the end of the day when he reaches out in an act of friendship and trust across the aisle to many of his critics, we are going to be just fine.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I gather that the order set is that Senator DODD will speak and then Senator COCHRAN.

The PRESIDING OFFICER. There is no order at this point.

Mr. KERRY. Mr. President, I ask unanimous consent that the order be as follows: That following Senator DODD, Senator COCHRAN speak, and that I be permitted to speak following Senator COCHRAN.

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

The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, first of all, at the outset I commend my colleagues on the Judiciary Committee, the chairman of the committee, Senator HATCH, and Senator LEAHY, the ranking Democrat, and the respective members of the committee for the manner in which they conducted the confirmation hearing for the position of Attorney General of the United States and for the manner in which they treated John Ashcroft, President Bush's nominee for this position.

It is a difficult job, particularly when the nomination is controversial. I think the members of the Judiciary Committee, both Republicans and Democrats, conducted themselves with great dignity, and I commend them for it.

Mr. President, I am going to vote to confirm John Ashcroft as U.S. Attorney General. I would like to take a few minutes of the Senate's time to explain my reasons.

Let me say at the outset that I hope Mr. Ashcroft will listen to what I have to say here this afternoon. My comments are delivered primarily for the benefit of my colleagues and my constituents. But they are also directed to John Ashcroft.

It is important that John Ashcroft understand that my support of his nomination is not unqualified. It is given, rather, only upon extensive reflection and despite concerns about what kind of Attorney General he will make.

I have listened attentively to the comments of our colleagues both in support of and in opposition to this nomination. I respect immensely their views. I have considered the practices and precedents of the Senate in deferring to presidential cabinet appointments. And I have reflected upon my own practices over the past two decades in the Senate in considering such appointments. During that time, I have supported an overwhelming number of Cabinet nominees. But I have, on the rarest occasions, opposed Cabinet nominees supported by the majority of members of the Senate and by a majority of my own party. It also bears mentioning that I have supported nominees opposed by most members of my party and, in one instance, also opposed by a majority of the Senate.

My concerns about this particular nominee can be reduced to three in particular:

First, whether he will uphold and vigorously enforce our laws—especially those with which he personally disagrees.

Second, whether he will treat other people in public life as he wishes to be treated—particularly those with whom he may disagree.

And third, whether he will seek to unify rather than divide our nation on critical issues facing our nation, especially the issue of racial justice.

Let me address these concerns in order.

First, as to John Ashcroft's disposition to enforce the law. The Attorney General, as we all know, is our nation's

primary law enforcement officer. This is an office of unique importance.

Except perhaps for the president himself, no other individual can or should do more to protect the public's safety, and to promote the ideal of equal justice that is the North Star in our constellation of laws.

Like many others in public life, John Ashcroft is a man of strong convictions. He should be commended, not faulted, for that fact. But the question that arises with respect to his nomination for this particular office is whether those convictions—on matters such as a woman's right to choose and gun safety—might well preclude him from enforcing laws on those and similar issues with which he may disagree.

This is a threshold question. If the nation's top law enforcement officer cannot enforce the law, how can anyone say he should nevertheless assume the office? If the public cannot know with reasonable assurance that their Attorney General will uphold our laws vigorously and free of personal bias, then how can we be confident that respect for the law will not be weakened?

If minority Americans, women, and others cannot rely on the Attorney General to safeguard their liberties, how can other—indeed, all—Americans not worry that their rights might one day be placed at risk, as well?

John Ashcroft has minced no words about his positions on issues like a woman's right to choose and gun safety. He has advocated positions contrary to current law. That is his record. It is also, I might add, his right—just as any of us has the right to advocate legal change.

But that is far from saying that he cannot faithfully enforce the law. There is more to his record that deserves consideration. This is a man who was elected not once, but five times by a majority of the people of his state—as their attorney general, governor, and Senator. He has devoted nearly three decades of his life to public service. He has, as far as anyone knows, upheld the public's trust throughout that time.

If his nomination were to be decided on the basis of experience alone, he would have been among the first, rather than the last, of the President's Cabinet nominees to be considered by the Senate.

As Attorney General and Governor, the record suggests that he did, in fact, uphold and advocate laws with which he disagreed. He endorsed Democratic proposals to fund new roads and schools. He signed legislation to increase the penalties for crimes motivated by bigotry. He supported additional resources for legal services for the indigent.

During his confirmation hearing, he swore under oath that he would uphold the law ''so help me God.'' He did so repeatedly and fervently. He swore that he would respect Roe v. Wade and Planned Parenthood v. Casey as the law of the land. He swore to uphold the federal law that prevents violence and intimidation at family planning clinics. He testified that the Brady law and the assault weapons ban are constitutional.

He also testified that mandatory trigger locks, gun licensing and gun registration are all constitutional. And he vowed to hire without regard to sexual preference (although he did not, I should add, pledge to continue Attorney General Reno's policy of excluding sexual preference from security clearance decisions).

I do not expect that John Ashcroft will change his views as Attorney General. But I do, have every right to expect, based upon his commitment to God Almighty, before the Judiciary Committee that he will keep his word to uphold the laws of the land, even those with which he profoundly disagrees.

Mr. President, I would love to have the complete and total assurance he would do that. I cannot honestly conclude that he would not. Thus, it compels me to give him the benefit of the doubt because he has taken that oath fervently, before God Almighty, and members of the Senate Judiciary Committee.

A second concern I have about Senator Ashcroft's nomination is how he has treated other people. I refer very specifically to his conduct toward Judge Ronnie White, Ambassador James Hormel, and Bill Lann Lee, former head of the Justice Department Civil Rights Division.

Other colleagues have spoken and will speak about these cases in greater detail. Suffice it to say his treatment of their nominations went beyond the bounds of good manners and common decency. Too often, John Ashcroft refused to meet with these people; he failed to give them an opportunity to respond to the allegations, and he distorted, in my view, their records.

In the case of Mr. Hormel, he deemed the wholly private matter of sexual orientation to be a factor ''eligible for consideration'' in whether he ought to be nominated.

In the case of Judge White, he actively worked for his defeat—without first giving him a chance to respond to misleading statements made against him on the Senate floor.

His treatment of these men was cavalier at best—callous and calculated at worst. It is particularly troubling because my own limited experience with Senator Ashcroft was of a quite different nature.

We worked together on only one issue that I recall—ending the embargo on food and medicine to Cuba. In that effort, he took a position that engendered considerable opposition in his own caucus. At all times, I found him reasonable and trustworthy.

But there is nevertheless a record here of going after people in a harsh and unfair manner. I have always been suspicious of people who try to build a political career in part on the bones of their personal adversaries. Attacking motives, using people as political scapegoats, acting with reckless disregard to the reputations of others—these are the kinds of actions that I find contemptible, and that unfortunately have become all too common in public life today.

I hope John Ashcroft will change and turn away from such behavior in the future. I believe that he can. As the saying goes, ''There is no sinner without a future, and no saint without a past.'' I believe John Ashcroft is a decent human being, and I take him at his word.

If his flaws loom large, it is at least in part because they have been aired and examined in the magnifying light of public life.

And while I will not excuse these flaws—particularly in his treatment of others as a public official—I will not engage in the same form of pay-back politics that seems to have a growing currency in our time. That is not to suggest that those who oppose him will have engaged in such tactics. On the contrary, I can well understand the principled basis of their opposition.

That said, I will not do to John Ashcroft what has been done to too many people in recent years—including people like Ronnie White, James Hormel, and Bill Lann Lee. These individuals do not deserve the treatment they received. No one does. Not even John Ashcroft.

My third and final concern is closely related to the first: whether his views on the critical domestic issues of our day would preclude him from using his office not just to uphold the law, but to uphold the spirit of freedom and equal justice that permeates every one of our laws.

I find it not a little ironic that our new President, who calls himself a ''uniter, not a divider'', nominated for Attorney General a man who throughout his career has plunged so divisively into the most divisive issues of our time: civil rights, women's rights, equal rights, gun safety.

On a different level, I am not in the least surprised. The President chose a nominee who reflects his own views on many of these same issues. I did not expect him to nominate a Democrat.

Like nearly all of our colleagues, I have time and again supported Cabinet and other nominees with whom I disagreed on critical issues.

Like them, I have a high degree of tolerance for differences of opinions when such nominations come before us—including on such issues as choice and guns. Indeed, I supported the nomination of Governor Thompson as Secretary of Health and Human Services, despite our strong differences on issues related to a woman's right to choose.

There are certain differences that, I would argue, none of us should tolerate. And in that respect, the issue in John Ashcroft's public record that concerns me the most is the issue of race.

If I thought John Ashcroft was a racist, I would oppose him as strongly as

I possibly could on any other issue I have ever faced in my 25 years of public service. I urge each of our colleagues to do the same. We must not tolerate intolerance. But I do not believe that such a potent word applies to John Ashcroft. And it is lamentable, to say the least, that some outside of the Senate have used it to describe him.

We of all people here in the Senate appreciate that words have meaning. So when someone uses a word such as ''racist'' to describe actions that, however objectionable, are not racist, then they reduce the impact of that word at those moments when it is most applicable.

While by no means a path-breaker, as governor, John Ashcroft appointed more African-American jurists to the bench than any of his predecessors. He appointed a number of women, as well. His wife has taught at Howard University, a predominantly black institution. People of color testified in support of his nomination. Even Judge Ronnie White—about whom I will say more in a moment—said that he does not believe Senator Ashcroft's opposition to his nomination was racist in nature.

In the Senate, he held a hearing on and condemned the practice of racial profiling. He supported twenty-six judicial nominees of African-American descent.

And it should not go unmentioned that at least one member of his Senate staff—a devout Jew—has written that he found Senator Ashcroft not only tolerant, but supportive of his religious beliefs and the practical demands that those beliefs placed upon his time.

Nevertheless, I am deeply troubled by many of his actions in this area. Most notably, he vehemently and persistently opposed efforts to integrate the St. Louis public schools. In fact, his actions were so vexatious that he was nearly cited for contempt for failing to comply with court orders to submit a plan to desegregate the schools of that fine city. He walked up to the line of disobeying the law—even appearing to boast of that fact when he ran for Governor for the first time. Those actions trouble me deeply.

The record suggests that in times past John Ashcroft has submitted to the temptation to divide Americans along racial lines.

The same record also suggests that he is someone without personal bias on matters of race, who has tried to heal rather than deepen our nation's ancient racial wounds. I hope that it is that John Ashcroft who, if confirmed, will lead the Department of Justice. Our nation has traveled too far—and we have too far still to go—to relent for even a moment in the struggle for equal justice.

I realize that my vote for John Ashcroft may not be decisive. But I hope that it will be informative—informative most of all to John Ashcroft. Listen well, John Ashcroft. There are those of us here today who could easily vote against your confirmation, but have decided to give you a second chance—an opportunity that you denied to Ronnie White, Bill Lann Lee, James Hormel, and others.

I hope this vote will not be in vain. I hope that John Ashcroft will uphold his pledge to enforce the laws of our land. I fervently hope that he will work to unite rather than divide our nation. And I hope, for the sake of our nation and this institution, that this vote will in some small measure help bring about an end to the growing predilection to treat nominations as ideological battlefields.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I am pleased to support the Senate confirmation of John Ashcroft as Attorney General of the United States. He is well qualified for the job, having served as attorney general of Missouri, as Governor of Missouri, and with distinction as United States Senator.

I first met John Ashcroft in 1992 at the Missouri Republican Convention in Springfield, MO, when I was a surrogate for the campaign of President George Bush.

Two years later, John invited me and our colleague from New Mexico, PETE DOMENICI, to come to Missouri and campaign with him when he was a candidate for the Senate.

I was very impressed with John Ashcroft on both occasions. He was an articulate and intelligent advocate for commonsense solutions to our country's problems. He impressed me as a serious-minded, dedicated, and energetic force in shaping public opinion on issues that should be addressed by our Government.

I enjoyed very much being a part of his campaign effort and I was delighted when he was elected to the Senate.

In the Senate he has been very active in the legislative process. He has initiated reforms in trade sanctions policy and juvenile justice which I have been pleased to support and cosponsor. He is one of the most sincerely respected members of our Republican Conference, and I consider him to be one of my best friends in the Senate.

I take issue with the critics who have questioned his candor and his character. There is no basis whatsoever for those charges. I am surprised and disappointed that he has been characterized so unfairly by some in this body.

I am confident he will prove by his exemplary service as Attorney General that he is fair minded, thoughtful, and true to his word, and his oath, as he carries out his important duties.

The President has selected a good man to be Attorney General. He has withstood the slings and arrows of his opponents, and he is still standing.

When I was elected to Congress, I was given by my mother a poem by Josiah Gilbert Holland, which I have kept close to my desk for the past 28 years. It says in part:

God give us men! A time like this demands
Strong minds, great hearts, true faith, and ready hands;
whom the lust of office does not kill;
whom the spoils of office cannot buy;
who possess opinions and a will;
who have honor;
who will not lie;
who can stand before a demagog and damn his treacherous flatteries without winking!
Tall men, sun-crowned, who live above the fog, in public duty and in private thinking.

That poem describes my friend and fellow Senator, John Ashcroft. I am proud of his service in the Senate, and I am confident he will make me just as proud as he serves our Nation as Attorney General of the United States.

The PRESIDING OFFICER (Mr. SESSIONS). Under the previous order, the Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, contrary to what some people may believe, thinking about how people make this choice and given some of the arguments that have surfaced in the course of this nomination, I suppose some people might think this is sort of automatic for some folks on different sides of the aisle. I want to make clear that I do not feel that way at all. I think there are many different crosscurrents with respect to anybody's nomination, and I certainly do not disagree with the comments of my good friend and colleague, Senator DODD, who spoke a few minutes ago about what has happened to the nomination process, or to the review over the course of the last years here in this city.

While I certainly raised questions early on with respect to this nominee, I tried, in the course of this process, to refrain from making any final judgments until the hearings were held, until questions were asked, until Senator Ashcroft himself had an opportunity to lay out the record, so to speak.

I listened very carefully to what Senator DODD said a moment ago about not making choices on ideology. I agree with that. My opposition, which I announced yesterday, to Senator Ashcroft's nomination, is not based on ideology. I might say, however, that our friends on the other side of the aisle in the Republican Party have certainly made ideology a significant component of their opposition to many people in the last years. Even Senator Ashcroft himself has engaged in a process of making judgments about people's fitness to be judges, people's fitness to be in the Attorney General's office—Bill Lann Lee—on a matter of ideology.

In fact, I am told by some members of their party that they, themselves, have been the victims of ideological decisionmaking with respect to positions they might or might not be able to fill within the party itself. Perhaps there is the deepest irony at all, that people such as Tom Ridge, Governor of Pennsylvania, or Governor Keating, were themselves the subject of bitter dissension within the Republican Party over whether or not they might be fit to

serve as Vice President of the United States, or hold some other office of importance, on the basis of ideology.

So we need to be careful and thoughtful about who comes to that part of this debate with clean hands. But I am confident that all of us would agree with Senator DODD, that we would like to see an end to that kind of division.

There is another reason why this is difficult. It is because Senator Ashcroft comes to this question with all the advantages of a colleague. We know him. Many of us know him well enough to consider him a friend in the context of the Senate and like him personally. We certainly respect his conviction and his dedication to public service.

As colleagues have noted, he was elected by the citizens of his State as attorney general, as Governor, and as Senator.

But the truth is, in the final analysis this is not a vote or a decision about those personal relationships. This is not a vote about personality. And it is certainly not a vote that calls on us to somehow ratify the traditional expectations of the Senate, which are understood by everyone in the Senate and often are found very confusing to many people in the country who measure us and what we do by a different standard.

The office of Attorney General is obviously not a political reward, left simply to the victors of national elections or to the crosscurrents of ideology within a particular party. It is one of the most sensitive positions of public trust. It is an office in which all Americans must have a deep and abiding faith that its occupant will enforce the laws with equal justice, with fairness, and impartiality.

In other words, the person who comes to that office must come to it with a level of acceptance by the public at large about their moral and legal bonafides that they bring to the office in a way that is beyond dispute.

It is very clear that there were others whom a uniting, not a dividing, President might have chosen for this job. I think everyone in the Senate would agree that if our colleague, former Senator John Danforth, had been chosen, you would have had a person who espoused all the ideology, the full measure of conservative views—he is an Episcopalian minister; he is prolife—but he would have brought absolutely none of the controversy that has come with this nominee, which raises doubts—I am not saying certainties but doubts—in the minds of many people about this nominee's either willingness or capacity to apply the law in the way he has suggested he would in the course of these hearings.

In fact, after closely examining the record set forth in those hearings, and the record as attorney general of the State of Missouri, I conclude that record makes him the wrong person for this job at this time.

This is, without any question—I think everybody in the Senate would agree—a special time in our history. We have a President of the United States who was elected not with the popular vote of the country but for the third time in history by the electoral college. We have a President who was elected effectively by one vote, some would argue by the one vote in the electoral college, but there are many others in the country who would argue it was the one vote in the Supreme Court of the United States. There are many in the country, whether legitimately or not, who have a deep sense of alienation and outrage over what happened in the application of law in the course of the last months in our Nation.

Because this election was so divisive, because the President himself has come to office saying that he acknowledges the deep need for him to be a unifier and not a divider, I believe, therefore, this nomination is particularly troubling.

Senator Ashcroft's record reveals a series of actions—not beliefs; I want to distinguish this. I heard colleagues defending Senator Ashcroft again and again saying he should not be held accountable for his deep-rooted beliefs that reflect those who elected him. I am not holding him accountable, per se, for those beliefs. I believe, however, there are a series of actions that ignore the kind of need we face at this point in time to have an Attorney General come to office not needing to prove that the years in the past were somehow an aberration or a mistaken impression but, rather, who brings the full force of their history of commitment to civil rights, a commitment to a series of issues that are the law of the land.

In effect, we are being asked to accept the nomination of an individual who, by definition, will have to wake up every single morning and curb his natural political instincts in order to do this job. I do not think that is an unfair statement because on all of those key issues where the Attorney General is so critical, whether it is guns or the law of the land with respect to Roe v. Wade, women's choice, or the law of the land with respect to civil rights in many areas, Senator Ashcroft again and again in his political life has been on the other side of those particular issues.

There is a very simple question to ask yourself: Is that really what you want in an Attorney General of the United States?

In my judgment, reviewing the record of the hearings and reviewing the record of Senator Ashcroft's stewardship as Attorney General, there are occasions where the Senator took actions that do not call to question today his ideology but call to question his judgment in pursuit of that ideology.

Yes, Senator Ashcroft testified that he would enforce the laws with which he disagrees. But take, for instance, the voluntary school desegregation case in St. Louis, or the nomination of Judge Ronnie White, or the nomination of James Hormel to be Ambassador to Luxembourg, or the nomination of David Satcher for Surgeon General. Each of these, in my estimation, reveals a response by Senator Ashcroft that exhibited an exercise of judgment that I believe calls into question his ability to provide for the kind of moral and legal force necessary in the job of Attorney General.

I am not convinced that you can simply dismiss each and every one of the instincts that led to the exercise of that judgment in each of those cases. Let me be very specific about each and every one of those.

When he was Missouri attorney general, as we know—others have talked about it—Senator Ashcroft opposed the court-appointed voluntary desegregation plan for St. Louis. We know school desegregation is a controversial public policy, and there are many people who appropriately at various times in the country, in one place or the other, found fault with certain approaches to various voluntary desegregation plans. That is not the measure of my concern.

What is deeply troubling to me is that despite the problems with the existing law and despite the problems that were found with the proposed voluntary remedy, Senator Ashcroft, in a position of leadership on this issue, duty bound to bring people together and to try to lead the community through this difficult time, failed to come up with an alternative that would have ameliorated the divisions of the community and, most importantly, would have addressed the segregated conditions. When children are trapped in schools that do not work, when cities are divided by racial lines, there is a choice that can be made: You can be a voice for reconciliation or you can be a voice for division.

When Senator Ashcroft chose to politicize the issue beyond all proportion, which is what many people in the community have testified, he chose the latter, and that is a matter of judgment, not belief.

Perhaps the most disturbing element in his record was the treatment of Judge Ronnie White. Many people have brought those facts to the floor, and I obviously am not going to go through all of them again. I remember that debate well. I remember the language which characterized this good person. He was called procriminal. It was said that he had a tremendous bent towards criminal activity—a judge had a tremendous bent toward criminal activity. It was claimed that he was the court's most liberal judge on the death penalty and did not care ''how clear the evidence of guilt.''

That is not true. Those words are simply not true. Of course he cared about guilt, and if you read his decision, his decision said nothing about whether or not he was not guilty or whether or not he should not, if guilty, be subjected to the death penalty. He did not think this man had a fair trial.

I do not believe an Attorney General of the United States should interpret

some judge's opposition to the lack of a fair trial to become on the floor of the Senate a rationale for a party-line vote, fully divided by virtue of his leadership on his protestations and characterizations of this judge.

As is now well known, Judge White had a strong record of supporting capital punishment and often voted with Mr. Ashcroft's own appointees on the Missouri Supreme Court. Indeed, he had a tougher record on the death penalty than some of Senator Ashcroft's own nominees. Judge White voted for the death penalty in 41 of 59 cases that came before him, and he voted with the majority 53 times, including cases in which he favored reversal.

So that is not an issue of ideology. That is not a matter of belief on which I choose to cast my vote. It is because I believe that Judge White was inappropriately characterized on the floor of the Senate. I believe that was a reflection of a judgment about another human being, about our politics, about life in our country. I do not believe, as some have claimed, at all—and I hope we would never insinuate—that Senator Ashcroft is racist. I do not think there is any evidence of that. I do not believe that he is. I think that is inappropriate to this debate. But I do think that it was an unfair distortion of Judge White's record branding him as procriminal. And the handling of that nomination in itself raises serious questions about judgment, about fairmindedness, and about fair play.

Judge White, quite eloquently, made that very point during his testimony before the Judiciary Committee when he said: I believe that the question for the Senate is whether these misrepresentations are consistent with fair play and justice that you would require of the U.S. Attorney General. That is not a matter of ideology; that is a matter of judgment.

I am also troubled that when David Satcher's nomination for Surgeon General came before the Senate with great bipartisan support, again, Senator Ashcroft filibustered and described him as a ''promoter of partial-birth abortion.''

David Satcher had led the Centers for Disease Control in Atlanta with distinction. He had been a leader at a medical college in Tennessee. He had the full backing of Senator FRIST and Senator THOMPSON, both of whom are people of enormous integrity. They told us that David Satcher would not promote abortion. They told us that you could not question his character or his integrity. But John Ashcroft said that this individual would ''promote a heinous act, partial-birth abortion.'' Why? Simply because David Satcher believed that a ban on the procedure —which he was in favor of—ought to include an exception for the life and health of the mother.

The kind of distortion we saw for David Satcher raises a question, not about ideology but about judgment and fairness and fair play.

I am also troubled by Senator Ashcroft's judgment about the so-called alleged ''totality of the record'' with respect to a good man named James Hormel. I regret to say it, but I can only interpret the ''totality of the record'' as a code word for opposition to James Hormel because he was gay.

Why do I draw that conclusion? Because in the course of debate, and in the course of comments publicly, Senator Ashcroft, at the Foreign Relations Committee, never doubted that Mr. Hormel was a competent businessperson, never doubted or questioned his record of philanthropy or commitment to his community, never doubted or questioned his effectiveness as a dean, or the job he had done prior to entering the business at the University of Chicago. Senator Ashcroft was only one of two people on the Foreign Relations Committee to vote against him.

During the confirmation hearings a couple weeks ago, he again reiterated it was the ''totality of the record'' but, once again, without any explanation.

As we know, Mr. Hormel was finally appointed by a recess appointment. But in my judgment, Mr. Hormel was opposed for a status offense. Senator Ashcroft did raise questions about the propensity or likelihood Mr. Hormel might have about ''promoting a certain kind of lifestyle.'' I think every single one of us understands that is a code word in and of itself for his sexuality.

I would add that the people of Luxembourg, far from raising this question themselves, did not share that concern. And so it was that Senator Ashcroft sought to deny Luxembourg an Ambassador that they were asking to have appointed.

I do not believe the American people should have an Attorney General who leaves even doubts—even doubts—about whether or not being gay is a status offense.

I am also troubled by the lack of sensitivity that was displayed, even in the aftermath of the interview that took place with Southern Partisan magazine in 1998. Another colleague has gone into that at great depth on the floor, and I will not spend a lot of time on it.

It is one thing to have done the interview and, I suppose, to have suggested later that you did not know what the magazine did or who they spoke to or what audience they talked about. It is another thing when you are a nominee for Attorney General not to acknowledge that there are, indeed, questions that would arise in an interview of this nature with that kind of magazine.

This is a magazine that praises John Wilkes Booth for assassinating Abraham Lincoln. It has editorials against interracial dating. When you read the interview itself, and you recognize the folks the Senator was trying to talk to, and what he was appealing to, it seems to me that there are serious questions, again, about judgment, about the judgment of what the message is to a large part of America who sees that magazine and those who adhere to its philosophy as those who have never gotten over the fact that slavery was ended in the South.

I would have liked—I think many of us would have liked—to at least have heard a disavowal of those views or an expression, recognition that some of the views are, in fact, inappropriate and appeal to some people's worst instincts rather than best instincts.

I think those are the kinds of expressions that ought to come from somebody who is going to try to represent the healing of the divisions that have occurred over the course of the last years. I might add, they are not just the healings from the difficulties of the election. They are the healings from the problems of racial profiling. They are the healings from the problems of discrimination in housing. They are the healings from the problems of so many people of color who wind up in prison instead of in college. They are the divisions that occur because so many in this country still believe that the law is stacked against them rather than working for them.

The choices that an Attorney General will make are obviously critical to our ability to move forward and not backward with respect to those kinds of divisions. It is these particular acts of personal judgment that I believe raise the most serious questions about the appropriateness of Senator Ashcroft assuming this remarkably sensitive position.

As a former prosecutor—I see Senator REID is on the floor; and he shares that prior occupation—I think for many of us there is an acute sensitivity to the judgments that an Attorney General makes on a daily basis: what cases will be taken on; what particular task forces might be created in order to try to address people's sense of grievance in the country; certainly, obviously, the power of the Solicitor General; the power of choosing who will sit on what courts; the power of deciding what you will appeal to the Supreme Court of the United States; and, most importantly, what you will investigate and how. All of these are issues of judgment, too.

I believe the issues I have raised put before the Senate serious questions about the exercise in that judgment. I believe that in the end, notwithstanding what I have said, there is always a feeling by each of us with respect to a colleague that these votes are difficult. I don't pretend that it is not in this regard. That is true for all of us on our side. We have to make a choice. It is our responsibility and it is our oath to the Constitution to make the best judgments we can about the choices that are put in front of us.

I believe the important thing at this moment in time in this particular position, above all, is to have a nominee who is free from this kind of controversy, who comes to this job not with the questions that have been raised in the Senate and this revisitation of the kind of divisiveness that so

many of us are tired of. That is not something we asked for. That is something we were given by virtue of the President's choice to send us this nominee.

With this nominee comes these questions about his ability to assume this job that requires such a special sensitivity, such a special sense of the need to bring the country together and to be able to apply the law equally and fairly to all.

It may well be that every concern I have expressed is wiped away when John Ashcroft takes this job on, as we know he will. There is no question about whether he is going to be confirmed. But there is a question about whether or not we will ever, in the next few years, again have to revisit some of the questions that have been raised in the course of these hearings and in the course of this debate.

My prayer is that we won't, and nothing, obviously, would please me more than to say to John Ashcroft: I am glad I sounded my warning bells, but I am equally glad that you proved us wrong and were the kind of Attorney General that the country needed at this moment.

It may well be that all of our colleagues are absolutely correct in predicting that that is what we will have. If it is, so much the better for the Nation and so much the better for John Ashcroft. It is important for us to place as part of the record, as he assumes this job, the concerns that we have on behalf of so many people in this country who need to see the law applied more fairly and need to have a better sense of due process and of equal justice under the law. I hope, in the end, this administration and this Attorney General will produce that.

Mr. HATCH. Finally, Mr. President, I wish to speak about John Ashcroft's ability, if and when he becomes Attorney General, to enforce laws that he spoke against or even voted against as a legislator.

As you know, Mr. President, opponents of Senator Ashcroft are accusing him of being unable to set aside his opinions on certain laws sufficiently in order to enforce those laws.

And I have to give those opponents credit for their creativity. They have developed a brand new test for cabinet appointees. Eight years ago, when the Senate unanimously confirmed an Attorney General whose personal views opposed the death penalty and the imposition of mandatory minimum sentences for convicted criminals, none of the anti-Ashcroft crusaders accused Janet Reno of being unable to set aside her personal views.

But while I admire the creativity of this new approach, I am deeply troubled by the substance beneath it. What's being proposed is to disqualify from high office anyone who has previously taken a side on a legislative proposal.

It is simply not true that a legislator is so tainted by efforts to change laws that thereafter he or she cannot perform the duties of attorney general. Outside this Chamber, and outside of the Washington Beltway, Americans understand that people can take on different roles and responsibilities when they are given different positions. Americans know that lawyers can become judges, welders can become foremen, engineers can become managers, and school teachers can become school board leaders. And Americans know that a Senator, whose job is to propose and vote on new laws, can become an Attorney General, whose job is to enforce those laws that are duly passed.

There aren't many people who know as much about the different roles in government as John Ashcroft. He has been in the executive branch—as an Attorney General for 8 years. He has been chief executive as Governor for 8 years. And he has been in the legislative branch as a United States Senator for 6 years. Each of these positions have required an understanding of the differing roles assumed by the three branches of government.

It is in this context that John Ashcroft told the Senate what he will do as Attorney General. He said he will enforce the laws as written, and uphold the Constitution as interpreted by the Supreme Court. This is a concise yet profound statement about the proper role of the Attorney General. And it is more than just a statement, because it is backed up by the unquestioned integrity of John Ashcroft, a man who will do what he says. He will enforce the law as it is written, even in those instances where he would have written it differently.

Still, some members of this body are unconvinced. They apparently think that John Ashcroft will not do what he said. Of course they would not call him a liar—at least not explicitly, anyway. They are saying that, try as he might, he simply cannot enforce the law because he wants so badly for the law to say something other than what it actually says.

Some who have adopted this view are accusing John Ashcroft of changing his views. They accuse him of having a ''confirmation conversion.'' By this they mean that people who take off their legislator's cap, and put on an attorney general's hat, cannot adapt from the role of law writer to law enforcer without being insincere. This is a ludicrous proposition. John Ashcroft has not undergone a confirmation conversion; he has been the victim of an interest group illusion.

Members of this body know something that the public may not: There is an unspoken rule that a nominee does not answer questions in public between their nomination and their confirmation hearing. This is done out of respect for the Senate—whose job it is, after all, to listen to the nominee rather than the media. But savvy special interest groups take advantage of the time in between to wage a war of words against nominees they dislike. Many of those words are exaggerated or unsubstantiated attacks. The result can be the fabrication of a false public record.

Mr. President, I am asking my fellow Senators to resist the temptation to label it a ''conversion'' when a nominee simply corrects the misperceptions created by special interest groups. I am asking my colleagues to look at John Ashcroft's real record, and at own words—in his confirmation hearings, and in his answers to the voluminous written questions—rather than relying on the press releases of issue advocates.

If you only listen to interest groups, you might conclude that John Ashcroft would bend or ignore the law in order to put more guns in people's hands. But you would be wrong. As Missouri's Attorney General in 1977, John Ashcroft wrote Attorney General Opinion No. 50, in which he interpreted state law to prohibit prosecuting attorneys from carrying concealed weapons even while engaged in the discharge of official duties. This is hardly the kind of decision that someone bent on eliminating gun laws would want to reach.

The special interest groups also want us to believe that John Ashcroft cannot enforce abortion laws because of his personal view that life begins at conception. But 20 years ago, as Missouri Attorney General, John Ashcroft had—and did not take—the opportunity to bend the law to favor his view. His 1981 Attorney General Opinion No. 5 barred the Missouri Division of Health from releasing statistics revealing the number of abortions performed by particular hospitals—even though such statistics would help the pro-life movement make its case. Similarly, in Attorney General Opinion No. 127, dated September 23, 1980, Attorney General Ashcroft determined that a death certificate was not required for all abortions, despite his personal view that abortion terminates human life. Are these the kind of decisions that you would expect from an unrestrainable zealot?

But the special interest groups do not stop there. They have also attacked John Ashcroft for his religious views, inferring that he would use his position to blur the lines between church and state. The fact is, however, that John Ashcroft has turned down several opportunities to do just that. In a 1977 Attorney General Opinion, No. 102, Ashcroft forbade public school districts from using federal education funds to benefit nonpublic including parochial school children. He did so even though the federal grant in question specifically allowed private and parochial school children to benefit. In similar decisions, Attorney General Ashcroft prevented the State of Missouri from providing transportation for nonpublic school students [Attorney General Opinion No. 148], and determined that a board of education lacked legal authority to allow the distribution of religious material on school property [Attorney General Opinion

No. 8, February 8, 1979]. Don't expect to see these decisions listed in the press releases concerning John Ashcroft's ''extremist views.''

Another area of falsification concerns John Ashcroft's record on the enforcement of environmental laws. To hear some interest groups talk, you would think John Ashcroft wants to allow polluters to ignore the regulations that protect the planet. Again, his record shows the opposite. In Attorney General Opinion No. 123–84, Ashcroft declared that underground injection wells constitute pollution of the waters and are therefore subject to regulation by the Missouri Department of Natural Resources. He also opined that it would be unlawful to build or operate such a well without a permit from the Clean Water Commission. And in another opinion, Ashcroft decided that operators of surface mines must obtain a permit for each year that the mine was unreclaimed. In reaching this opinion, Ashcroft concluded that a continuous permit requirement facilitated Missouri's intention ''to protect and promote the health, safety and general welfare of the people of this state, and to protect the natural resources of the state from environmental harm.'' This settlement was echoed in an opinion concerning recycling that John Ashcroft wrote in 1977. In Attorney General Opinion No. 189, Ashcroft decided that Missouri's cities and counties could require that all solid waste be disposed of at approved solid waste recovery facilities, rather than landfills. That opinion was based on the arguments that ''recycling of solid wastes results in fewer health hazards and pollution problems than does disposal of the same types of wastes in landfills'' and that ''public welfare is better served by burning solid wastes for generation of electricity, thus conserving scarce natural resources.'' I suggest, Mr. President, that these are not the words of a man who is intent on ignoring the law and destroying the environment.

My final example, Mr. President, is on the topic of minority set asides. As you know, among the tactics of the anti-Ashcroft forces has been to bring baseless racial allegations. And, again, this is being done in indirect and subtle ways, implying that there is something hidden and unrestrainable about John Ashcroft that should concern minorities. Thus my colleagues will be pleased to learn that, as Missouri's Attorney General, John Ashcroft issued an opinion which cleared the way for the Missouri Clean Water Commission to award a 15 percent state grant to the Metropolitan St. Louis Sewer District to establish a minority business enterprise program.

These examples—all of which predate the public smear campaign against John Ashcroft—demonstrate that Mr. Ashcroft has a record of enforcing the law. John Ashcroft has not undergone a confirmation conversion. Rather, he is a victim of interest group illusion. The artists behind the lobbying groups aligned against him have made his true record disappear in a cloud of smoke. And they are attempting to convince the public that his distinguished record of advocacy as a legislator is a straitjacket from which he cannot escape. But let me tell you what I see in the crystal ball. John Ashcroft is going to be an excellent attorney general. He is going to enforce the laws of this land fairly and forcefully. He will do so even when he might have written the law differently as a legislator.

Mr. President, the issues that have been raised in objection to Senator Ashcroft's nomination are largely policy issues. There is no objection on his qualifications, his credentials, or his integrity. The attempt to paint him as extremist on policy grounds is countered effectively by his five elections to statewide office in Missouri, and his elections to head the National Association of Governors and the National Association of Attorneys General.

Mr. President, John Ashcroft is qualified, not extreme on policy, but his policy positions are largely irrelevant because he has demonstrated that he understands his role as law enforcer, as distinguished from that of a policy advocate.

I hope we will give him the benefit of the doubt if any doubt exists. I believe he will enforce the laws even-handedly and be a fine Attorney General.

Mr. President, I would also like to respond to the issue of whether there have been religious attacks on Senator Ashcroft.

Article VI of our Constitution, while requiring that Officers of the government swear to support the Constitution, assures us that ''no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.'' I fear that with regard to the nomination of John Ashcroft to be Attorney General of the United States, we are coming very close to violating the spirit, if not the letter of that assurance.

Mr. President, John Ashcroft has been attacked as a dangerous zealot by many of his opponents, who suggest that his faith will require him to violate the law, or as a liar who cannot be trusted when he says he will uphold the law, even when he disagrees with it, as he has in similar circumstances in the past.

I think the corrosive attacks on a qualified nominee because of his religious beliefs not only weakens our constitutional government, but also undermines the ability of citizens in our democracy to engage in a meaningful dialog with each other. When such attacks are made on the ground that a man's faithful conviction will prevent him from discharging the duties of his office, whole segments of our democracy are disenfranchised, and the American heritage of religious tolerance is betrayed.

Let me point to just a few instances of these amazing attacks on Senator Ashcroft, made on largely religious grounds, since he was nominated.

Let me begin with the testimony of Professor James M. Dunn, who testified at our Senate hearings as an expert on religion issues. I begin here because Professor Dunn is the most explicit in his religious attack on Senator Ashcroft.

Professor Dunn says explicitly what others have coyly and carefully implied. He says, and I quote what is essentially the thesis statement of his testimony before the Judiciary Committee: ''the long history of Senator Ashcroft's identification with and approval of the political agenda of religious, right-wing extremism in this country convinces me that he is utterly unqualified and must be assumed to be unreliable for such a trust.''

Let me quote that point again, ''the long history of Senator Ashcroft's identification with and approval of . . . religious, right-wing extremism in this country convinces [Professor Dunn] that he is utterly unqualified and must be assumed unreliable for such a trust.''

That is about as baldly as the matter can be put, John Ashcroft is ''utterly unqualified'' and ''unreliable'' because of his ''religious, right-wing extremism.''

As if the name-calling were not enough, to make this an even more stunning assertion, the case Professor Dunn offers to prove this perceived ''extremism'' is that John Ashcroft was the ''principal architect'' of the so-called ''charitable choice'' legislation which was passed by the Congress and signed by President Clinton in 1996.

To suggest that duly passed legislation, adopted by two branches of government controlled by different political parties is outside the mainstream is simply ludicrous, and suggests that the one outside the mainstream is not Senator Ashcroft, but rather his critics. This is a point that could be made on a number of policy fronts.

Well, I am disappointed when policy disagreements deteriorate into name-calling, but considering the source I am particularly disappointed. I would hope that the United States Senate would never countenance such attacks in the consideration of this, or any other, nominee. I hope no weight will be given to such intemperate vitriol, nor more guarded attacks made in the same spirit. And I hope that none of my colleagues would join in such attacks, whether explicitly stated or couched in more careful language.

But I am glad that at least Professor Dunn's clear statement can put to rest the question of whether Senator Ashcroft is being attacked in part on his religious beliefs. Dunn is not alone, either. For example, Barry Lynn, of Americans United for Separation of Church and State, in attacking Senator Ashcroft's nomination also cites charitable choice—again, a law adopted by two branches of government controlled by two different parties—as an

instance of Ashcroft's ''extreme views.'' And to underscore the broader point, Lynn points to the apparently decisive fact that ''Religious Right leaders find Ashcroft's fundamentalist Christian world view and his far-right political outlook appealing.'' Let us be clear here: the charge is guilt by association with religious people.

As a number of my colleagues have suggested that the nominee might want to apologize for some of his associations or take the opportunity to dissociate himself from them, I would invite my colleagues to show a similar indignation for these attacks on people of faith, and dissociate themselves from these intolerant statements, unless they too would like their silence to be considered approval of such intolerance. Perhaps there needs to be greater sensitivity shown here.

In addition to such explicit attacks, others attack Senator Ashcroft because his religious beliefs can be viewed as diverging from the legal results favored by far left liberal interest groups.

For example, in the area of abortion, Ms. Gloria Feldt, the president of Planned Parenthood Federation of America criticized Senator Ashcroft for ''his belief that personhood begins at fertilization,'' saying that his view is ''one of the most extreme positions among those who oppose a woman's right to make her own reproductive choices, John Ashcroft actually believes that personhood begins . . . at the moment that sperm meets egg, the moment of fertilization.'' Well, call it extreme if you will—that word is a hobby horse of the far left liberal groups who oppose this nominee—but I understand that is the position of a number of churches, including the Catholic church. What is striking and chilling about this attack is the implication that anyone who holds this belief, including believing members of many churches, including the millions of believing Catholics, are unfit for the office of Attorney General because of their ''extreme positions.'' Surely, the Senate cannot take the position that faithful Americans who adhere to the pro-life doctrines of their churches, or even those who are pro-life on secular grounds, are unfit for office because of this view.

Besides undermining our basic assumptions supporting the rule of law, this critique leads to a second, and more chilling result for religious tolerance, namely that of Senator's judging a nominee on the basis of their views of the nominee's religious faith and that faith's priorities. John Ashcroft responds to those who criticize him for his beliefs about abortion and the beginning of life, for example, by stating that his religion requires him to follow the law as written when he is filling an enforcement role, and his oath to do that will be binding on him. Those who challenge his veracity on this point are picking and choosing which of Senator Ashcroft's religious beliefs they feel are genuine or which religious principle has priority for him. I think this moves dangerously close to the line of imposing a religious test on a nominee.

Perhaps we can ask a nominee the general question whether there is anything that would keep them from fulfilling their duties, but I do not think it appropriate to assume that someone is unfit for a job because we have preconceptions about what their sect believes and then criticize them if their answers do not fit our preconceptions of what they should believe. We need to tread very carefully here. And we would do well in such matters to give the benefit of the doubt to the nominee. We have certainly given the benefit of the doubt to the last President when we had qualms about the quality or credentials of some of his nominees, or their policy positions. But we owe a special duty to resolve doubts in favor of a nominee when questions stem from our assumptions about a nominee's religious beliefs, especially in the face of the nominee's contradiction of our assumptions.

Mr. President, I think we would all do well to remember what we know about John Ashcroft, and not be influenced by a caricature painted by those extreme groups whose distortions of this honorable man are driven largely by their own narrow political interests. We know John Ashcroft is the sort of person whose word is his bond. And if his religion is relevant, it speaks for him as a person who will discharge the office of Attorney General with honor and dignity, with impartiality, according to the law.

I think if we examine our hearts, we will find nothing that disqualifies John Ashcroft to be Attorney General. And we cannot, in good conscience, say that all those Americans who believe as he does are outside the mainstream of American opinion. No, they are solidly within the history of American pluralism and freedom, including religious freedom. We know John Ashcroft will faithfully discharge his duties and honor his oath of office no matter what the liberal pressure groups assert. I hope we will similarly honor our oaths, rejecting what has become in essence a religious test for this nominee, and vote to confirm this honorable man to the post of Attorney General.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, the Senator from Illinois wishes to speak now. He has indicated he will take about 10 minutes. Following that, I ask unanimous consent that I be allowed to speak and, following that, Senator KENNEDY.

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

The Senator from Illinois.

Mr. FITZGERALD. Mr. President, I rise in support of John Ashcroft in his nomination as our Nation's Attorney General.

This nomination debate and the consideration of John Ashcroft's nomination is much different for me than my consideration of all the other nominees to President Bush's Cabinet. It is different for the reason that in the case of most other nominees, I do not know those individuals personally. Of course, I did know Senator Abraham who served well with us and has now been confirmed as our Nation's Energy Secretary. But with the exception of Senators Abraham and Ashcroft, most of the nominees come to me just from what I have heard, what I have seen in the newspapers, what others have written about those people. I do not have the personal experience that I have had in the case of John Ashcroft.

I knew John Ashcroft before I joined the Senate over 2 years ago. I got to know him a little bit during the time I was running for Senator from Illinois. Then, of course, once I was sworn into office, I had the privilege of working with John Ashcroft on a regular basis. I worked with him for 2 years side by side, sometimes day in and day out.

My State of Illinois is right next door to the State of Missouri, so perhaps I have had the privilege of getting to know John Ashcroft and working with him more closely than many of the other Members of this body.

We, of course, have many issues that Illinois and Missouri share in common. We have a similar agricultural economy where corn and beans are the prevailing crop. We also have the Mississippi River that divides our two States. We are frequently working together on issues of concern to the Mississippi River. We also share the Greater St. Louis metropolitan region. Most of that region is in John's State of Missouri, but a large portion of it, maybe 20 percent of it, actually is across in the eastern part of the Mississippi River and in my State of Illinois. We were constantly discussing issues of job creation and economic opportunities in the Greater St. Louis region.

In addition, I had the opportunity to work closely with John insofar as he was a supporter of a bill that I sponsored last year to improve the standards on child safety seats in this country. The bill went through the Senate Commerce Committee. In fact, I believe John was chairman of the subcommittee in which that issue was first taken up.

I also worked very closely with Senator Ashcroft on the issue of sanction reform. Both John and I and many others, representing particularly midwestern States, were very concerned that some of the sanctions our Government put on other countries, banning the sale of products from our country to other countries around the world that may have bad records in one regard or another, were hurting people that they were not intended to hurt and were not affecting the governments. At the same time, they were shooting our own farmers in the foot.

I supported John's efforts to lift the sanctions with respect to food and medicine that our country had placed

on a number of nations around the world.

There are many other issues. In fact, my staff gave me two pages of issues that I worked very closely on with John Ashcroft. I am not going to go through and rebut one by one all the little points that have been made. In fact, I think many people have already done a good job rebutting some of the disinformation that has been put out. I think Senator Ashcroft did an outstanding job defending his own record before the Senate Judiciary Committee.

Of the people I have known over the course of my public life, I would have to tell my colleagues that John Ashcroft has few equals in terms of character and integrity. John Ashcroft is a man of utmost character and integrity—as much, if not more so, than anyone else I have ever met in public life.

When I heard that President Bush had nominated John Ashcroft to be Attorney General, I knew that I had disagreed with John Ashcroft on many issues during the course of the last 2 years. I had voted differently than he on any number of issues, maybe some of which have been used as an argument against John Ashcroft. But I thought: Thank God that President Bush has had the wisdom to put someone who is absolutely unimpeachable, irreproachable, and an absolute straight arrow in that office of Attorney General.

I believe character and integrity are, hands down, the most important qualifications for that job and, indeed, just about any job in public life. Many people have raised the question, Will John Ashcroft enforce the laws? Clearly, there are many laws on the books that he would not have voted for and did not vote for, or, if they came up again, would not vote for. There are many laws on the books that many of us would not have voted for.

But when the question comes up about John Ashcroft enforcing the laws, the thought that has gone through my head is, I know John Ashcroft well enough to believe with wholehearted confidence that if John Ashcroft says he will enforce the laws, he will enforce the laws. He is so stellar, so 24-carat is his honor and integrity, that I believe him without question.

One of the other things that really has not been discussed or brought up in adequate defense of John Ashcroft—as bright as all my colleagues are in this illustrious body, the Senate, so many of whom are brilliant and had brilliant academic careers—is that I have to say John Ashcroft is one of the brightest and most articulate public servants with whom I ever had the privilege of serving. I think you can see that if you look at his early career and his undergraduate degree from Yale. He attended the University of Chicago Law School, a renowned institution in my home State. And many people do not even know that this man, who has spent most of his life in public office in so many different elected posts in the State of Missouri, was in fact a coauthor, I believe, with his wife of a business law textbook. It is hard to imagine when he found the time to do that. But so brilliant, so talented, and hard-working is John that he has a remarkable degree of accomplishment in academics, in public service, and in music and other areas. He is a wonderful, outstanding man.

Finally, without belaboring this subject on which I think the points and counterpoints have been made now thoroughly on both sides of the aisle, the final thought with which I would like to leave the Senate is that the attacks that have been made on John Ashcroft simply don't compute with the John Ashcroft from my neighboring State whom I knew and served with day in and day out for 2 years.

I don't think even the people of Missouri would recognize the characterizations of this man whom they elected to be their attorney general, their Governor, and their Senator and who has had such a long and distinguished career. And even before he was an elected officer, he was the State auditor of the State of Missouri. He is one of the most qualified people ever to be nominated for the office of Attorney General.

I urge my colleagues, some of them who may disagree with votes John Ashcroft may have taken in his many years in the Senate, to reconsider and think about how important is his character and integrity, and just the fact that we can all sleep well at night knowing we have an absolute straight arrow in the highest law enforcement position in this country.

Thank you very much, Mr. President.

Mr. LOTT. Mr. President, I ask unanimous consent that beginning at 9 a.m. on Thursday, the Senate resume the Ashcroft nomination in executive session and the time be allocated in the following fashion: 9 a.m. to 9:15 under the control of the majority party; 9:15 to 9:30 under the control of Senator HARKIN; from 9:30 to 9:45 under the control of Senator JOHNSON; from 9:45 to 10 a.m. under the control of the majority party; from 10 a.m. until 10:15 under the control of Senator SARBANES; from 10:15 to 10:30 under the control of the majority party; from 10:30 to 10:45 under the control of Senator LIEBERMAN; from 10:45 to 11 a.m. under the control of the majority party; from 11 o'clock to 11:10 under the control of Senator EDWARDS; from 11:10 to 11:15 under the control of Senator GRAMM of Texas; from 11:15 to 11:45 a.m. under the control of Senator WELLSTONE; Senator LEAHY or his designee from 11:45 to 12:15; Senator HATCH or his designee in control from 12:15 to 12:45 in the afternoon; and Senator DASCHLE or his designee from 12:45 in the afternoon to 1:15; Senator BOND in control from 1:15 to 1:30; and Senator LOTT in control from 1:30 to 1:45.

I ask unanimous consent that at 1:45 the Senate proceed to a vote on the confirmation of the nomination of John Ashcroft to be Attorney General of the United States.

Mr. LEAHY. Reserving the right to object, and I will not object, if I could ask the distinguished leader, this locks in the vote at 1:45. Is it his assumption that should everybody have used up their time prior to that, there may be a new request to move the vote time earlier?

Mr. LOTT. I believe this would indicate that the vote will be not later than 1:45. If Senators yield back their time or don't use the entire time, and we could finish at an early hour—11:30 or 12:00—I would be very appreciative of that. I would be willing to yield some of my own time to accomplish that. If we see we are ready to proceed to a vote at noon tomorrow, certainly, I would like to be able to do that.

I thank Senator LEAHY, and especially Senator REID, for working this agreement out, and to all Senators who have been willing to accomplish it so we can complete this debate and get a vote.

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

Mr. LOTT. In light of this agreement, the next vote will occur on the confirmation of our former colleague, Senator John Ashcroft, not later than 1:45 p.m. tomorrow, and earlier if the time has been yielded back and we are ready to proceed to a final vote.

Mr. REID. Will the Senator yield?

Mr. LOTT. I am happy to yield.

Mr. REID. After Senator KENNEDY, I will make a statement, and Senator GRAHAM from Florida will make a statement. I say to all the Senators, either with the majority or the Democratic side, if they feel they still want to talk, they can come and talk tonight.

Mr. LOTT. I believe we have some Senators committed to speak after that, at least two more within the next hour, interspersed with other speakers.

Mr. REID. The point I make, no one should complain they don't have the ability to talk.

Mr. LOTT. It is not that late by Senate time. I believe we have one speaker who will speak at 7:50 or so, and if other Senators who haven't spoken would like to get in the queue, we would like them to do that, or Senators who were thinking they want to wait until tomorrow, I think it would be well received if they could go ahead and speak tonight.

I yield the floor.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. REID. Mr. President, I ask unanimous consent that the order of speakers be reversed and that Senator KENNEDY precede the Senator from Nevada.

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

The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I thank the leaders. I will just take a few moments to respond to some points that were made earlier in the day by my friend and colleague, the Senator from Utah, Mr. HATCH.

Earlier this morning I took the time to review the history of the challenges that were there for St. Louis in terms of desegregation of the schools and the actions that were taken or failed to be taken by the nominee, Mr. Ashcroft. I took a considerable amount of time to review the whole history and review the cases there. I drew the conclusion that there was a gross failure of, I think, judgment in terms of taking the necessary steps to protect the interests of the children. Those cases were later challenged during the course of the afternoon, and I would like to respond very briefly and then to conclude with the remainder of my remarks that I had this morning, which, because others were here on the floor, I did not have the time to do.

My food friend from Utah talked earlier about the St. Louis desegregation case. Unfortunately, he continued the pattern on the other side of expressing outrage about the fact that desegregation can be expensive, without being outraged by the injustice being done to the African American children in St. Louis.

The simple fact is that Senator Ashcroft spent his career as attorney general denying the facts of discrimination and segregation. He continued to deny them at his confirmation hearing, and many of our colleagues are attempting to deny them on the floor of the Senate.

The facts are clear. The state of Missouri was found guilty by the courts of segregating the schools and keeping them segregated all the way through the 1970s. The court's findings in 1980 made very clear that the state was aggressively maintaining segregation. Even black families who had moved out to the suburbs saw their children bused back into the inner-city to black schools. As the court ruled in 1982:

> We held . . . that the state had substantially contributed to the segregation of the public schools of the City of St. Louis . . . the state defendants are primary constitutional wrongdoers and, therefore, can be required to take those actions which will further the desegregation of the city schools, even if the actions required will occur outside the boundaries of the city school district.

Yet Senator Ashcroft continued to insist that the state was ''found guilty of no wrong.''

Some of our colleagues claimed that Senator Ashcroft's position was vindicated by the Supreme Court in Missouri v. Jenkins. But the Jenkins case was from Kansas City. It had nothing to do with St. Louis.

The Supreme Court rejected every one of Ashcroft's three appeals in the St. Louis case. He also complained that some of the money went to the suburban schools. It went for the students who transferred to the suburban schools; that is Public School Choice. He said that the test scores went down in St. Louis in the nineties.

What is clear, is that the students who transferred had consistently twice to three times the graduation rate, and in some districts, 90 percent of the graduates went on to college.

Defenders of Senator Ashcroft also claimed that desegregation in Missouri was more expensive than anywhere except California. We all know what made it expensive—the unrelenting 16 year fight against doing anything to fix the problem by Senator Ashcroft when he was Attorney General and Governor of the State.

If Senator Ashcroft was simply protecting the state's treasury he could easily have proposed a cheaper alternative to the court. If he was concerned that the courts was ordering desegregation, he could easily have supported a state law to correct the problem.

In fact, the state is not paying for the plan anymore, and that's because Senator Ashcroft successors, Attorney General Jay Nixon and Governor Mel Carnahan, provided the leadership needed to settle the cases and start improving education for all the children in St. Louis.

Earlier, I spoke at length about Senator Ashcroft's record on civil rights—especially, school desegregation and voting rights—and his record on women's rights and gun control. At this time, I intend to discuss Senator Ashcroft's treatment of judicial and executive branch nominees.

I know others have referenced some of them, but I want to underscore my own reaction and response to the handling of these nominations by Senator Ashcroft.

Senator Ashcroft's handling of judicial and executive branch nominations raises deep concerns. In four of the most divisive nomination battles in the Senate in the six years he served with us, Senator Ashcroft was consistently involved in harsh and vigorous opposition to the confirmation of distinguished and well-qualified African Americans, an Asian American, and a gay American.

When President Clinton nominated Judge Ronnie White of the Missouri Supreme Court to be a federal district court judge, Senator Ashcroft flagrantly distorted the record of the nominee and attacked him in the strongest terms. He accused Judge White of being ''an activist with a slant toward criminals.'' He accused him of being a judge with ''a serious bias against a willingness to impose the death penalty.'' He accused him of seeking ''at every turn'' to provide opportunities for the guilty to ''escape punishment.'' He accused him of voting ''to reverse the death sentence in more cases than any other [Missouri] Supreme Court judge.''

When questioned about Judge White's nomination, Senator Ashcroft did not retreat from his characterization of Judge White's record, although a review clearly demonstrates that Senator Ashcroft's charges were baseless. It's clear that Senator Ashcroft distorted the record in order to portray Judge White's confirmation as a referendum on the death penalty.

Senator Ashcroft had decided to use the death penalty as an issue in his campaign for re-election to the Senate, and to make his point, he cruelly distorted the honorable record of a distinguished African American judge and denied him the position he deserved as a federal district court judge. As I said at the hearing, what Senator Ashcroft did to Judge White is the ugliest thing that has happened to a nominee in all my years in the Senate.

Senator Ashcroft was also asked about the nominations of Bill Lann Lee to serve as Assistant Attorney General for Civil Rights, Dr. David Satcher to serve as Surgeon General of the United States, and James Hormel to serve as U.S. Ambassador to Luxembourg.

Senator Ashcroft told the committee that he could not support Mr. Lee because he had ''serious concerns about his willingness to enforce the Adarand decision'' on affirmative action. In truth, however, Mr. Lee's position on affirmative action was well within the mainstream of the law, and he repeatedly told the committee that he would follow the Supreme Court's ruling in the Adarand case. As Senator LEAHY said during the Ashcroft confirmation hearings,

> Mr. Lee testified on a number of occasions—in fact, testified under oath, including, incidentally, directly in answer to your questions, that he would enforce the law as declared in Adarand. And he also said, in direct answer to questions of this committee, he considered the Adarand decision of the Supreme Court as the controlling legal authority of the land, that he would seek to enforce it, he would give it full effect . . .

That wasn't sufficient for Senator Ashcroft and he continued to oppose, and oppose strongly, this extraordinarily well-qualified, committed, and dedicated public servant.

Similarly, Senator Ashcroft said he did not support Dr. Satcher to be Surgeon General because he:

> . . . supported a number of activities that I thought were inconsistent with the ethical obligations of a medical doctor and a physician, particularly the surgeon general * * * for example he supported an AIDS study on pregnant women in Africa where some patients were given placebos, even though a treatment existed to limit transmission of AIDS from the mother to the child * * * I, secondly, believed his willingness to send AIDS-infected babies home with their mothers without telling their mothers about the infection of the children was another ethical problem that was very serious.

In fact, at the time of the debate on the Satcher nomination in 1997, approximately 1,000 babies were born with HIV every day. Most of the births were in developing countries, where the U.S.-accepted regimen of AZT treatment is not practical because of safety

and cost concerns. In 1994, the World Health Organization had called a meeting of international experts to review the use of AZT to prevent the spread of HIV in pregnancy. That meeting resulted in the recommendation that studies be conducted in developing countries to test the effectiveness and safety of short-term AZT therapy that could be used in developing countries and that those studies be placebo-controlled to ensure safety in areas with various immune challenges. Approval was obtained by ethics committees in this country and the host countries and by the UNAIDS program.

The studies were supported by many leaders in the medical field, and the facts undermine Senator Ashcroft's criticism of Dr. Satcher.

Senator Ashcroft also mischaracterized Dr. Satcher's role in the survey of HIV child-bearing women. In 1995, seven years after the survey began during the Reagan Administration, Dr. Satcher, as acting CDC director, and Dr. Phil Lee, former Assistant Secretary for Health, halted the HIV survey. They did so because of a combination of better treatment options for children with HIV, the discovery of a therapeutic regimen to reduce mother-to-infant HIV transmission, and a greater ability to monitor HIV trends in women of childbearing age in other ways.

Dr. Satcher's participation in the survey was justified, and it was not a valid reason for Senator Ashcroft to deny him confirmation as Surgeon General.

It was a gross distortion of his record in this situation. To criticize him for taking actions which were inconsistent with ethical considerations in that case was a complete distortion of the record.

The case of James Hormel is also especially troubling. When Mr. Hormel was nominated by President Clinton to serve as Ambassador to Luxembourg, Senator Ashcroft and Senator HELMS were the only two members of the Foreign Relations Committee to oppose the nomination. Although Senator Ashcroft voted against Mr. Hormel, Senator Ashcroft did not attend the confirmation hearings, did not submit written questions, and refused Mr. Hormel's repeated requests to meet or speak by phone to discuss the nomination.

Generally, as a matter of courtesy, if a nominee asks individual members to meet with them to explain their positions, respond to questions, as long as it have been in the Senate that has been a privilege that has been extended. But not by Mr. Ashcroft to Mr. Hormel, in spite of repeated requests.

In 1998, when asked about his opposition to Mr. Hormel's nomination, Senator Ashcroft stated that homosexuality is a sin and that a person's sexual conduct:

> is within what could be considered and what is eligible for consideration.

Senator Ashcroft also publicly stated in 1998 that:

> [Mr. Hormel's] conduct and the way in which he would represent the United States is probably not up to the standard that I would expect.

Senator LEAHY asked Senator Ashcroft at the Judiciary Committee hearings whether he opposed Hormel's nomination because of Hormel's sexual orientation. Senator Ashcroft responded ''I did not.'' Instead, Senator Ashcroft claimed that he had ''known Mr. Hormel for a long time''—Mr. Hormel had been a dean of students at the University of Chicago law school when Senator Ashcroft was a student there in the 1960s. Senator Ashcroft repeatedly testified that he based his opposition to Mr. Hormel on the ''totality of the record.''

Mr. Hormel was so troubled by Senator Ashcroft's testimony that he wrote to the committee and said the following:

> I want to state unequivocally and for the record that there is no personal or professional relationship between me and Mr. Ashcroft which could possibly support such a statement.

The letter continued:

> I have had no contact with him [Ashcroft] of any type since I left my position as Dean of Students . . . nearly thirty-four years ago, in 1967 . . . For Mr. Ashcroft to state that he was able to assess my qualifications . . . based upon his personal long-time relationship with me is misleading, erroneous, and disingenuous . . . I find it personally offensive that Mr. Ashcroft, under oath and in response to your direct questions, would choose to misstate the nature of our relationship, insinuate objective grounds for voting against me, and deny that his personal viewpoint about my sexual orientation played any role in his actions.

We should all be deeply concerned about Senator Ashcroft's willingness to mislead the Judiciary Committee about his reasons for opposing the Hormel nomination. As the St. Louis Post-Dispatch noted on January 22, 2001:

> [T]he most disturbing part of Mr. Ashcroft's testimony was the way in which he misstated important parts of his record.

Senator Ashcroft's efforts to derail the nominations of these four distinguished men was grounded in a distortion of the facts. In every case, He twisted events to suit his purposes and held the nominees to a standard by which he could not be confirmed.

Sadly, the facts surrounding these nominations represent the tip of the iceberg. Year after year, Senator Ashcroft worked to prevent the confirmation of talented women and minorities—Marsha Berzon, Richard Paez, Margaret McKeown, and others. In some instances he was successful and—fortunately—in others, he was not. But, what is most disturbing is Senator Ashcroft's unfair treatment of well-qualified men and women, and, what appears to be, a fundamental misunderstanding of the role of a federal jurist or the role of a member of the President's Cabinet.

I want to mention Senator Ashcroft's decades-long opposition to gun control legislation.

Senator Ashcroft is closely tied to the gun lobby and he has often accepted contributions from these organizations and supported their agendas. During the hearing, he told us that keeping guns out of the hands of felons is a ''top priority'' of his. Yet, in 1998, this did not seem to be a top priority for him. He supported an NRA-sponsored ballot initiative that would have allowed almost anyone to carry concealed guns in Missouri. The proposal was so filled with loopholes that it would have allowed convicted child molesters and stalkers to carry semi-automatic pistols into bars, sports stadiums, casinos and day care centers. The proposal was opposed by numerous law enforcement groups and many in the business community. Proponents of the measure say Senator Ashcroft volunteered his help to support the referendum, even recording a radio and endorsing the proposal. Senator Ashcroft stated in response to written questions that:

> Although [he did] not recall the specific details, [his] recollection is that supporters of the referendum approached [him] and asked [him] to record the radio spot.

The fact remains that Senator Ashcroft did support the referendum and did record the radio spot. Few can doubt that as a seasoned politician, Senator Ashcroft made himself fully aware of the contents of the referendum before lending his name to it. And if he did not, there is even greater reason to question his judgment and suitability for such a high and important position in our Federal Government.

Senator Ashcroft championed the NRA's concealed weapon proposition in 1998. But in 1992, while governor of Missouri, he had voiced his concerns about such a measure. As governor, he stated he had ''grave concerns'' about concealed carry laws. He stated:

> Overall, I don't know that I would be one to want to promote a whole lot of people carrying concealed weapons in this society.

He further stated:

> Obviously, if it's something to authorize everyone to carry concealed weapons, I'd be concerned about it.

When asked about his change of view in deciding to support the 1998 initiative, Senator Ashcroft said he changed his position because of ''Research plus real-world experiences.''

However, Senator Ashcroft's research was so flawed that he responded to written questions that ''[t]o the extent there were loopholes in Missouri law'' that would permit convicted child molesters and stalkers to carry concealed weapons, he was ''unaware of those provisions at the time.'' Later, it was reported that the gun lobby spent $400,000 in support of Senator Ashcroft's Senate reelection campaign. He became:

> the unabashed celebrity spokesman . . . for the National Rifle Association's recent attempts to arm citizens with concealed weapons in Missouri.

That is according to a column by Laura Scott in the Kansas City Star.

The Citizen's Committee for the Right to Keep and Bear Arms gave Senator Ashcroft the ''Gun Rights Defender of the Month'' Award for leading the opposition to David Satcher's nomination to be Surgeon General. The group objected to Dr. Satcher because he advocated treating gun violence as a public health problem.

Based on his close ties to the gun lobby and his strong support for their agenda, it is difficult to have confidence that Senator Ashcroft will fully and fairly enforce the nation's gun control laws and not seek to weaken them.

Senator Ashcroft has shown time and time again that he supports the gun lobby and opposes needed gun safety measures. Given the important litigation in the Federal courts, it is imperative to have an Attorney General who will strongly enforce current gun control laws such as the Brady law, the assault weapons ban, and other statutes. It is also important to have an Attorney General with a responsible view of proposed legislation when the Department of Justice is asked to comment on it.

In conclusion, the Attorney General of the United States leads the 85,000 men and women who enforce the Nation's laws in every community in the country. The Attorney General is the Nation's chief law enforcement officer and a symbol of the Nation's commitment to justice. Americans from every walk of life deserve to have trust in him to be fair and just in his words and in his actions. He has vast powers to enforce the laws and set priorities for law enforcement in ways that are fair or unfair—just or unjust.

When a President nominates a person to serve in his Cabinet, the presumption is rightly in favor of the nominee. But Senator Ashcroft has a long and detailed record of relentless opposition on fundamental issues of civil rights and other basic rights of vital importance to all the people of America, and the people of this country deserve better than that. Americans are entitled to an Attorney General who will vigorously fight to uphold the law and protect our constitutional rights. Based on a detailed review of his long record in public service, Senator Ashcroft is not that man. I urge the Senate to vote no on this nomination.

Mr. HATCH. Mr. President, my colleague Senator KENNEDY continues to mischaracterize Senator Ashcroft's record with regard to school desegregation. First, let me say that I do not in the least condone segregation in St. Louis or Kansas City or anywhere else. It is a shameful legacy that must be dealt with appropriately.

Second, while the costs of the desegregation program were exorbitant this is not the only criticism to be made of the plans. The primary argument repeatedly made by Senator Ashcroft is that the state was never found liable for an inter-district violation.

Senator KENNEDY refers to an 8th circuit decision that he argues found the State of Missouri guilty of an inter-district violation. But a circuit court cannot make such a factual finding. Rather this is a finding that must be made by the trial court.

The fact that the State was never found liable for an inter-district violation is shown by the fact that throughout 1981 and 1982 the parties were preparing for a trial on the very question of inter-district liability.

So again, I emphasize that it is true and correct to say that the State was never found liable for an inter-district violation.

Although the State was not found liable for an inter-district violation it was required by the district court to pay for a settlement reached by the suburbs and the City of St. Louis. This order by the district court was likely unconstitutional under the Supreme Court's decision in Milliken.

Opposing these court orders for a plan that was constitutionally suspect, expensive, and ineffective, does not make Senator Ashcroft an opponent of desegregation.

Indeed, the plan as implemented has been a dismal failure. Test scores actually declined from 1990 to 1995. Scores on the Stanford Achievement Test went from 36.5 to 31.1 at a time when the national mean was 50. And the graduation rate has remained around a dismal 30 percent.

He has repeatedly stated the opposite position.

To question Senator Ashcroft's integrity over such a complicated and controversial issue is to seriously distort his record and disbelieve his sworn testimony.

Senator Ashcroft acted with great probity as representative for the State of Missouri. He supports integration and deplores racism.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, the Department of Justice is the representative not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest, is that justice shall be done.

That obligation of impartiality, oft repeated by the Supreme Court, courses as the lifeblood through all departments of any fair and representative government. From it springs the confidence in government which is the presupposition central to the Founding Fathers' basic premise; that government derives its proper power only from the consent of the governed.

When George W. Bush campaigned for the presidency, when he took his oath of office, he promised the American people that he would not divide our house against itself. I took him at his word.

When he nominated John Ashcroft as Attorney General I kept an open mind and determined that I would, as I have always tried to do in the past, judge the nominee upon the evidence presented regarding his fitness for office, and that I would give the chief executive what leeway I could in his choice of people to carry out his plans and policies. That license, however, is not unlimited, for it is also my obligation to pass upon the nominee; to weigh the evidence of his or her past and determine how it will affect our country's future.

I have weighed the facts revealed before the Judiciary Committee to the best of my ability. The evidence has convinced me that Mr. Ashcroft has demonstrated real and substantial biases against women, people of color, gays and lesbians, and anyone else who does not meet his personal definition of what constitutes a true American. Not only has he shown that pervasive bias, he has repeatedly acted upon it as attorney general and Governor of Missouri and as a member of this body.

It is with sadness I stand here tonight to say that the facts have forced me to two conclusions. First, John Ashcroft, while he has many fine qualities, he is not the person to be this country's chief law enforcement officer. Second, while President George W. Bush may wish to be a unifier, he is not willing to put unity above partisan appeal to the most extreme elements in the Republican Party.

To President Bush I say this. Please remember that it was the first Republican President, Abraham Lincoln, who quoted from the Bible these words, ''A house divided against itself cannot stand.'' You, President Bush, campaigned on a platform of unification of this Nation. I will support every effort of yours to do so, but unification does not mean that we abandon our commitment to fairness and impartiality and essential decency in government.

To John Ashcroft, I say that I cannot confirm to an office whose obligation to govern impartially is as compelling as his obligation to govern at all; and whose interest, is that justice shall be done a man who has repeatedly and pervasively demonstrated that he is not impartial, and that he judges individuals not by the content of their souls but rather by the tint of their ideology. I cannot confirm a man who allows his bias against another's most personal lifestyle choices to effect his decision on whether that individual is fit to enter public service. I cannot confirm a man who prevents women from options to which they should be entitled. I cannot confirm as Attorney General anyone who will not confer upon that office the impartiality it demands and, most importantly, deserves.

Mr. President, I cannot for the women of Nevada, for the people of Nevada, vote to confirm John Ashcroft as Attorney General of the United States.

So when my name is called by the clerk of the Senate, I will respond without hesitation ''No.''

Mr. NELSON of Florida. Mr. President, many of my Democratic colleagues rose today and expressed their

objections to the nomination of former Senator Ashcroft to be Attorney General of the United States. I do not wish to recapitulate their arguments, but I share many of their concerns regarding his nomination. I believe former Senator John Ashcroft has been a dedicated public servant who has acted in what he felt was the public's best interest. But his record has stirred controversy on a wide-range of issues. The position of attorney general is one of great importance to the people of the United States. An Attorney General must unite the citizens. Unfortunately, Senator Ashcroft's record has tended to be divisive rather than unifying.

Most importantly, many Floridians are afraid that Senator Ashcroft will turn back the clock on civil rights after all the progress that has been made over the years. Based on his record and his testimony before the Judiciary Committee, I share their concern.

An Attorney General, of all the Cabinet officers, must be perceived to be the most vigilant enforcer of the law, an attorney who will represent all the people's interest. I am afraid this nomination does not meet that test. Thus, I am voting against confirmation.

Mr. FEINSTEIN. Mr. President, I truly believe that a President is entitled to his, or her, cabinet. I am aware that virtually all of President Clinton's cabinet was approved by voice vote, with one exception, which was a roll call vote, and that nominee was overwhelmingly approved.

However, the background record of this nominee is not mainstream on the key issues. I know he is strong and tough on law and order issues. However, his views on certain issues—civil rights and desegregation, a woman's right to choose and guns—make him an enormously divisive and polarizing figure.

This record can best be characterized as ultra-right wing. That is not where most of the people in this nation are.

Senator Ashcroft's commitment to enforce the law in view of the extremeness of his record, as well as, on occasion, the harshness of his rhetoric, makes it difficult to believe that he can, in fact, fairly and aggressively enforce laws he deeply believes are wrong.

When Senator John Ashcroft opposed Bill Lann Lee's nomination to head the Civil Rights Division at the Department of Justice, he argued that Lee was ''an advocate who is willing to pursue an objective and to carry it with the kind of intensity that belongs to advocacy, but not with the kind of balance that belongs to administration . . . his pursuit of specific objectives that are important to him limit his capacity to have the balanced view of making the judgments that will be necessary for the person who runs [the Civil Rights] Division.''

If the Senator's own standard is applied to this nomination, he would not be confirmed.

Last week, this committee held four days of hearings into the nomination of Senator Ashcroft. During that time, we witnessed a man who had undergone a major transformation on many key issues of importance to the people of my State and the nation. The question that each Senator must now ask, is whether that transformation is plausible after more than 25 years of advocating the other side.

On a woman's right to choose, for example, the new John Ashcroft would have us believe that he fully accepts Roe v. Wade as the law of the land, and he will do nothing to try to overturn it. He would fully fund task forces to protect women as they enter abortion clinics, and stated firmly that ''no woman should fear being threatened or coerced in seeking constitutionally protected health services.''

Contrast that with the John Ashcroft of the past 25 years, who has long argued that there is no constitutional right to abortion at all, that Roe v. Wade was wrongly decided, and in 1998 wrote that ''If I had the opportunity to pass but a single law. I would . . . ban every abortion except those medically necessary to save the life of the mother.'' This John Ashcroft supported a constitutional amendment to ban virtually all abortions, even in the cases of rape and incest—an amendment that would also likely ban some of the most common forms of birth control, including the pill and the IUD.

The John Ashcroft of 25 years once stated, ''Battles (for the unborn) are being waged in courtrooms and state legislatures all over the country. We need every arm, every shoulder, and every hand we can find. I urge you to enlist yourself in that fight.'' The new John Ashcroft claims to have laid down his arms entirely.

On gun control, the new John Ashcroft says he supports background checks at gun shows, says that he voted to deny the right to bear arms to domestic violence offenders, and says he would support re-authorizing the assault weapons ban when it expires in 2004, although he has called it ''wrongheaded.''

The old John Ashcroft, on the other hand, voted against mandatory background checks at gun shows, trigger locks on guns sold, and a ban on large capacity ammunition magazines. He supported a concealed weapons law that would allow the people of Missouri to carry a concealed firearm into a grocery store, a church, or on school grounds or on a school bus, superceding the Federal Gun Free Schools Act. He was, and still may be, an active member of the National Rifle Association.

On civil rights, the old John Ashcroft strenuously fought a desegregation plan in Missouri. In fact, the judge in the case stated that Attorney General Ashcroft, ''as a matter of deliberate policy, decided to defy the authority of this court.''

The old John Ashcroft spoke at Bob Jones University, that to this day remains highly questionable for its religious and racial bias; at the hearing he demurred when Senator BIDEN urged him to return the honorary degree and did not rule out returning to the college in the future.

And the old John Ashcroft, in stating his reasons for voting against James Hormel as Ambassador for Luxemburg, stated that Hormel had ''actively supported the gay lifestyle,'' and that a person's sexual conduct is ''within what could be considered and what is eligible for consideration'' for ambassadorial nominees.

Yet the new John Ashcroft promises never to discriminate against gays or lesbians for employment and said the reason for voting against Ambassador Hormel was because he knew him personally. Mr. Hormel called to tell me that he not only does not know Mr. Ashcroft, but that the Senator had refused to meet with him prior to his confirmation.

For over a quarter-century of public life, John Ashcroft has established a record of right-wing conservatism, and of views far to the right of the average American, and even of many in his own party. Senator Ashcroft has spent a career fighting against a woman's right to choose. He obstructed the nominations of several women and minority candidates to the federal bench.

Senator Aschcroft said just two short years ago that 'There are voices in the Republican Party today who preach pragmatism, who champion conciliation, who counsel compromise. I stand here today to reject those deceptions. If ever there was a time to unfurl the banner of unabashed conservatism, it is now.''

In 1997, Senator Ashcroft remarked that ''People's lives and fortunes [have] been relinquished to renegade judges—a robed, contemptuous intellectual elite.'' He continued that ''Judicial despotism . . . stands like a behemoth over this great land.''

In a speech entitled ''Courting Disaster: Judicial Despotism in the Age of Russell Clark,'' Senator Ashcroft reveals deep and antagonistic feelings toward the courts of our country with this sentence: ''Can it be said that the 'people govern'? Can it still be said that citizens control that which matters most? Or have people's lives and fortunes been relinquished to renegade judges—a robed contemptuous, intellectual elite that has turned the courts into 'nurseries of vice and the bane of liberty'?''

And in the case of Missouri Supreme Court Justice Ronnie White's nomination to the federal bench, Senator Ashcroft was responsible for a dark day in the Senate. When a home-state Senator objects to a nominee, it is very unlikely that the nomination will go forward. But instead of quietly objecting early on and allowing White to withdraw his nomination with dignity if he so wished, John Ashcroft waited until the nominee reached the floor of the Senate—after waiting for two full

years—to derail the nomination and humiliate the nominee by stating, ''We do not need judges with a tremendous bent toward criminal activity.''

Whatever Senator Ashcroft's problem with Ronnie White, there was no need to destroy White's reputation on the floor of the Senate, with no warning and no chance for Judge White to either defend himself or withdraw. This one act has become a stumbling block to my support, which I have not been able to get around. It says to me that it was done for political purposes.

Taken as a whole, Senator Ashcroft's positions and statements, in my view, do not unite, but rather divide. They send strong signals to the dispossessed, the racial minorities of our country, and particularly to all women who have fought long and hard for reproductive freedom that this Attorney General will not be supportive of laws for which they fought, no matter what he has said in the past weeks.

How can our citizens feel that this man will stand up for them when their civil rights are violated? How can the left out, the rape victim who needs an abortion have faith that this man would enforce their rights?

In the end, every Senator must live with his or her own vote, and for this Senator, that vote will be ''no.''

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, as a Senator, I do not serve on the Judiciary Committee, but I have watched nearly every hour of their hearing on the confirmation of John Ashcroft to be our next Attorney General of the United States.

I have watched while men and women of good will, while attempting to speak in soft and mellow tones, have been intimidated and bludgeoned by the far left to such a point that we now hear them come to the floor of the Senate and reach to find excuses to vote against a man of good faith and a man of good will.

I am not an attorney, nor have I ever claimed to be, but as a human being who has served in public life for a good number of years and associated with a great many people, I believe I am a reasonable judge of character.

This afternoon, I heard a speech from one of my colleagues about seeing into the heart of John Ashcroft. That particular Senator said that once she had viewed the heart of John Ashcroft, she could not support him.

I suggest to that Senator that I have not seen into the heart of John Ashcroft, but I know it because I have lived near it and around it for the last 6 years. I know of its sincerity and its compassion. I know of its love of people and love of this institution. I know of its great patriotic pride for its country. I know of a heart that has served as a State attorney general, a Governor, a Senator, and who will soon serve as the U.S. Attorney General.

No, I have not seen the heart. I know the heart, and I know it to be a heart of compassion, but I also know it to be a heart of truth, one who, when he looks into the eyes of his colleagues and says, ''I will enforce the laws of this Nation,'' he and he alone is telling the truth.

Why could we assume he would tell the truth when others in past years have failed that test? Because he is a moral and ethical Christian.

That is a very valuable and important definition to understand because if you meet that definition, you must enforce the law; it is within your character and your being that you do such. Lawmakers and law enforcers are different types of people, but within the character of the definition I have just given, they are people who, by their very being, must enforce the law. They cannot arbitrarily, they cannot philosophically, nor can they politically, adjust the law as we have seen it for 8 long years be adjusted to meet the politics of the day.

Quite the opposite happens with a man of the character of John Ashcroft; for if he does not like the law, if he does not feel it comports to his belief of what the culture and the character of our country ought to be, does he not enforce it? No. He turns to the lawmaking body, us, and says: You ought to change the law. It does not fit the character or the essence of the American way of life. But while it is here, I will enforce it as your Attorney General. You see, I must; it is my responsibility. I have taken the oath of office, and in taking that oath, I must uphold the law.

Yes, John Ashcroft is a Christian. He is a man of faith. My wife Suzanne and I know John and Janet Ashcroft well and personally. We have traveled around the country and around the world with them. He is a close, personal friend. In all of those times that we have traveled together, I have never heard him once speak ill of another human being. Not once have I ever heard him impugn the character of another human being.

Oh, John Ashcroft is a passionate man. He believes strongly in certain ''isms.'' But most importantly, he believes in Jesus Christ. He is a Christian. That is a character valuable to the culture of our country.

What I have seen or what I have felt over the last several weeks is the ultimate test coming down on John Ashcroft. While it has not been spoken, I sincerely believe it has been implied, that if you are a Christian, if you are a person of faith, you cannot serve in public life and in public office in this country because it, in some way, ''taints'' the way you think, the way you act, the way you respond.

I offer that challenge up to all of my colleagues because if that is what is being implied by the far left today, then shame on them, for it is outside the character of this country and it is outside the Constitution of this country.

Let me read from article VI. The last full paragraph of that article says:

> The Senators, and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

That is the Constitution of the United States. That is the hallowed voice of our Founding Fathers. Yet by implication and innuendo, the far left of this country has implied, time and time again over the last several weeks, that a Christian person, a person of faith, cannot be trusted to serve and render the just and appropriate interpretation of the laws of this country. That is not only wrong for our country; that is wrong under our Constitution. That test can never be allowed to be applied, whether on the right or on the left or down the center. It is a test of character that we have prohibited in this country for all time. And because we have prohibited it, our country is a sanctuary for all the world to seek.

Mr. President, I am confident, because I know John Ashcroft—I know his heart, that he is a man of unquestionable character who will do as he has said he will do before the Judiciary Committee of the Senate—that he will enforce the laws of this land, so help him God.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. SESSIONS. Mr. President, I rise in support of the confirmation of John Ashcroft to be Attorney General of the United States.

I spent 15 years of my professional career as a prosecutor, as a U.S. Attorney, in the Department of Justice. It is an institution for which I have the highest respect that I can express. The goal of equal justice under law is one of the highest and most valuable ideals any nation can have. I am convinced that this Nation's strength is because of our legal system, our pursuit of truth and accuracy and fairness in giving everybody their day in court.

We need to give nominees here their day in court. And if we do, John Ashcroft will be found to be a sterling nominee. The complaints that are made against him collapse in the face of the facts. And I believe that is plain and accurate. I think that is an accurate statement. It disappoints me to hear people persist in pursuing objections and complaints that, if fairly looked at and considered objectively, are not meritorious.

Before I make my general remarks—and I will just respond to a few things that have been said—I would like to

have printed in the RECORD a letter that was published in the Washington Post today. I ask unanimous consent to have that printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Jan. 31, 2001]

CONFIRM JOHN ASHCROFT

ALAMERICA BANK,
Birmingham, AL, January 31, 2001.

TO MEMBERS OF THE UNITED STATES SENATE: I am an African-American from Birmingham, Alabama. I live in a state known around the world for its long and ugly history of racial segregation and pervasive discrimination.

I am a former National Association for the Advancement of Colored People (''NAACP'') and Southern Christian Leadership Conference (''SCLC'') trial attorney and a staunch supporter of each organization's mission and goals. After graduating from law school in 1973, I spent the next two decades litigating and winning landmark school desegregation, fair housing and equal employment opportunity cases for the NAACP and SCLC. In 1976, I obtained a full and complete pardon from the State of Alabama for Mr. Clarence Norris, the last known surviving ''Scottsboro Boy''.

I voted for former President Bill Clinton twice and supported him in his fight against impeachment. I also voted for Al Gore and Joe Lieberman last Fall. I am a political independent who assesses a political candidate or appointee's fitness for office based upon the content of his character—NOT his party affiliation.

I believe it is time for the United States Senate to confirm John Ashcroft as Attorney General. Here is why:

1. As a former Governor and U.S. Senator, John Ashcroft may have played political hardball, but he is not a racist.

When John Ashcroft was first nominated to be Attorney General, I read the newspaper stories about his successful effort to defeat the federal judgeship nomination of Missouri Supreme Court Justice, Ronnie White. I was highly concerned. I watched the Senate Judiciary Committee hearings. There, I saw a different story. I learned that Messrs. White and Ashcroft were skillful and brilliant players at the game of legislative hardball.

Mr. White, while a state legislator, used his powerful committee chairmanship position to engage in political jousting with then Governor Ashcroft. Years later, Mr. Ashcroft continued the jousting by using his influence as a Senator to defeat Mr. White's nomination to become a federal district judge.

The defeat of Justice White was hardball, not racism. Mr. White himself testified that John Ashcroft was not a racist.

2. It is time for America to have an Attorney General who will enforce the law equally and fairly for all Americans.

As Black Americans, we see the problem of crime in America up close and personal. Black Americans are among its greatest victims. For us, it is particularly important that the enforcement of our law be strong, effective and fair.

Mr. Ashcroft has also promised to investigate all alleged voting rights violations, particularly those lodged in Florida in the aftermath of last Fall's election. We expect him to prosecute any criminal violations if federal laws protecting voting rights were broken in Florida.

3. It is time to restore civility and dignity to the Senate confirmation process.

Americans have watched the Senate confirmation process deteriorate over the years since the Robert Bork nomination in 1987. What used to be a calm exploration of a nominee's qualifications often now becomes a trial by ordeal. Both political parties decry the so-called ''politics of personal destruction'' and then eagerly employ it. Special interest groups on all sides regard a confirmation battle as a fundraising opportunity and a test of strength, regardless of its impact on the nominee. A vote for John Ashcroft will not, in itself, restore civility to the confirmation process, but it will help.

It is time for all Americans to stop fighting the outcome of last Fall's election and give President Bush a chance to govern. President Bush has selected a diverse and inclusive cabinet. We must give his team an opportunity to lead this nation. If Mr. Ashcroft does not live up to his commitment to enforce our federal laws on an even-handed basis, we can deal with that in the political arena at a later date. Until then, we should respect President Bush's choice for Attorney General.

Sincerely,

DONALD V. WATKINS,
Founder and Chairman.

Mr. SESSIONS. Mr. President, the letter was paid for by Donald V. Watkins of Birmingham, Alabama. He is one of Alabama's most prominent African American leaders, and he is an attorney. I went to law school with Don.

He has been an active Democrat. He says in his letter that he supported the Gore-Lieberman ticket this time. He has been a lawyer for the NAACP and the Southern Christian Leadership Conference, a trial attorney, and ''a staunch supporter of each organization's missions and goals.''

Don says it is time for us to restore civility and dignity to the Senate confirmation process. In effect, he says that President Bush has been elected. He made some promises. He promised to have a more diverse Cabinet. This civil rights advocate, this skilled lawyer says that he has followed those commitments and that what the African American community should do is to insist that he follows the other commitments he made and judge him on what he does, because he is the President, and we should give him a fair chance to succeed.

He says John Ashcroft should be confirmed. Quoting from the letter:

Americans have watched the Senate confirmation process deteriorate over the years since the Bork nomination in 1987. What used to be a calm exploration of a nominee's qualifications now often becomes a trial by ordeal. A vote for John Ashcroft will not, in itself, restore civility to the confirmation process, but it will help.

Don Watkins says:

It is time for all Americans to stop fighting the outcome of last Fall's election and give President Bush a chance to govern. President Bush has selected a diverse and inclusive cabinet. We must give his team an opportunity to lead this nation. If Mr. Ashcroft does not live up to his commitment to enforce our federal laws on an even-handed basis, we can deal with that in the political arena at a later date. Until then, we should respect President Bush's choice for Attorney General.

I think that says it well. I had no advance notice of this. I had no idea this would appear from this fine and skilled advocate for equal rights in America.

I want to share a few matters that are important to correct. They have been repeated so often; I believe they are so incorrect that they ought to be responded to. First, in this town, people know who are honest and truthful—people who tell the truth, people who are straight shooters—it is pretty well known. And it is known those who cannot be trusted. There are not many you would trust on almost any matter whatsoever. John Ashcroft, though, is that kind of person. You have heard people say that repeatedly today and in days past. They know him. They respect him. He is a man of integrity, a man of religious faith, yes, a leader in his denomination, a man who is broadly respected all over America for the very qualities that are so much in need today.

If anybody reads my mail and listens to the comments I am receiving from people with a longing and a deep concern about their country, that a man of this quality is beaten up and attacked and dismembered, in effect, while at the same time we have the same Members of this body who have been steadfastly and tenaciously defending the kind of spin that has gone on in this town that led to impeachment and other matters, they are having a difficult time comprehending that.

Anyway, we are here. People have had their day. They have been able to appear at the hearing and present their charges. We, as Senators, are supposed to weigh them. It is all right. I believe in free debate. Nobody should be stifled—they ought to have their say. But we are not run here by special interest groups. Handgun Control does not control in this body. We take an oath to obey the law and to do justice here, not to kowtow to every group who builds up a campaign to pressure Members of this body to vote the way they want, threaten them that they won't support them in primary elections in the future, and otherwise make their lives miserable in every way they possibly can to get them to vote a certain way. They have a right to write and threaten and say they are not going to vote for somebody. It is a free country. But we, as Senators, have a right and a duty and a responsibility to do the right thing.

I know there are some conservative groups who tried to pressure Chairman HATCH on some issues. He said: We are willing to listen to you and have your input, but I am a Senator. I happen to chair this committee. As long as I chair the committee, we are going to do this fairly and above board and no interest group is going to have an undue influence in how I do my job.

That is a fact. People know that here. We need to remember that as we go forward with this process.

One of the charges that has been made that is somewhat complicated, but at bottom is very simple, is this charge that John Ashcroft opposed integration. That is a bad thing to say. He came before the committee and

looked us all in the eye and said: I support integration; I do not oppose integration. He said what he opposed was a Federal court plan that was extreme, in my view and in the view of a lot of legal scholars, to create a massive Federal intervention in the educational systems of Kansas City and St. Louis, Missouri. In fact, the Federal court plans ordered an additional $3 billion in funding to be spent to carry out these plans. A lot of it was for busing; a lot of it was for other activities.

This was a big deal. His predecessor opposed that court activity. His successor opposed it. His second successor opposed it. His second successor as attorney general was Jay Nixon, with whom I served when I was Attorney General of Alabama. Jay Nixon opposed this. He is a Democrat and was supported by two Members of this body in his effort to run for the U.S. Senate while he was resisting this litigation in the State. Why would we want to oppose that?

The wording the complainers have used is that he opposed voluntary court desegregation or voluntary desegregation in Missouri.

Let me tell my colleagues how that happens. I was Attorney General of Alabama. I have been through this. It is a common thing in America, as we try to deal with the vestiges of segregation. Some of it was legal. Some of it has been by just the nature of the residences that segregation occurred, and various efforts have been made to deal with this.

It has been said: How did he oppose voluntary desegregation?

This is what happened. Plaintiffs sued St. Louis and Kansas City. They sued the suburbs, and they got to court and claimed the school system is segregated by design, in effect. They object to it. They want it to end. The school systems resist, and the litigation goes on. And the judge in this case essentially suggested or indicated that he just might render an order that would eliminate all the suburban cities and merge them—at least their school systems—merge them with the St. Louis school system. We would just have one big school system. That is just what he might do, he said.

So threatened with their very educational system at stake, they voluntarily, under those kinds of threats, agreed to a plan to spend a massive amount of money to bus students around in an effort to achieve racial balance, which the judge was pushing to make happen.

They said: By the way, state of Missouri, you pay for it. We run our school system here, the city of St. Louis runs theirs, but we want you to pay the cost of this.

The Attorney General of the State of Missouri was the one person who had a responsibility and a duty, the lawyer for all the people of Missouri, to question whether or not citizens all over the State ought to pay for this kind of massive plan.

He objected to that. He resisted as did two of his successors who resisted it. In fact, one of the most infamous of all court plans was because a Federal judge ordered one of the school districts to raise taxes to pay for his idea of the school.

That is what we are talking about—a consent decree. I have seen them. They will sue the prison system. The prison system will put up a little defense, or the mental health system, or the school system will, and they will go in and say: Judge, I guess you are right. Order the State of Alabama to give more money to run the prison. Order the State of Alabama to give more money to the mental health system because these are the people who would like to have more money because it is their system they are running, and they don't have an objective position. The attorney general is the one who has to represent the entire State and to question what is happening.

Let me tell you why an attorney general has a particular duty to resist. He has a particular duty because this unelected lifetime-appointed Federal judge who is saying he is going to abolish the school district and consolidate them into one, who is taking an action that violates the Constitution of the State of Missouri—violates the statutory laws of the State of Missouri, violates the duly elected school boards and districts, and the school boards' authority given to them by the people of the State of Missouri and people in that district. And he is going to rip all of that apart and impose his will on how education ought to be conducted in the targeted community in that state.

Do you see how important this is for a principal attorney general. He should resist and defend unless it is absolutely clear that there is no other way that a constitutional deprivation can be ended. He should resist the compromise of the Constitution and laws of his State, as did his predecessor and as did his two successors. To say those acts of principal resistance to a Federal evisceration of the local educational scheme demonstrates lack of concern for children or somebody who wants to maintain segregation is just plain wrong. We ought not to twist those kinds of things today into that sort of mentality. I don't like that.

There is one more thing I will mention—the Bill Lann Lee nomination, although I could do this on almost every allegation that is before us.

Bill Lann Lee was opposed not just by John Ashcroft. He failed to come out of the Judiciary Committee on a tie vote, 9–9. I am not aware that John even spoke about it. Perhaps he did, but I do not know what he said. I do remember that I spoke against the Lee nomination. I remember Chairman HATCH of the Judiciary Committee made an eloquent argument against Mr. Lee.

I would like to mention a couple of things about that. Oh, Mr. Lee, is so terribly pitiful, that he has just been put upon and he has been abused, is what they would say.

But let me tell you. We had a full hearing on the Adarand case. We had a hearing on that. Mrs. Adarand even came. Adarand, for purposes of background, is the case that sets out the law for quotas in America. They said you can't have racial set-asides and quotas. Mr. Lee refused to acknowledge the real meaning of Adarand.

He said he would support Adarand, but when questioned in detail, he defined it in such a way that it was clear that the chief of the Civil Rights Division would not support the principle that Adarand stated. That is why the chairman of the Judiciary Committee opposed it. He made something like a 15-page speech on this floor and delineated in high style and with great legal expertise why this was important and why he reluctantly opposed this nomination. He did not attack—nor did any of one of us at any time attack—the character of Bill Lann Lee. We simply said that we believed he did not understand the meaning of that case and would not follow the law of the United States and, as such, that he should not be confirmed.

That is what happened. To suggest that John Ashcroft went out of his way to block this nominee is just one more statement that is inaccurate and unfair to the good and decent man whom I believe will soon be Attorney General and whom I am confident will be one of the greatest Attorneys General in the history of this nation. People are going to appreciate him. He will restore dignity. He will restore integrity. He will bring personal probity and decency to that office and will, I believe, be greatly respected when he concludes.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia is recognized

Mr. ALLEN. I thank the Chair. I commend the articulate, knowledgeable, and eloquent Senator from Alabama for his remarks on a variety of issues.

Mr. SESSIONS. Mr. President, will the Senator yield?

Mr. ALLEN. I yield.

Mr. SESSIONS. Mr. President, I have received a statement from the editor of the Southern Partisan magazine that has been attacked here to some degree. I have never read the magazine. But it is a refutation of many of the statements made about the magazine. It certainly is proof that the magazine is in a much better light than it has been reported to be here on the floor.

I note that Senator Ashcroft, when he was interviewed by it, simply did a telephone interview with the magazine. There was no evidence he ever read it, or saw it, or knew much about it.

I think it would be healthy for the statement of Chris Sullivan, editor of the Southern Partisan, to be made part of the RECORD in which he flatly denies that he favored, or the magazine favored, segregation or other kinds of racially—discriminatory activities.

I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SOUTHERN PARTISAN,
January 11, 2001.

FROM: Chris Sullivan, Editor

RE: Refutation of false reports now being circulated about Southern Partisan magazine in an effort to damage John Ashcroft

A number of false reports are circulating in the national press, alleging that Southern Partisan is a ''racist,'' ''segregationist,'' ''secessionist,'' or ''white-supremacist'' magazine. This is part of an orchestrated effort to embarrass Senator John Ashcroft for having once been interviewed by our magazine.

Most of the distortions can be traced to an article by Benjamin Soskis in the New Republic which contained a series of factual errors and distortions extracted from any sense of fair or accurate context, some of which were clearly malicious. People for the American Way subsequently loaded all of those gross distortions onto their web-page. After that, reporters and editorial writers for mainstream outlets covering the presidential primary reported the errors as if they were factual.

For those who may be interested in the facts, I have assembled the following item-by-item refutation of these false reports:

1. Senator JOE BIDEN said on Meet the Press that Southern Partisan is ''a white-supremacist magazine, or so I've been told.'' Others have labeled us ''neosegregationist'' and ''racist.''

Those charges are absolutely false. In 20 years of publication, our journal has never advocated segregation, white-supremacy or any form of racism. Indeed one of our central purposes is to defend the South against such stereotypical and reactionary attacks. Our editors and contributors have included highly respected writers, academics and journalists like Russell Kirk, Aleksandr Solzhenitsyn, Murray Rothbard, Walter Williams, Anthony Harrigan, Kenneth Cribb, J.O. Tate, Andrew Lytle, Cleanth Brooks and many others.

2. The allegation that John Ashcroft's interview is somehow disreputable. A simple listing of others who have been interviewed in our ''Partisan Conversation'' section (which is where Ashcroft appeared) should suffice to rebut this silly charge. Other Interviewees include NBC weatherman Willard Scott, former Surgeon General C. Everett Koop, civil rights activist James Meredith, poet laureate James Dickey and political leaders like Senators Trent Lott, Phil Gramm, Jesse Helms and Thad Cochran as well as Ashcroft (a list of other interviewees is attached).

3. The allegation that our magazine ''praises'' David Duke. Absolutely not true. Twelve years ago, when Duke was running for office in Louisiana, he claimed he had converted to Christianity, renounced his past Klan involvement and campaigned on a mainstream conservative platform. At that time, we published a column defending the people of Louisiana for taking Duke at his word. As it turned out, Mr. Duke was deceiving everyone. In subsequent years he was rejected by he voters of Louisiana, which was a happy ending. (I have attached the full column in question, which is now 12 years old, to show just how the meaning was twisted by the out-of-context quote. Item #1 shows he quote extracted by ''researchers'' seeking to damage the magazine. Item #2 makes the true meaning clear).

4. The allegation that our magazine defends slavery. Again, that outrageous idea got started by the New Republic. The quote offered to ''prove'' we defend slavery was taken from a book review of a scholarly work on slavery called Time on the Cross. (Robert Fogel and Stanley Engerman) One of the findings of that book (based on plantation economic records) was that slave families were not frequently broken up, contrary to what was then a general view. Breaking up slave families was bad for morale and therefore bad for business. In preparing this memo, I consulted Dr. Walter Edgar's recent book on the history of South Carolina, which has been widely praised. Dr. Edgar is not a Republican or a conservative. The 1998 edition of his book has this to say on page 317: ''Owners realized that it was to their advantage to encourage stable slave family life . . . Slaves who had families were less likely to run away. . .'' Obviously, in no way is such a point intended to justify or defend slavery, which was a terrible national tragedy. The point the reviewer hoped to make was that slavery was bad enough without being exaggerated.

5. The allegation that our magazine engages in ethnic slurs. The quote most often offered to prove this allegation was taken from a column Reid Buckley, William F.'s brother, wrote for us 17 years ago. Here is what the New Republic reported that Mr. Buckley had written:

''In 1987 the magazine offered a vision of South African history straight from the apartheid-era textbooks: 'God led [Afrikaners] into the Transvaal, it was with God that they made their prayerful covenant when they were besieged by bloodthirsty savages on all sides.' ''

Here is the actual text from which the quote was dishonestly extracted:

''Then what demon has provoked their hateful policies? Well, not demon, it transpires upon reading a little South African history. God Almighty. In *their* view. [Emphasis in the original] God led them into the Transvaal, it was with God that they made their prayerful covenant when they were besieged by bloodthirsty savages on all side.''

It is obvious to even the most casual reader that Mr. Buckley is actually criticizing the ''hateful policies'' of apartheid, not defending them. The New Republic article extracted a partial quote that completely reversed the author's meaning. We can only assume that the distortion is deliberate. Why else would the New Republic writer have lifted only a portion of the passage?

6. The allegation that our magazine sells hateful t-shirts and bumper strips, including a shirt with Lincoln's image and the legend ''sic semper tyrannis'' which are the words Booth uttered before he shot Lincoln.

There is a web site called pointsouth.com that apparently sells a variety of Southern novelty items including bumper strips. We have no ties whatsoever with that web site. For a time, pointsouth.com carried a link to our web site. When we discovered that they were selling bumper strips with messages we found to be tasteless, we asked that the link be deleted. It was.

As to the Lincoln ''Sic semper tyrannis'' t-shirt: that tasteless item has never been advertised or sold on the pages of our magazine. Seven years ago, a part-time staff member of our magazine offered to compile a catalog of Southern items available—from various vendors—such as art prints, books, ties, grits, t-shirts, etc., to raise money to help defray the cost of the magazine. The catalog was compiled and mailed to our readers as a separate brochure, without careful review by our editors. The catalog included a ''tree of liberty'' t-shirt with the image of an oak tree and a quote from Thomas Jefferson. Apparently the Lincoln image with the sic semper tyrannis logo appeared on the reverse side of the t-shirt. While the slogan was noted in the fine print, that face escaped our attention. Nevertheless, it was advertised in the catalog one time seven years ago. The catalog was cancelled soon thereafter. Yes, the Lincoln message was in poor taste. It was a mistake. We regret that it was sold through a catalog our name was briefly associated with. But any effort to hold Senator Ashcroft accountable for that is absurd.

7. The allegation that our magazine is anti-Semitic.

Of all the charges made, this is the single most baseless. I do not believe Southern Partisan has ever published a single negative comment about Jews. On the contrary, we have published numerous very favorable articles on Jewish Confederates and Judah P. Benjamin, pointing out that the Confederate government had a Jewish member of its cabinet 50 years before the federal government. The charge of anti-Semitism against the magazine is completely unfounded.

8. The allegation that we are hostile to Martin Luther King Day.

Two decades ago, there was widespread opposition to MLK Day among conservatives all over the country. Around that time (18 years ago in fact) we published a column suggesting that other African-Americans in history might be more worthy of elevation to holiday status. Examples of George Washington Carver, Booker T. Washington and General Chappie James were given. Of course, the debate is long over. MLK Day is now accepted as a part of the nation's life. Nothing negative has been written on our pages about MLK Day for the past 18 years. In fact, South Carolina, the State where we publish, recently converted MLK Day from an optional to a free-standing holiday. The son of the writer who wrote that column 18 years ago is a member of the S.C. State Legislature. He voted for the holiday with his Dad's support.

9. The allegation that we are hostile to Nelson Mandela.

Again, the column cited to support that allegation was written over a decade ago. At the time, the idea that Mandela had engaged in violence before his arrest and refused to renounce violence as a precondition to release from jail was widely reported. The views on Mandela expressed a decade ago were conventional for conservative writers from all regions of the country. In subsequent years, Mandela (who is now a respected elder statesman) has changed his mind about violence in the manner of Sadat and Begin.

10. The allegation that our magazine called Lincoln ''a consummate liar * * *''.

The quote was taken from a speech given by the late Murray Rothbard, a respected Jewish intellectual. He was president emeritus of the Ludwig von Mises Institute, speaking at a seminar on the cost of war. The introductory phrase left out of Dr. Rothbard's remarks (which completely alters the meaning) was this: ''Of course, Abraham Lincoln was a politician which means he was a consummate liar, manipulator * * *'' etc. The quote was followed by laughter from those in attendance. In other words, it was a generic insult against politicians intended to be humorous.

The ten slanders listed above are the major ones we have seen in the media for the past six months. There may be others. If so, please let us know so we will have an opportunity to defend ourselves. Our concern is not only with the reputation of our magazine but also with all the people who have written for us or been interviewed by us over the years. They are innocent bystanders in this scorched earth campaign to defeat Sen. Ashcroft. Their reputations are very important to them and to their families.

To our dismay, these slanders have metastasized like an aggressive cancer throughout the national news media. In fact, months ago, we sent all of the above corrections to the People for the American Way with a polite request that they correct their web site. They never did. It truly is shocking that there are groups so radically committed to their political agenda that they are willing to destroy reputations falsely in an effort to prevent the appointment to a person they disagree with.

Please feel free to contact me if you have any additional questions (803–254–3660).

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ALLEN. Mr. President, I rise as a new Member of the Senate, having listened to the arguments back and forth for several weeks on the matter of John Ashcroft's nomination as Attorney General of the United States.

As a new Member, some of the arguments made, various votes and so forth are of interest, and there is some hyperbole to it.

But let me tell you that coming out of the real world and going through a campaign and listening to people in Virginia and elsewhere, I think if there is one message that the American people sent to our country's leaders last November, it was this:

The politics of personal destruction in our country must end. Sadly, there are some leaders of organized interest groups who have already turned a deaf ear to that message, even as we in the Senate are working so hard to move America forward in a bi-partisan manner.

Of course, I understand that some of my colleagues may disagree with the philosophy of our new President and his choice for Attorney General. However, when the Chief Executive picks his management team, unless there is an extraordinary reason that would dictate otherwise, this body should not stand in his way or obstruct. Political opportunism is not an appropriate rationale for withholding consent for a nominee.

When I served as Governor of Virginia, I was fortunate to have a capable cabinet who assisted me in managing the day-to-day operation of state government and advancing the agenda I established. While both the House and Senate in Virginia are required to approve of the Governor's selections, they have always, without exception, afforded the Governor the ability to name the qualified individuals he recruits to lead the team. No matter how distasteful the views of the nominee might be to some on the other side of the aisle, except for a very very few legislators, Republicans and Democrats alike have continuously respectfully rallied to put the best interests of Virginia ahead of political chicanery and that has effectively enabled Virginia's Governors to do the job they were elected to do.

The federal government should be no different and John Ashcroft deserves the support of the United States Senate for Attorney General. He has proven himself a caring and capable leader during his many years of public service. Elected by the people of Missouri five times, his is a long record of achievement for all of the people he has represented. It is incumbent on all of us to examine the totality of his record and to not be drawn to a single contorted, concocted blemish on a sterling 30-year record. As we proceed toward a vote on his nomination, we must understand what is in this man's heart, not what is displayed on the television screen in a 15-second distorted charge from heavily funded special interests.

Mr. President, the people of the United States expect principled civil, debate here and in elections. In numerous elections all across the U.S. last year, voters rejected the politics of division. Virginians, like so many other Americans, want our country to heal itself and to move beyond scare tactics and personal destruction.

We, here in the United States Senate, have the unique ability to prove to Americans that this noble goal is achievable. Let's move forward! I respectfully urge my colleagues to join together to rise to a higher plane and vote to confirm the honorable John Ashcroft as Attorney General of the United States.

Mr. THURMOND. Mr. President, I rise today to express my strong support for the nomination of our distinguished former colleague, John Ashcroft, to serve as Attorney General.

The debate we have been engaged in is not about Senator Ashcroft's qualifications because they are not in question. He has a wealth of experience and a record of exemplary public service that spans three decades. Twenty years ago, I recommended him for Attorney General under President Reagan, and I would like to place that letter into the RECORD at the conclusion of my remarks. The intervening time has only made it more clear that he should serve in this position. Before I had the pleasure of working with him in the Senate and on the Judiciary Committee, he served two terms as Missouri's Attorney General and Governor. Senator Ashcroft is one of the most qualified people nominated for this position in all my years of public service.

I recognize that some Senators disagree with some of the positions that he has taken during his almost thirty years in public life. As I said during his confirmation hearing, I hope the question will not be whether we agree with him on every issue. That is a standard he cannot meet for all of us. The President is entitled to some deference from the Senate in selecting those who will carry out the President's agenda.

In the Senate, what we can expect is that the Attorney General will do his job and enforce all the laws, and Senator Ashcroft will. His record of enforcing laws that he did not support while serving as Missouri Attorney General should help prove it.

We should keep in mind that all Attorneys General are called upon to enforce laws they do not support. The last Attorney General, Janet Reno, opposed the death penalty. I was one of many senators who strongly disagreed with her on this point, but we still supported her quick confirmation.

During the extensive committee hearings recently, Senator Ashcroft did not have much time to talk about issues which will occupy most of his time as Attorney General, such as crime and drugs. In the Senate, he was a leader in fighting crime and helping keep drugs out of the hands of children. He also stood up for victim's rights. It should come as no surprise that the law enforcement community strongly supports him.

Some of the toughest criticism of Senator Ashcroft's record is simply not warranted. For example, it was proper for him to oppose a judge-imposed school desegregation plan in Kansas City called Missouri v. Jenkins. In that case, the judge ordered a massive tax increase to pay for his almost unlimited school improvements, which included a 2,000 square-foot planetarium, a 25-acre farm, a model United Nations, an art gallery, movie editing rooms, and swimming pools. The plan was an elaborate social experiment in the name of education, and it utterly failed. Moreover, it established terrible legal precedent regarding the power of federal judges. I have introduced legislation in every Congress since to prohibit judges from being able to impose a tax increase. Elected state officials should represent their constituents and oppose activist federal judges like this, as long as they comply with the court after the case ends, as John Ashcroft did.

On another matter, I believe it is highly unfortunate that some outside special interests have gone beyond specific issues in their attacks and have criticized ''Senator Ashcroft's identification with . . . religious, right-wing extremism.'' This Senate should not tolerate any effort to make a person's religious beliefs an issue in whether they should serve in a high government position. As the Union of Orthodox Jewish Congregations of America wrote to the Senate, ''this view has been the subtext for some of the criticism of Mr. Ashcroft. We are confident that you will reject it, as you would any other form of prejudice.''

Senator Ashcroft has not only received strong support from well-known Christian organizations, such as the Christian Coalition, he has been endorsed by organizations of various religious faiths, such as the major Orthodox Jewish Organization, Agudath Israel of America. This is a testament to what kind of person John Ashcroft is.

In fact, he should be praised for his deep religious convictions. It helps explain many of his fine traits. He is a man of honesty and integrity, and a person of strong moral character.

I am confident that he will serve with dedication and distinction as the

Nation's top law enforcement officer. America needs a man like Senator Ashcroft to lead the Justice Department. I urge all of my colleagues to look beyond partisan politics and support this exceptional candidate.

I ask unanimous consent that the letter I referenced earlier be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, November 17, 1980.

Mr. EDWIN MEESE III,
Office of the President-Elect,
Washington, DC.

DEAR ED: Among the more important appointments that President-Elect Reagan soon will make is that of Attorney General of the United States. In this regard, I want to bring to your attention The Honorable John Ashcroft, presently Attorney General of the State of Missouri.

John Ashcroft was elected the 38th Attorney General of Missouri in 1976. He was just reelected to another term in that office, demonstrating the trust that the people of Missouri have in this very bright, very dedicated young man.

I first met John Ashcroft in 1976. At that time, I was immediately impressed with him. More recently, as I traveled around the country speaking on behalf of Governor Reagan, I had the pleasure of seeing John again. In fact, he introduced me on one such visit to Missouri to attend a Reagan-Bush rally.

I consider John Ashcroft to be one of our more promising young Republican leaders and believe that he represents the kind of young but experienced talent that could be used well in the Reagan Administration in the post of Attorney General.

I am submitting a packet of informational materials on John. I hope that you will review them carefully and that you will conclude, as I have, that John deserves to be at the top of your list of nominees for the post of Attorney General.

If I can provide other, additional materials of assistance to you in this regard, please let me know.

With kindest personal regards and best wishes,

Sincerely,

STROM THURMOND.

Mr. BENNETT. Mr. President, I rise to support Senator John Ashcroft for Attorney General, and will outline some sound business reasons for this position.

Senator Ashcroft has proven himself the friend of American consumers, investors, and businesses, especially in the high technology sector which has driven much of the prosperity of the last long economic expansion.

His potential leadership in the Department of Justice has been hailed as especially good news by high tech businesses and investors, whose retirement and pensions rely on the health of the technology stocks that have recently taken a beating.

Indeed, James Lucier of Prudential Securities recently wrote to investors,

Technology investors got their Christmas present three days early on December 22 when President-elect George W. Bush named . . . John Ashcroft as his choice to serve as Attorney General . . . [W]e find it hard to imagine Bush choosing a potential attorney general with better qualifications than Ashcroft to restore investor confidence and dispel the more extreme, valuation-depressing fears of political risk at a time when Congress is set to take up a slate of complex issues with ample potential to raise blood pressures among the investor class.—Prudential Securities, ''Washington Research, Washington World,'' January 3, 2001, p. 1.

In other words, according to some analysts, tech-sector investors who have been worried about their wealth or retirement security because of recent tech-stock losses can breath a little easier if John Ashcroft is confirmed as Attorney General. With so many Americans now relying on those investments, I think they need to understand that the partisan extremists fighting Senator Ashcroft could be putting at risk many Americans' economic and retirement security to satisfy their own political interests.

His general approach of avoiding unnecessary regulation of and litigation against business will help foster a positive economic environment that is so important to all Americans.

Senator Ashcroft has also played a role in helping consumers enjoy the benefits of technology. The same newsletter points out Ashcroft's role as Attorney General in Missouri authoring and filing an amicus brief joined by other state attorneys general supporting Sony Corporation's contention that consumers had the right to ''time-shift'' television broadcasts by taping on their VCRs in the famous Betamax Supreme Court case.

He has worked to support the development of the Internet, to avoid taxes that would slow the growth of e-commerce; he has pushed to allow consumers and Internet users to use strong encryption to protect their privacy online, and to keep American companies at the forefront of encryption and software development.

All in all, Senator Ashcroft's nomination and confirmation should be a boon to our economy, to investors, our businesses, and consumers. I would hope that consumers, investors, and all those who rely on a strong economy will make their support of Senator Ashcroft known to their Senators.

Mr. VOINOVICH. Mr. President, I rise today to lend my voice to those of my colleagues in support of the nomination of Senator John Ashcroft for the position of Attorney General.

I have known John Ashcroft for more than a decade. I first met him when I was mayor of Cleveland and he was Governor of Missouri, but I really got to know him through our service together in the National Governors' Association.

John was the chairman of the National Governors' Association, and I had just joined the organization after being elected governor. My wife, Janet, and I were able to get to know John and his wife Janet on a personal basis.

I could see almost immediately that John was a man who was dedicated to making a difference, and he wanted me to help in setting the NGA's education agenda.

John appointed me to chair the NGA Bipartisan Taskforce on School Readiness. I will always be grateful for that appointment, because I quickly realized that the task force could serve as a forum in which to ''air out'' new ideas on how best to help our kids learn. From that task force, we were able to develop a Whole School Initiative.

I admired the leadership role John took at NGA, and our work together helped me to get to know John Ashcroft.

Of course, nothing will help you get to know someone better than going fishing with them, and John and I have spent hours together fishing. I have spent enough time with him to get to know what is in his heart, and I can honestly say that he is one of the most honorable men I have ever met. He is, in every sense of the word, a gentleman.

We in the Senate have been given a remarkable obligation by our Founding Fathers to provide the President of the United States our ''advice and consent'' on certain Presidential nominees for Cabinet offices and other positions of governmental importance.

It is a duty that all of us in this Chamber take seriously.

Historically, members of the United States Senate have given the President—Republican or Democrat—the benefit of the doubt when it comes to the confirmation of a Cabinet official.

On the rare occasion when a nominee fails, it is because the nominee's qualifications are lacking, or because a flaw in his or her character exempts them from successfully carrying out the duties of the office in which they would serve.

However, in the case of President Bush's Attorney General nominee, John Ashcroft, there has been a steady stream of detractors who are trying to cast doubt on the character of John Ashcroft or misconstrue his record of accomplishments. I would like to say that those of us in this body who have worked with John Ashcroft, know the type of man he truly is.

In my personal relationship with John, and in my evaluation of his ability to serve as Attorney General, I have seen only an individual with impeccable qualifications and unquestionable character.

There is no doubt in my mind that John Ashcroft possesses the integrity and the experience necessary to carry out the duties of Attorney General. We all know his biography by now—elected for two terms to serve as the Attorney General for the state of Missouri and elected for two terms to serve as Governor of Missouri, and then elected to serve as United States Senator from Missouri.

It is this record of public service that has made John Ashcroft the most qualified individual ever to be nominated to be Attorney General. Just look at some of our recent Attorneys General—Janet Reno, a prosecutor;

Dick Thornburgh, a governor; Ed Meese, a district attorney.

Of the 67 persons who have served in the office of Attorney General in the history of our nation, only one—John Ashcroft—has served as state attorney general of his state, and U.S. Senator—and only a handful have held two of these three offices.

I might add that in each of the responsible positions he has held, he has served the people of Missouri with distinction.

What is interesting, though, is how the special interest groups have ''taken the gloves off'' in their opposition to John. They are working overtime to demonize Senator Ashcroft, trying to paint him as unfit to hold public office.

But, we seem to have lost sight of the fact that the citizens of Missouri elected John Ashcroft 5 times to statewide office.

The John Ashcroft that the interest groups are characterizing is not the John Ashcroft we all know, and in my view, he has been the victim of a vicious character assassination, the likes of which I have not seen in years.

This is just wrong.

This visceral opposition is being orchestrated by groups that I have to believe are making tons of money in their fundraising efforts by using John Ashcroft as a lighting rod.

For example, some have raised the accusation that he is a racist because of his opposition to Ronnie White's nomination.

John Ashcroft did speak against Ronnie White in a convincing way. John did have some influence over my decision to vote against Ronnie White, but I had no idea he was an African American. That was never even an issue in our discussions over the nomination of Ronnie White, and I want everyone to understand that.

Anyone who knows my record knows that I do not tolerate racism or insensitivity to others, and I have no patience for individuals who espouse such views.

In fact, in the more than ten years I have known John Ashcroft, I have never heard a word uttered from him that indicated any insensitivity to any minority groups. To the contrary, his accomplishments reflect a real level of support for the African American community.

John Ashcroft signed Missouri's first hate crimes statute into law. He signed into law the bill establishing a Martin Luther King, Jr., holiday in Missouri. He appointed the first African-American woman to the Missouri Court of Appeals.

He led the fight to save Lincoln University, founded by African-American Civil War veterans—something that he and I have in common, given my work to save Central State University, a historically black university in Ohio. John also established an award in the name of renowned scientist, George Washington Carver.

He also has been a leader in the opposition to racial profiling, convening the only Senate hearing on the subject to date. He voted to confirm 26 of 27 African American judicial appointees nominated by President Clinton that came to the Senate floor.

John Ashcroft has worked with African Americans. He has appointed African Americans when he was Governor. He has worked on issues of importance to African Americans. That's why I cannot understand all this talk that John Ashcroft is somehow a racist.

Does the Senate honestly think that the good people of Missouri would elect a racist? Do we honestly think John Ashcroft could have possibly fooled the people of the ''Show-Me State'' 5 separate times?

John Ashcroft looks at his fellow human beings as in the image and likeness of God. Yes, he is a Christian, and he believes in the Two Great Commandments—love of God, and love of fellow man—and he follows the Golden Rule, but those traits are not—and should never be—disqualifying traits.

I have no question about what is in this man's heart, and I know that he will be impeccably impartial in carrying out his responsibilities. In fact, John Ashcroft will be scrupulous in carrying out the responsibilities of his office.

Even with John's integrity, character and good sense, probably the loudest complaints about him seem to be from those individuals who believe that John will ignore or even seek to overturn laws he personally does not like. Nothing could be further from the truth.

Throughout his many years of public service, John Ashcroft has been a sworn defender of the laws of the people—all of the people—and his record shows that he has not allowed his personal views to interfere in the pursuit of his duties.

As Missouri Attorney General, John Ashcroft strictly enforced laws that differed from his own views, including such items as: firearms—he determined, under Missouri law, that prosecuting attorneys could not carry concealed weapons; abortion—he determined, under the law, that hospital records on the number of abortions performed must remain confidential, and, he determined, under the law, that a death certificate was not legally required for fetuses under 20 weeks; and church and state—he determined, under Missouri law, that public funds were not available for private and religious schools even though federal grants permitted it, and he determined, under the law, that religious materials could not be distributed in public schools.

I believe we all have faced laws or responsibilities that we must carry out that we may not necessarily agree with. I did so when I was Governor because I took an oath to uphold the law. So did John Ashcroft.

For those who are not inclined to support the nomination of John Ashcroft, I need only refer to his testimony before the Senate Judiciary Committee. Senator Ashcroft gave his assurance—his word—that as Attorney General he will uphold the law, including laws he may personally disagree with.

The fact that he has his faith is one of the reasons why John Ashcroft has upheld the law and why he will uphold the law—because he has character, because he has principles, because he has a foundation, because he has roots and because he has grounding.

I think in our assessment of John, all we need to do is look at our colleague, Senator JOSEPH LIEBERMAN. Part of the reason why Senator LIEBERMAN is where he is in life is due to his profound faith. He abides by his faith and it impacts on decisions he makes in the Senate and in his life.

There are many other members of this chamber who I believe are exactly the same; with their faith at the base of who they are, whether they are Jewish, Protestant, Catholic or whatever their religion.

It is that faith that builds the character and builds the individual. It is what has made John Ashcroft.

And I urge all of my colleagues to read an article written by one of Senator Ashcroft's former staff members, Tevi Troy, for the New Republic online. Mr. Troy, who is an Orthodox Jew, explains how faith has influenced John Ashcroft's deep respect for other religions, and how faith has shaped John Ashcroft to be the man he is today.

In my family—and I would imagine in most families as well—when we're getting to know someone, we subconsciously subject them to what I call the ''kitchen test.'' Basically, the kitchen test is: is this person someone I would feel comfortable enough to bring to my home, to sit at my dinner table, with my family?

John Ashcroft is someone I would be honored to have in my home, at my dinner table, with my family. He is a good solid man.

Based on his record, John Ashcroft is fit in every way to be the Attorney General. He is a man of integrity, and I am completely confident that not only will he be fair and impartial in the administration of justice, but that he will insist that every employee at the Department of Justice do the same. He sets high standards for people.

John Ashcroft's experience is more than enough to qualify him for the role as the nation's ''top cop,'' but the added bonus to his achievements is the fact that he is a man of character, and a man who believes that the law is the law, and not something with which to manipulate policy.

Though some of my colleagues may not agree with his personal views, I urge them to look beyond their personal prejudices and look at John's record, his character, his integrity and his experience and give President Bush the man he wants to serve as Attorney General of the United States.

I will vote in favor of the nomination of John Ashcroft to be United States

Attorney General, and I sincerely urge my colleagues to give him their full support as well.

Mr. JEFFORDS. Mr. President, I rise today to discuss my thoughts on the nomination of Senator John Ashcroft to be the United States Attorney General.

One of the first issues I faced as a new Senator in 1989 was the controversial nomination of former Senator John Tower to be Secretary of Defense. As this was the first time I was faced with the Senate's constitutional ''advise and consent'' role, it was incumbent upon me to learn more about this important role through study and through conversations with my fellow Senators. It was also important to devise a standard to evaluate Presidential nominations so as to treat nominees of both Republican and Democratic Presidents with consistency and fairness.

I came to the conclusion that my general policy should be to support nominations made by a President, provided that the individual is appropriately qualified and capable of performing the duties of the position. A President is entitled to a Cabinet of his or her own choosing unless a nominee is proven unethical or unqualified. I would not oppose a nominee just because I disagree with them on a policy matter.

For judicial branch nominations, however, I apply a different standard. I have made this distinction between executive and judicial nominees throughout my Senate career. For example, during the consideration of Clarence Thomas' nomination to the Supreme Court in 1991, I argued that:

By no means does a president, even one of my own party, have the right to pick virtually anyone he wants who meets minimal qualifications with respect to character, legal ability and judicial temperament. This is not a pass-fail test. In my mind, such a process is entirely proper for appointees to the executive branch of government. The president should be given wide latitude in selecting his Cabinet secretaries and key agency personnel. But under the Constitution, such deference is inappropriate in the confirmation of Supreme Court justices.

I used this policy in evaluating Presidential nominations throughout the Bush Presidency and the subsequent Clinton Presidency, and will continue to use this standard to evaluate the nominations put forth by our current President. In order to determine a nominee's qualifications and capabilities, I review the statements of nominees, follow the hearings conducted on a nominee, and listen to the opinions expressed by my colleagues. I have done all of these in the case of this nomination and I am here today to express my support for the confirmation of John Ashcroft to be the next United States Attorney General.

A review of Senator Ashcroft's record shows that he is qualified to serve in the position of United States Attorney General. He has a long and distinguished tenure in public service, serving as Missouri's Attorney General, Governor and Senator. During his terms as Governor, John Ashcroft served as Chairman of the Republican Governors' Association and as Chairman of the National Governors' Association. In addition, during his tenure in the Senate he served on the Senate Judiciary Committee and chaired the Senate Judiciary Subcommittee on the Constitution.

Senator Ashcroft is also capable of performing the duties of United States Attorney General as he is a fair and judicious individual. Some have raised questions concerning his ability to enforce laws he has opposed in the past, but during a meeting I had with him he assured me that as Attorney General he would work to uphold the laws of this nation, including those with which he disagrees. I believe that these qualities prove Senator Ashcroft to be capable of performing the duties of Attorney General and will serve him well in this role.

As anyone can tell from our records, Senator Ashcroft and I have very different opinions on many important issues, including abortion, civil and gay rights, and environmental protection. I will continue in my role as a Senator from Vermont to support legislation upholding the Roe v. Wade decision legalizing abortion, protecting access to clinics that perform abortion services, combating employment discrimination and hate crimes based on sexual orientation, and protecting our environment. I will also closely follow the decisions Senator Ashcroft makes as Attorney General and speak out when I feel those decisions are wrong. However, while we may have different opinions on many issues, in my mind that alone is not enough to disqualify a nominee.

THE LOCKERBIE VERDICT

Mr. MCCAIN. Mr. President, today's unanimous verdict by a Scottish court convicting a Libyan intelligence agent of murder in the 1988 bombing of Pan Am Flight 103 over Lockerbie concludes an exhaustive terrorism trial that clearly exposed Libyan state sponsorship of the mass murder of 270 individuals, including 189 Americans. A second Libyan charged with the same offense was acquitted. Although no verdict can compensate the victims' loved ones for their loss, the life sentence handed down to Libyan intelligence agent Abdel Basset Ali al-Megrahi represents a first step for the families, the prosecution, and the Western nations that supported bringing the Libyans to justice.

Nonetheless, the trial's conclusion must not obscure the task ahead: holding Libya accountable for full compliance with the U.N. Security Council resolutions governing the sanctions regime against that country. These resolutions mandate that, before sanctions can be lifted, Libya must (1) Cease all forms of terrorism; (2) Disclose all information about the Lockerbie bombing; (3) Accept responsibility for the actions of Libyan officials; (4) Pay appropriate compensation to the victims' families; and (5) Cooperate with the French investigation into the 1989 bombing of UTA Flight 772 over Niger.

Full Libyan compliance with the U.N. resolutions must be the standard for terminating the sanctions, which are believed by many experts to be responsible for the significant decline in Libya's sponsorship of terrorism overseas.

Of perhaps more immediate importance to the United States is the question of the separate U.S. sanctions currently in place against Libya, primarily as a consequence of its sponsorship of state terrorism. True, Libya did hand over the Lockerbie defendants in 1999 and expel the Abu Nidal terrorist organization from its territory in 1998. The Libyan government has also seemingly reduced its contacts with radical Palestinian organizations espousing violence against Israel. In 1999, after the conviction in absentia of six Libyans by a French court for the UTA 772 bombing, Libya compensated the families of the 171 victims. However, it has not turned over the convicted individuals for trial or acknowledged responsibility.

In addition to the issue of terrorism, the United States must consider Libya's covert and sometimes armed intervention in the affairs of other African nations, including Chad, Sudan, and Sierra Leone, as well as Libya's continuing development of weapons of mass destruction. Libya used chemical weapons acquired from Iran against Chad in 1986 and has constructed chemical weapons facilities at Rabta and Tarhunah. According to the Congressional Research Service, Libya tried to buy nuclear weapons or components from China in 1975, India in 1978, Pakistan in 1980, the Soviet Union in 1981, Argentina in 1983, Brazil in 1984, and Belgium in 1985. The United Kingdom accused Libya of smuggling Chinese Scud missiles through Gatwick Airport in 2000. The Pentagon believes China has provided missile technology training to Libyan workers.

While I applaud the Lockerbie verdict, I believe any consequent American policy changes toward Libya must take into account its possession of chemical and potentially nuclear weapons, its compliance with existing U.N Security Council mandates on the Lockerbie and UTA bombings, and any residual support for state terrorism. If Libya truly wishes to enter the ranks of law-abiding nations, with the economic and diplomatic benefits such status affords, it must satisfy the international community's concerns on these issues.

TRIBUTE TO WARREN RUDMAN

Mr. SMITH of New Hampshire. Mr. President, I rise today to honor former United States Senator Warren Rudman

of New Hampshire, whose dedication to public service has earned him the respect and admiration of a grateful nation. On January 8th of this year, Senator Rudman was awarded the Presidential Citizens Medal which recognizes exemplary service by a citizen of the United States. The medal recognizes Senator Rudman for co- authoring the Gramm–Rudman-Hollings deficit reduction law that requires automatic spending cuts if annual deficit targets are missed.

Senator Rudman served in the United States Army as a combat platoon leader and company commander during the Korean conflict. After graduating from Boston College Law school, he returned to New Hampshire to practice law and was later appointed Attorney General of the State.

Senator Rudman serves as Chairman of the President's Foreign Intelligence Advisory Board and was also appointed to serve as Vice Chairman of the Commission on Roles and Capabilities of the United States Intelligence Community.

During his distinguished twelve years in the Senate, Senator Rudman established a record of independence. While a member of the Senate, he served on the Ethics Committee and the Senate Appropriations Committee, where he was active on the Subcommittees on Defense and Commerce, Justice, State, and the Judiciary.

Warren Rudman is an exemplary citizen who has dedicated himself to serving the people of New Hampshire and our country for over three decades. He continues to selflessly give of his time within the community and serves on the Board of Trustees of Boston College, Valley Forge Military Academy, the Brookings Institution and the Aspen Institute.

The people of our state and country look to Senator Rudman with tremendous gratitude and admiration for all that he has done. It has been a pleasure and privilege of mine to have worked with a leader as extraordinary as Warren Rudman. Warren, it is an honor to represent you in the United States Senate.

RETIREMENT OF U.S. BANKRUPTCY JUDGE, HON. BRETT DORIAN

Mrs. BOXER. Mr. President, I would like to recognize Judge Brett Dorian as he retires after almost 12 years as a United States Bankruptcy Judge in Fresno, California.

Brett Dorian's legal career reflects a long and honorable commitment to public service. His dedication spans more than three decades, beginning with his service in the United States Air Force. Upon graduation from Boalt Hall, University of California, Berkeley Mr. Dorian helped and assisted the underprivileged in Central California as a legal aid lawyer. He then went on to a distinguished career in private practice where he specialized in bankruptcy law and served as a bankruptcy trustee for many years.

In 1988, Judge Dorian was appointed to the United States Bankruptcy Court in Fresno. He served as a Bankruptcy Judge for almost 12 years. Judge Dorian served an eight county area in Central California. Judge Dorian has long been known as a thorough, dedicated and compassionate judge. Throughout his judicial career, he was diligent in carefully balancing the law in his cases and protecting the rights of those who appear before him.

Judge Dorian has served the people of California as well as all Americans with great distinction. I am honored to pay tribute to him today and I encourage my fellow colleagues to join me in wishing Judge Brett Dorian continued happiness as he embarks on new endeavors.

SAFEGUARDING CHILDREN

Mr. LEVIN. Mr. President, on New Year's Day, the Governor of Michigan signed into law a bill to take discretion away from local gun boards in issuing concealed gun licenses. The new law, scheduled to take effect on July 1st of this year, would increase the number of concealed handgun licenses in our state by 200,000 to 300,000—a ten-fold increase.

The concealed weapons law is being challenged by a coalition of law enforcement and community groups across our state called the People Who Care About Kids. This coalition is working to obtain 151,000 signatures needed to suspend the implementation of the law and put the issue before voters in 2002.

Other groups in our state are also working along side the coalition to keep our streets and our communities safe. One such group is the Detroit-based Save Our Sons And Daughters, SOSAD. I ask unanimous consent to print an article in the RECORD from the Detroit News about SOSAD to show what they are doing to fight the concealed weapons bill and to keep our children safe from gun violence.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From The Detroit News, Jan. 30, 2001]

NEW STATE GUN LAW ALARMS SOSAD GROUP REDOUBLES EFFORTS TO SAFEGUARD CHILDREN

(By Rhonda Bates-Rudd)

DETROIT—After 14 years of helping hundreds of grieving families, who've lost a loved one as a result of homicide, suicide, disease and natural death, Clementine Barfield, founder and president of the nonprofit, Detroit-based Save Our Sons and Daughters, says the organization is facing a new challenge.

Michigan's latest concealed gun legislation, which limits the power of county gun boards to deny gun permits, has moved the group to turn up the heat in their efforts to promote peace.

Homicide is among the leading causes of death for African-American youths, recent data compiled by the Michigan Department of Community Health said.

''Homicide is real and the effects on children in our community is immeasurable,'' Barfield said. ''People should not believe that they are immune to this type of tragedy. Many children already have a false confidence in weapons, as evidenced by reports of their use of guns and violence in the news. If ever there was a right time to promote peace in our community, the time is now.''

In March, the group's mothers will reveal their new image, a white kerchief and arm band, which is both a symbol of their grief and desire for peace.

The nonprofit group, which also honors other groups that help the grieving after deadly tragedies, is seeking corporate and community sponsorship to develop programs and activities for youth that will promote nonviolence. The organization also is in need of volunteers willing to make a long-term service commitment to perform an array of administrative tasks, as well as spread the message of peace to youth who, often, enlist the use of violence and handguns to settle disputes.

USHER IN MORE DEATH

Save Our Sons and Daughters member Cheryl Ross, her husband and their four children moved to the suburbs after her son, DeWunn Carter, 23, was shot to death in 1977 at a Coney Island Restaurant on Chicago near Evergreen, just a few steps from the front door of their former home.

''I believe this new law will make it easier for more people to get their hands on guns and keep them concealed, which will make it easier for more youth to get their hands on weapons,'' Ross said. ''I think this new law is just a platform to usher in more death.''

Ross, who lives in Redford Township, has a better look than most at the toll homicide takes. She is a SOSAD liaison assigned to the Detroit Police Department Homicide Unit, along with Linda Barfield and Vera Rucker.

Working in the homicide division, contacting victim's families and helping them has been therapeutic, Ross said.

Liaisons almost daily receive a list of homicides they use to create a file that includes basic information about the family, such as phone number, address and the number of family members. Serving as go-betweens, they contact the families and offer the group's counseling and support group services. They also provide families with information about the case and how the process works.

''If they are grieving and just need someone to talk to, we are here for that, too, because as many of the SOSAD staffers are mothers who've lost children, we understand what they are going through,'' Ross said.

Victim liaison Rucker, who has been with SOSAD since its inception, said ''No one can understand what you're going through—the grief, anger, anguish and frustration—unless they've lost a child to homicide.''

Her daughter, Melody ''Poochie'' Rucker, 14, was shot and killed on Detroit's west side by random gunfire at a back-to-school party for Benedictine High School students in 1986.

Police Inspector William Rice, commanding officer for the Detroit police homicide unit, has been a law enforcer for 31 years. He said, without a doubt, the group's 3-year-old victim liaison office at the First precinct has been a new tool to help in the aftermath of homicide.

''After a homicide, the family is usually confronted by a lot of social and economic issues, such as how and why the crime was committed, and then they almost immediately have to deal with funeral planning and burial expenses,'' Rice said. ''SOSAD members avail themselves to assist families with whatever it is they need.''

''The volunteers can bring the compassion element that police officers cannot offer because their (the police) job is to solve the crime by asking a lot of questions that may make family members uncomfortable and, many times, the clues to solving a crime may lead us back to the family,'' Rice said.

Barfield, a former City of Detroit accounting department employee, said she was always troubled by reports of the growing number of Detroit youth who were shot and, often, fatally wounded by handguns.

The 1986 death of her son, Derick, 16, and that of many other Detroit youth moved Barfield to create the organization which has been featured in newspapers and magazines across the country, including Essence, Ebony and People magazines.

HUNDREDS HELPED

In the last 14 years, the group has helped hundreds of families through the grieving process with counseling and support groups that meet weekly.

There also is a 24-hour crisis hotline in which volunteers provide immediate response to families in need.

Since 1988, the group has held an annual public memorial service that is open to anyone wanting to light a candle in memory of someone killed. This year's service will be held from 4–6 p.m. March 17 at the Cobo Center.

The group also hosts an annual appreciation breakfast, usually during National Crime Victim Rights week, the last week in April, to give accolades and the Angel of Mercy Award to emergency room medical staff, homicide investigators, funeral directors and morgue personnel.

NOMINATION OF GALE NORTON

Mr. DORGAN. Mr. President, I rise in support of the nomination of Gale Norton as this country's next Interior Secretary.

While I have some disagreements with some of Ms. Norton's positions, I believe that she represented herself well in the nomination hearings that we held in the Energy Committee.

I indicated during those hearings that if I felt she were another James Watt I could never vote for her ''in a million years.'' I say that because, two decades ago, James Watt came to town as a newly appointed Interior Secretary and very quickly began to take both positions and actions that were, in my opinion, destructive to the interests that I value with respect to the stewardship of public lands in our country. Because Gale Norton was a protege of James Watt, and because she has spoken and written extensively on a range of issues, we questioned her very closely during her confirmation hearing on a wide range of important issues that will confront the new Secretary of the Interior.

Her responses to some tough inquiries during the hearings demonstrated to me that she is qualified to be Interior Secretary and that the views she holds, while in some cases controversial, are well within the norm of the political discussions we're having in Washington about a wide range of these issues.

I want Gale Norton to do an excellent job as Interior Secretary and pledge my cooperation to help make that happen. At the same time, I want her to know that those of us on the Energy Committee take very seriously the representations she made during the confirmation hearings on a wide range of matters. She will find those of us on the Committee who have now voted for her confirmation to be helpful in her job of meeting the stewardship responsibilities of the Secretary of the Interior. But she should understand that she will find us to be severe critics if the representations she made to us during the Committee hearings turn out to be not in keeping with the way she conducts herself as Interior Secretary.

I will be particularly interested in working with Ms. Norton on several issues important to North Dakota and the Nation. For example, I will work to ensure that Ms. Norton provides protection for our National Parks, public lands and environmentally-sensitive areas.

Native Americans are particularly important to me. During the hearing, Ms. Norton said she respects tribal sovereignty. She should adopt a cooperative approach to include the relevant tribal stakeholders in policy and regulatory decision making. She also committed to work with us to make progress in meeting the critical funding needs for tribal schools and colleges.

I will count on Ms. Norton to adopt a sound scientific basis for her policy decisions on actions pertaining to endangered species, the global climate, energy issues and more.

Again, I wish her well and pledge my cooperation as she begins her duties following her confirmation today. She clearly has the skill and capability to do well as Interior Secretary if she pursues a balanced set of policies that conform to the positions she took when she appeared before our Committee.

TRIBUTE TO TERRY BRAGG

Mr. DEWINE. Mr. President, I rise today to recognize a brave and hard-working Ohioan by the name of Terry Bragg. Terry has been a life-long resident of McConnelsville, where he has spent the last 39 years as a member of the Malta-McConnelsville Fire Department. During nearly 40 years of tireless dedication to his community, Terry has served as a firefighter, Assistant Fire Chief, and for the last 32 years, as the department's Fire Chief.

I recognize Terry today for his commitment to protecting his community from devastating fires. People like Terry Bragg, who risk their lives daily on our behalf, command great respect and deserve our deep and sincere thanks.

I cannot overstate just how important Terry's job of fire fighting and prevention education is to our families and communities. Overall, fire is responsible for killing more Americans than all natural disasters combined. Every 18 seconds, a fire department responds to a fire somewhere in the United States. In 1998, there were 4,035 civilian fire deaths—that's one death every 130 minutes. And sadly, many of those who die each year in fires are children.

To help support Terry and every firefighter in Ohio and across America as they work to protect our families and children, I sponsored the Firefighter Investment Act, which provides a vital federal investment to the courageous men and women who make up our local fire departments. I am please do report that we successfully included my bill as a provision in the recently-passed Fiscal Year 2001 Department of Defense Appropriations bill. The funding that will be made available as a result will help local fire departments and firefighters, just like Terry Bragg and the Malta-McConnelsville Fire Department, to continue carrying out their life-saving missions.

Over the years, Terry Bragg has received many, many awards and special recognitions. He has received three medals for bravery, and in 1997, the Ohio Department of the Veterans of Foreign Wars named him ''Ohio Firefighter of the Year.'' He received the Bob and Delores Hope ''Good Samaritan Award,'' the ''M&M Firefighter of the Year Award,'' and the Ohio Masonic Grand Master's ''Community Service Award.''

Not only is Terry a dedicated Fire Chief, he is a strong community leader; volunteer; businessman; and loving husband, father, and grandfather. Indeed, Terry Bragg is a role model for whom we all can be proud.

I thank him for his past, present, and future service to his community, to Ohio, and to our nation.

ADDITIONAL STATEMENTS

TRIBUTE TO THE LAW ENFORCEMENT AGENCIES AND COMMUNITIES INVOLVED IN THE APPREHENSION OF THE TEXAS SEVEN

• Mr. ALLARD. Mr. President, today I want to take a few minutes to recognize the efforts of everyone involved in the capture of the Texas fugitives that ended one of the largest manhunts this national has ever seen. As you know, the last two of the seven Texas inmates that escaped from a maximum security prison in Kenedy, Texas on December 13th surrendered on January 24th in Colorado Springs, Colorado. This can be attributed to the exemplary work done by the local and federal law enforcement agencies involved as well as the communities of Woodland Park and Colorado Springs. This was a cooperative effort that saw the pooling of all the resources available and resulted in a peaceful conclusion.

There cannot be enough said about the work that was done by the law enforcement agencies involved. The Federal Bureau of Investigation, The Colorado Springs office of the Bureau of Alcohol and Firearms, the U.S. Marshals

office, the Texas authorities, the Teller County Sheriffs office, the El Paso County Sheriffs office, the Colorado Springs Police Department, the Woodland Park Police Department and the Colorado State Patrol did a tremendous job of working together to apprehend the seven fugitives.

The effort and support of the residents of Woodland Park and Colorado Springs can't be overlooked. We need to commend people like Wade Holder and Eric Singer. Mr. Holder resides in Woodland Park and is the owner of the RV park where the fugitives were hiding out. He called in a tip to the local authorities after seeing pictures of the fugitives on the America's Most Wanted Web Site. KKTV's Colorado Springs news anchor Eric Singer helped negotiators by conducting a telephone interview with the last two fugitives in order to assure a peaceful surrender. These are just a couple of examples of how the two communities contributed to the successful manhunt.

In all of this we should not forget that two law enforcement agents lost their lives in this investigation. Irving, Texas Officer Aubrey Hawkins and Colorado State Trooper Jason Manspeaker both died in the line of duty. Officer Hawkins was brutally shot 11 times and killed by one of the fugitives while responding to a robbery of a sporting goods store in Irving Texas on December 24th. Colorado State Trooper Jason Manspeaker was killed when he crashed his Jeep Cherokee Squad car into a heavy equipment trailer on U.S. Highway 6 in Colorado. The crash occurred while chasing a vehicle suspected of harboring the last two fugitives on January 23rd. Both Officer Hawkins and State Trooper Manspeaker paid the ultimate price for our freedom. My wife Joan and I offer all our compassion, our sympathy and our prayers to the families of both victims.●

LORETTA SYMMS

● Mr. REID. Mr. President, I come to the Senate floor today to express my regret that Loretta Symms will soon retire as Deputy Sergeant at Arms. I would also like to congratulate her on a long and distinguished career.

During her 22 years of service on Capitol Hill, Loretta gained the respect of Senators and Congressman from both sides of the aisle. Her creativity and dedication to improving the inner-workings of the Senate have made her an invaluable asset to the institution and she will be dearly missed by all.

Loretta started her career on Capitol Hill in 1978 working for then-Congressman Steve Symms as executive assistant and office manager. In 1981, after Congressman Symms was elected to the Senate, Loretta became his executive secretary and office manager. In 1987, Senator Dole appointed Loretta as the Republican representative to the Sergeant at Arms.

As Director of the Capitol Facilities Department, she reinvented the Facilities Department providing career ladders, formal position descriptions, instituted reading programs, basic computer classes for employees, and training programs. Working closely with the Secretary of the Senate's office, Loretta has been actively involved in the oversight and management of the Senate Page Program. For example, Loretta participated in the renovation and opening of Webster Hall, the Senate Page dormitory, and the Senate Page School.

During her tenure as Deputy Sergeant at Arms, Loretta worked closely with the Assistant Secretary of the Senate to create the Joint Office of Education and Training which provides a wide variety of professional seminars and training for the staff of Senate Offices and Committees. As every Senator can attest, this office has become an invaluable resource. In 1996, Senator LOTT named Loretta Deputy Sergeant at Arms, the post in which she still serves. As Deputy, Loretta has managed the day to day operations of more than 770 employees.

Loretta is married to former Senator Steve Symms. They have 7 children and 10 grandchildren. Her retirement will allow her to fulfill her dreams of traveling and spending more time with her grandchildren. Loretta's impact on the institution of the Senate is greatly appreciated and will be remembered for a long time to come. But most impatiently to this Senator is the many acts of kindness in the most professional manner that Loretta was extended to me. For her many acts I will always be grateful.●

TRIBUTE TO BEN AUGELLO

● Mr. SMITH of New Hampshire. Mr. President, I rise today to honor Ben Augello of Weare, New Hampshire, an elementary school principal whose devotion to education serves as an inspiration for his colleagues and students alike. Recently named Elementary Principal of the Year by the New Hampshire Association of School Principals, Ben is known for his incomparable listening skills.

Ben's lifelong dream since childhood to become a teacher began in New York where he taught science to middle school students. He had a special talent for making every student feel valued and special.

Ben has been the principal of the Center Woods Elementary School in Weare, New Hampshire, since 1991. He oversaw the construction of the school and has also spearheaded development of the school's inclusionary model. Mr. Augello is an enthusiastic administrator who exudes a warmth and openness that permeates the school.

Married for thirty-seven years, Ben and his wife Bunny have two children: Christine, a resident of Nashua, and Peter, who resides in Florida. Ben's hobbies include cooking and traveling throughout the United States and Europe.

Ben Augello is a tribute to his community and profession. It is an honor and a privilege to represent him in the United States Senate.●

TRIBUTE TO DEBBIE JANS

● Mr. CLELAND. Mr. President, when I first came back to Washington, DC as a Senator-elect in December of 1996 for freshman orientation, one of the first people I met was a young lady who I was told I had to get to know if I was to be able to successfully get around the august halls of the Senate. She was then the Director of the Congressional Special Services Office that provided assistance to Capitol visitors and staff with disabilities. What I did not know at the time, but soon learned, was that she had been working for years to help move both Houses of Congress toward compliance with the landmark Americans with Disabilities Act. What I also didn't know at first, but learned almost immediately was that this young lady, Deborah Kerrigan Jans—known to all as Debbie—once worked for that great Senator Hubert Humphrey and that in addition to Minnesota ties she shared with Senator Humphrey a great fondness for the spoken word! In spite of that, or perhaps because of it, I soon found that Debbie had made herself indispensable to the conduct of my activities as a United States Senator and I quickly signed her on to my staff to coordinate my scheduling and advance work in the Senate. Part of her role was described very well in an August 1999 article in Esquire magazine:

> He (Cleland) has one staffer, Deborah Jans, who advances his schedule to make sure he can get there. She is a dervish, racing in and out of men's rooms to make sure the doors on the stalls open out and not in, looking everywhere for ramps and elevators, measuring doorways for the chair. . . . So she goes, and she measures, and she checks—a whirlwind advancing a kind of rolling thunder.

Today, Debbie is retiring after 25 years of service to the Senate and to Congress. Prior to her excellent work for me, Debbie served as Director of the Congressional Special Services Office, Manager of the Senate Special Services Office, and Tour Guide with the U.S. Capitol Guide Service. These positions allowed her to share her love of the Capitol with visitors, providing a political, historical and architectural orientation to our magnificent institution. As I previously mentioned, in the latter part of this service, her role was extended to providing support and services to Capitol visitors and staff with disabilities. The innovative programs that she managed included special tours for individuals with disabilities, sign language interpreting, wheelchair loans, development of Braille materials, as well as classes and seminars for Congressional staff on disability issues.

Debbie and her husband Ron, who is a wonderful fellow himself and has had the opportunity to develop tremendous listening skills during his years with

Debbie, are preparing to return to the Land of 10,000 Lakes. Washington's loss is Minnesota's gain. We shall miss Debbie here on Capitol Hill. The place will never be the same.●

MESSAGES FROM THE HOUSE

At 11:56 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that pursuant to the provisions of 22 U.S.C. 1928a, the Speaker appoints the following Members of the House of Representatives to the United States Group of the North Atlantic Assembly: Mr. BEREUTER, Mr. REGULA, Mrs. ROUKEMA, Mr. HEFLEY, Mr. GILLMOR, Mr. GOSS, Mr. EHLERS, and Mr. MCINNIS.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 93. An act to amend title 5, United States Code, to provide that the mandatory separation age for Federal firefighters be made the same as the age that applies with respect to Federal law enforcement officers.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 18. Concurrent resolution relative to the adjournment of the House on the legislative day of Wednesday, January 31, 2001, it stand adjourned until 2 p.m. on Tuesday, February 6, 2001.

At 3:02 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 14. Concurrent resolution authorizing the Rotunda of the Capitol to be used for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust.

H. Con. Res. 15. Concurrent resolution relative to the victims of the deadly earthquake in the State of Gujarat in western India.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 93. An act to amend title 5, United States Code, to provide that the mandatory separation age for Federal firefighters be made the same as the age that applies with respect to Federal law enforcement officers; to the Committee on Governmental Affairs.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 14. Concurrent resolution authorizing the Rotunda of the Capitol to be used for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust; to the Committee on Rules and Administration.

H. Con. Res. 15. Concurrent resolution relative to the victims of the deadly earthquake in the State of Gujarat in western India; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 220. A bill to amend title 11, United States Code, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–539. A communication from the Secretary of Defense, transmitting, pursuant to law, a report concerning the Cooperative Threat Reduction Program for fiscal year 1999; to the Committee on Armed Services.

EC–540. A communication from the Chief of the Programs and Legislation Division, Office of Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, a report concerning the Andrews Air Force Base, 89th Airlift Wing Aircraft Maintenance and Base Supply; to the Committee on Armed Services.

EC–541. A communication from the Deputy Chief of Programs and Legislation Division, Office of Legislative Liaison, transmitting, pursuant to law, a report concerning cost reductions of the Heat Steam Operations at Andrews Air Force Base; to the Committee on Armed Services.

EC–542. A communication from the Under Secretary of the Navy, transmitting, pursuant to law, a report relating to the improvement of efficiency, effectiveness, and cost of operations for fiscal year 2001; to the Committee on Armed Services.

EC–543. A communication from Under Secretary of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 96–01; to the Committee on Appropriations.

EC–544. A communication from the Clerk of the Court of Federal Claims, transmitting, pursuant to law, a report relating to the relief of the Pottawatomi Nation in Canada; to the Committee on the Judiciary.

EC–545. A communication from the Director of the National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, a report on the Apportionment of Regional Fishery Management Council Membership for the year 2000; to the Committee on Commerce, Science, and Transportation.

EC–546. A communication from the Deputy Associate Administrator of the Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Effluent Limitations Guidelines; Pretreatment Standards, and New Source Performance Standards for the Commercial Hazardous Waste Combustor Subcategory of Waste Combustors Point Source Category; Correction'' (FRL6866–7) received on January 29, 2001; to the Committee on Environment and Public Works.

EC–547. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Maryland; Reasonably Available Control Technology for Oxides of Nitrogen'' (FRL6922–7) received on January 25, 2001; to the Committee on Environment and Public Works.

EC–548. A communication from the Deputy Associate Administrator of the Environmental Agency, transmitting, pursuant to law, the report of a rule entitled ''Georgia: Final Authorization of States Hazardous Waste Management Program Revision: Delay of Effective Date'' (FRL6940–3) received on January 26, 2001; to the Committee on Environment and Public Works.

EC–549. A Communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Petition of American Samoa for Exemption from Anti-Dumping Requirements for Conventional Gasoline: Delay of Effective Date'' (FRL6940–4) received on January 26, 2001; to the Committee on Environment and Public Works.

EC–550. A communication from the Chairman of the International Trade Commission, transmitting, pursuant to law, a report concerning the monitoring of developments in the Domestic Lamb Meat Industry; to the Committee on Finance.

EC–551. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Guidance on Reporting of Deposit Interest Paid to Nonresident Aliens'' (RIN1545–AY62) received on January 29, 2001; to the Committee on Finance.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Ms. SNOWE:

S. 222. A bill to provide tax incentives for the construction of seagoing cruise ships in United States shipyards, and to facilitate the development of a United States-flag, United States-built cruise industry, and for other purposes; to the Committee on Finance.

By Mr. DOMENICI:

S. 223. A bill to terminate the effectiveness of certain drinking water regulations; to the Committee on Environment and Public Works.

By Mr. MCCAIN:

S. 224. A bill to authorize the Secretary of the Interior to set aside up to $2 per person from park entrance fees or assess up to $2 per person visiting the Grand Canyon or other national park to secure bonds for capital improvements to those parks, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. WARNER:

S. 225. A bill to amend the Internal Revenue Code of 1986 to provide incentives to public elementary and secondary school teachers by providing a tax credit for teaching expenses, professional development expenses, and student education loans; to the Committee on Finance.

By Ms. SNOWE (for herself, Mr. JEFFORDS, and Mr. VOINOVICH):

S. 226. A bill to establish a Northern Border States-Canada Trade Council, and for other purposes; to the Committee on Finance.

By Mr. TORRICELLI (for himself, Mr. JOHNSON, and Mr. FEINGOLD):

S. 227. A bill to amend the Federal Deposit Insurance Act with respect to municipal deposits; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. AKAKA:

S. 228. A bill to amend title 38, United States Code, to make permanent the Native American veterans housing loan program, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. HAGEL:

S. 229. A bill to amend Federal banking law to permit the payment of interest on business checking accounts in certain circumstances, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. ENSIGN (for himself and Mr. REID):

S. 230. A bill to direct the Secretary of the Interior to convey a former Bureau of Land Management administrative site to the City of Carson City, Nevada, for use as a senior center; to the Committee on Energy and Natural Resources.

By Mr. CAMPBELL:

S. 231. A bill to amend the Elementary and Secondary Education Act of 1965 to ensure that seniors are given an opportunity to serve as mentors, tutors, and volunteers for certain programs; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CLELAND (for himself, Mr. DURBIN, Mr. HAGEL, Mr . CORZINE, and Ms. LANDRIEU):

S. 232. A bill to amend the Internal Revenue Code of 1986 to exclude United States savings bond income from gross income if it is used to pay long-term care expenses; to the Committee on Finance.

By Mr. FEINGOLD (for himself, Mr. LEVIN, Mr. WELLSTONE, and Mr. CORZINE):

S. 233. A bill to place a moratorium on executions by the Federal Government and urge the States to do the same, while a National Commission on the Death Penalty reviews the fairness of the imposition of the death penalty; to the Committee on the Judiciary.

By Mr. SHELBY:

S.J. Res. 3. A joint resolution proposing an amendment to the Constitution of the United States which requires (except during time of war and subject to suspension by the Congress) that the total amount of money expended by the United States during any fiscal year not exceed the amount of certain revenue received by the United States during such fiscal year and not exceed 20 per centum of the gross national product of the United States during the previous calendar year; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. THURMOND:

S. Res. 16. A resolution designating August 16, 2001, as ''National Airborne Day''; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. SNOWE:

S. 222. A bill to provide tax incentives for the construction of seagoing cruise ships in United States shipyards, and to facilitate the development of a United States-flag, United States-built cruise industry, and for other purposes; to the Committee on Finance.

Ms. SNOWE. Mr. President, I rise to introduce legislation designed to promote growth in the domestic cruise ship industry and at the same time enable U.S. shipyards to compete for cruise ship orders. The legislation would provide tax incentives for U.S. cruise ship construction and operation.

Current law prohibits non-U.S. vessels from carrying passengers between U.S. ports. As such, today's domestic cruise market is very limited. The cruise industry consists predominantly of foreign vessels which must sail to and from foreign ports. The vast majority of cruise passengers are Americans, but most of the revenues now go to foreign destinations. That is because the high cost of building and operating U.S.-flag cruise ships and competition from modern, foreign-flag cruise ships have deterred growth in the domestic cruise ship trade.

By some estimates, a single port call by a cruise vessel generates between $300,000 and $500,000 in economic benefits. This is a very lucrative market, and I would like to see U.S. companies and American workers benefit from this untapped potential. However, domestic ship builders and cruise operations face a very difficult, up-hill battle against unfair competition from foreign cruise lines and foreign shipyards. Foreign cruise lines, for example, pay no corporate income tax. Nor are they held to the same demanding ship construction and operating standards imposed on U.S.-flag vessel operators. Foreign cruise lines are also free from the need to comply with many U.S. labor and environmental protection laws, and U.S. health, safety, and sanitation laws do not apply to the foreign ships.

The legislation I am introducing today is designed to level the playing field between the U.S. cruise industry and the international cruise industry. For example, it provides that a shipyard will pay taxes on the construction or overhaul of a cruise ship of 20,000 gross tons or greater only after the delivery of the ship.

Under my bill, a U.S. company operating a cruise ship of 20,000 grt and greater may depreciate that vessel over a five-year period rather than the current 10-year depreciation period. The bill would also repeal the $2,500 business tax deduction limit for a convention on a cruise ship to provide a tax deduction limit equal to that provided to conventions held at shore-side hotels. The measure would authorize a 20 percent tax credit for fuel operating costs associated with environmentally clean gas turbine engines manufactured in the U.S., and also allows use of investment of Capital Construction Funds to include not only the non-contiguous trades, but also the domestic point-to-point trades and ''cruises to nowhere''.

Mr. President, I truly believe that this legislation would help jumpstart the domestic cruise trade, benefit U.S. workers and companies, and promote economic growth in our ports. I strongly urge my colleagues to join me in a strong show of support for this effort.

By Mr. DOMENICI:

S. 223. A bill to terminate the effectiveness of certain drinking water regulations; to the Committee on Environment and Public Works.

Mr. DOMENICI. Mr. President, ''Just as houses are made of stones, so is science made of facts; but a pile of stones is not a house and a collection of facts is not necessarily science.''

For the past 8 years I have questioned numerous collections of facts put out by the Environmental Protection Agency in the name of science and I have found sound science has been left out of the regulation equation too often. A prime example is the new arsenic standards in drinking water proposed last week. This new standard dramatically reduces the arsenic level allowable in drinking water from 50 parts per billion (ppb) to 10 ppb, a reduction of 80 percent.

I believe it is essential to protect and ensure the safety of our nation's water supply and to uphold the principles and goals set forth in the Safe Drinking Water Act, but these standards were not based on sound science and there is no proof that they will increase health benefits. They were put into effect because it was the politically expedient thing to do.

That is why at this time I am introducing this bill which would terminate the effectiveness of these new drinking water standards.

The amendments to the Safe Drinking Water Act required the standards for arsenic in drinking water be changed by January 1st of this year. Because the proposed rule was issued late, I cosponsored an amendment to the VA HUD appropriations bill giving EPA a 6-month extension. This amendment was later signed into law, but was ignored by the agency.

There was much controversy and debate surrounding the appropriate level for the new standard. The EPA's Science Advisory Board expressed unanimous support for reducing the current standard, but varied considerably on the appropriate level. Both the EPA and the National Academy of Sciences National Research Council acknowledged more health studies were needed to evaluate what potential health benefits, if any, would likely result from this lower standard.

Arsenic is naturally occurring in my home state. In fact, New Mexico has some of the highest levels of arsenic in the nation, yet has a lower than average incidence of the diseases associated with arsenic. I have not seen any reasonable data in support of increased health benefits from these lower standards. I have only seen a collection of facts from studies conducted outside of the United States.

Under these new standards states such as New Mexico, are going to be required to revise water treatment facilities at a significant cost to the general public. Such costs should not be incurred unless sufficient scientific information exists in support of the new standard.

The New Mexico Environment Department estimates this new standard will affect approximately 25 percent of New Mexico's water systems, with the price for compliance between $400,000,000 and $500,000,000 in initial

capital expenditures. Annual operating costs will easily fall anywhere between $16,000,000 and $21,000,000. Additionally, large water system users will see an average water bill increase between $38 and $42 and small system users will see an average water bill increase of $91. The cost of complying with this new standard could well put small rural systems out of business, which is the exact opposite of what we should be trying to accomplish—providing a safe and reliable supply of drinking water to rural America.

Again, I believe that science is made of facts and I don't believe we have enough facts here to determine if there will be increased health benefits from the change in these standards. I see unintended consequences resulting from well intentioned motives. We should study this issue here in the United States and then take our best data and formulate standards that are scientifically sound.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 223

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DRINKING WATER REGULATIONS.

On and after the date of enactment of this Act—

(1) the amendments to parts 9, 141, and 142 of title 40, Code of Federal Regulations, made by the final rule promulgated by the Administrator of the Environmental Protection Agency entitled ''Arsenic and Clarifications to Compliance and New Source Contaminants Monitoring'' (66 Fed. Reg. 6976 (January 22, 2001)) are void; and

(2) those parts shall be in effect as if those amendments had not been made.

By Mr. MCCAIN:

S. 224. A bill to authorize the Secretary of the Interior to set aside up to $2 per person from park entrance fees or assess up to $2 per person visiting the Grand Canyon or other national parks to secure bonds for capital improvements to those parks, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. MCCAIN. Mr. President, I am renewing my efforts to provide innovative solutions to address urgently needed repairs and enhancements at our nation's parks. The legislation I am introducing today is identical to the bill I sponsored in prior congresses, which received substantial support from many of the organizations supporting the National Parks system. I thank my colleague, Representative Kolbe, for introducing companion legislation in the House of Representatives.

The National Parks Capital Improvements Act of 2001 would help secure taxable revenue bonding authority for National Parks. This legislation would allow private fundraising organizations to enter into agreements with the Secretary of Interior to issue taxable capital development bonds. Bond revenues would then be used to finance park improvement projects. The bonds would be secured by an entrance fee surcharge of up to $2 per visitor at participating parks, or a set-aside of up to $2 per visitor from current entrance fees.

Our national park system has enormous capital needs—which by last estimate ranges from $3 to 5 billion—for high-priority projects such as improved transportation systems, trail repairs, visitor facilities, historic preservation, and the list goes on and on. The unfortunate reality is that even under the rosiest budget scenarios, our growing park needs far outstrip the resources currently available. Parks are still struggling to address enormous resource and infrastructure needs while seeking to improve the park experience to accommodate the increasing numbers of visitors to recreation sites.

Revenue bonding would take us a long way toward meeting our needs within the national park system. For example, based on current visitation rates at the Grand Canyon, a $2 surcharge would enable us to raise $100 million from a bond issue amortized over 20 years. That is a significant amount of money which we could use to accomplish many critical park projects.

Let me emphasize, however, the Grand Canyon National Park would not be the only park eligible to benefit from this legislation. Any park unit with capital needs in excess of $5 million is eligible to participate. Among eligible parks, the Secretary of Interior will determine which may take part in the program. I also want to stress that only projects approved as part of a park's general management plan can be funded through bond revenue. This proviso eliminates any concern that the revenue could be used for projects of questionable value to the park.

In addition, only organizations under agreement with the Secretary of Interior will be authorized to administer the bonding, so the Secretary can establish any rules or policies determined necessary and appropriate.

Under no circumstances, however, would investors be able to attach liens against Federal property in the very unlikely event of default. The bonds will be secured only by the surcharge revenues.

Finally, the bill specifies that all professional standards apply and that the issues are subject to the same laws, rules, and regulatory enforcement procedures as any other bond issue.

The most obvious question raised by this legislation is: Will the bond markets support park improvement issues, guaranteed by an entrance surcharge? The answer is an emphatic yes. Bonding is a well-tested tool for the private sector. Additionally, Americans are eager to invest in our Nation's natural heritage, and with park visitation growing stronger, the risks appear minimal.

Are park visitors willing to pay a little more at the entrance gate if the money is used for park improvements? Again, I believe the answer is yes. Time and time again, visitors have expressed their support for increased fees provided that the revenue is used where collected and not diverted for some other purpose devised by Congress. In recent surveys by the National Park Service, nearly 83 percent of participating respondents were comfortable in paying such fees for park purposes and other respondents thought the fees too low.

With the recreational fee program currently being implemented at parks around the Nation, an additional $2 surcharge may not be necessary or appropriate at certain parks. Under the bill, those parks could choose to dedicate $2 per park visitor from current entrance fees toward a bond issue. This legislation can easily compliment the recreational fee program to increase benefits to support our parks and increase the quality of America's park experience well into the future.

I look forward to working with my colleagues and National Parks supporters to ensure passage of this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 224

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''National Parks Capital Improvements Act of 2001''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

SEC. 2. DEFINITIONS.

In this Act:

(1) FUNDRAISING ORGANIZATION.—The term ''fundraising organization'' means an entity authorized to act as a fundraising organization under section 3(a).

(2) MEMORANDUM OF AGREEMENT.—The term ''memorandum of agreement'' means a memorandum of agreement entered into by the Secretary under section 3(a) that contains the terms specified in section 4.

(3) NATIONAL PARK FOUNDATION.—The term ''National Park Foundation'' means the foundation established under the Act entitled ''An Act to establish the National Park Foundation'', approved December 18, 1967 (16 U.S.C. 19e et seq.).

(4) NATIONAL PARK.—The term ''national park'' means—

(A) the Grand Canyon National Park; and

(B) any other unit of the National Park System designated by the Secretary that has an approved general management plan with capital needs in excess of $5,000,000.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 3. FUNDRAISING ORGANIZATION.

(a) IN GENERAL.—The Secretary may enter into a memorandum of agreement under section 4 with an entity to act as an authorized

fundraising organization for the benefit of a national park.

(b) BONDS.—The fundraising organization for a national park shall issue taxable bonds in return for the surcharge or set-aside for that national park collected under section 5.

(c) PROFESSIONAL STANDARDS.—The fundraising organization shall abide by all relevant professional standards regarding the issuance of securities and shall comply with all applicable Federal and State law.

(d) AUDIT.—The fundraising organization shall be subject to an audit by the Secretary.

(e) NO LIABILITY FOR BONDS.—The United States shall not be liable for the security of any bonds issued by the fundraising organization.

SEC. 4. MEMORANDUM OF AGREEMENT.

The fundraising organization shall enter into a memorandum of agreement that specifies—

(1) the amount of the bond issue;

(2) the maturity of the bonds, not to exceed 20 years;

(3) the per capita amount required to amortize the bond issue, provide for the reasonable costs of administration, and maintain a sufficient reserve consistent with industry standards;

(4) the project or projects at the national park that will be funded with the bond proceeds and the specific responsibilities of the Secretary and the fundraising organization with respect to each project; and

(5) procedures for modifications of the agreement with the consent of both parties based on changes in circumstances, including modifications relating to project priorities.

SEC. 5. NATIONAL PARK SURCHARGE OR SET-ASIDE.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may authorize the Superintendent of a national park for which a memorandum of agreement is in effect—

(1) to charge and collect a surcharge in an amount not to exceed $2 for each individual otherwise subject to an entrance fee for admission to the national park; or

(2) to set aside not more than $2 for each individual charged the entrance fee.

(b) SURCHARGE IN ADDITION TO ENTRANCE FEES.—A national park surcharge under subsection (a) shall be in addition to any entrance fee collected under—

(1) section 4 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a);

(2) the recreational fee demonstration program authorized by section 315 of the Department of the Interior and Related Agencies Appropriations Act, 1996 (as contained in Public Law 104–134; 110 Stat. 1321–156; 1321–200; 16 U.S.C. 460l–6a note); or

(3) the national park passport program established under title VI of the National Parks Omnibus Management Act of 1998 (Public Law 105–391; 112 Stat. 3518; 16 U.S.C. 5991 et seq.).

(c) LIMITATION.—The total amount charged or set aside under subsection (a) may not exceed $2 for each individual charged an entrance fee.

(d) USE.—A surcharge or set-aside under subsection (a) shall be used by the fundraising organization to—

(1) amortize the bond issue;

(2) provide for the reasonable costs of administration; and

(3) maintain a sufficient reserve consistent with industry standards, as determined by the bond underwriter.

(e) EXCESS FUNDS.—Any funds collected in excess of the amount necessary to fund the uses in subsection (d) shall be remitted to the National Park Foundation to be used for the benefit of all units of the National Park System.

SEC. 6. USE OF BOND PROCEEDS.

(a) ELIGIBLE PROJECTS.—

(1) IN GENERAL.—Subject to paragraph (2), bond proceeds under this Act may be used for a project for the design, construction, operation, maintenance, repair, or replacement of a facility in the national park for which the bond was issued.

(2) PROJECT LIMITATIONS.—A project referred to in paragraph (1) shall be consistent with—

(A) the laws governing the National Park System;

(B) any law governing the national park in which the project is to be completed; and

(C) the general management plan for the national park.

(3) PROHIBITION ON USE FOR ADMINISTRATION.—Other than interest as provided in subsection (b), no part of the bond proceeds may be used to defray administrative expenses.

(b) INTEREST ON BOND PROCEEDS.—

(1) AUTHORIZED USES.—Any interest earned on bond proceeds may be used by the fundraising organization to—

(A) meet reserve requirements; and

(B) defray reasonable administrative expenses incurred in connection with the management and sale of the bonds.

(2) EXCESS INTEREST.—All interest on bond proceeds not used for purposes of paragraph (1) shall be remitted to the National Park Foundation for the benefit of all units of the National Park System.

SEC. 7. ADMINISTRATION.

The Secretary, in consultation with the Secretary of Treasury, shall promulgate regulations to carry out this Act.

By Mr. WARNER:

S. 225. A bill to amend the Internal Revenue Code of 1986 to provide incentives to public elementary and secondary school teachers by providing a tax credit for teaching expenses, professional development expenses, and student education loans; to the Committee on Finance.

Mr. WARNER. Mr. President, I rise today to introduce, ''The Teacher Tax Credit Act.''

All of us know that individuals do not pursue a career in the teaching profession for the money. People go into the teaching profession for grander reasons—to educate our youth, to make a lasting influence.

Simply put, to teach is to touch a life forever.

How true that is. I venture to say that every one of us can remember at least one teacher and the special influence he or she had on our lives.

Despite the fact that teachers play such an important role, elementary and secondary education teachers are underpaid, overworked, and, unfortunately, all too often, under-appreciated.

I was astounded to learn that teachers expend significant money out of their own pocket to better the education of our children. Most typically, our teachers are spending money out of their own pocket on three types of expenses:

(1) education expenses brought into the classroom—such as books, supplies, pens, paper, and computer equipment;

(2) professional development expenses—such as tuition, fees, books, and supplies associated with courses that help our teachers become even better instructors; and

(3) interest paid by the teacher for previously incurred higher education loans.

This is the essence of volunteerism in the United States—teachers spending their own money to better our childrens' education. Why do they do this? Simply because school budgets are not adequate to meet the costs of education.

These out-of-pocket costs placed on the backs of our teachers are but one reason our teachers are leaving the profession.

Numerous reports exist detailing the teacher shortage. According to the National Education Association, ''America will need two million new teachers in the next decade, and experts predict that half the teachers who will be in the public school classrooms 10 years from now have not yet been hired.''

In addition, it is estimated that twenty percent of all new hires leave the teaching profession within three years.

Certainly, a pay raise for teachers is needed and would be a strong showing of recognition and appreciation towards the profession. However, whether or not to provide teachers a pay raise is a local issue and not one that the federal government ought to be involved in.

Nevertheless, there is something we can do. On a federal level, we can encourage individuals to enter the teaching profession and remain in the teaching profession by reimbursing them for the costs that teachers voluntarily incur as part of the profession. Second, we can help our local school districts with the costs associated with education. And, finally, third, we can specifically help financially strapped urban and rural school systems recruit new teachers and keep those teachers that are currently in the system.

With these premises in mind, I introduce, ''The Teacher Tax Credit.'' This legislation creates a $1,000 tax credit for eligible teachers for qualified education expenses, qualified professional development expenses and interest paid by the teacher during the taxable year on any qualified education loan.

Every one of these expenses benefit the student in the classroom either through better classroom materials or through increased knowledge on the part of the teacher. Even so, the current tax code provides little, if any, recognition of the importance of these expenses.

Under the current tax structure, each of these expenses are deductible. However, in order to deduct these classroom expenses under the current tax code, our teachers must meet 4 requirements:

(1) Teachers must itemize their deductions to receive any tax benefit for the unreimbursed money they spend on education expenses or professional development expenses. Most taxpayers in this country do not itemize;

(2) In the event teachers do itemize, in order to receive a deduction under the current tax code for education expenses or professional development costs, teachers' deductions would have to exceed two percent of their adjusted gross income;

(3) With respect to qualified education loans, under the current tax law, the interest on these loans is deductible, but that deduction is limited to the first sixty months after graduation. A teacher with the standard ten year repayment loans who has been teaching for more than five years receives no benefit; and

(4) Under the current tax code, the student loan interest deduction is phased out based on income level. Thus, some teachers, although not rich by any means, could be phased out of the deduction.

As a result of these four prerequisites, most teachers today receive little, if any, tax benefit for their out of pocket expenses to improve our childrens' education.

Our teachers deserve better.

When our teachers spend their own money on education expenses that go into the classroom to help students learn, they ought to receive a real tax benefit.

When our teachers spend their own money on professional development courses to enhance their knowledge in a subject in which they are instructing, our teachers deserve a real tax benefit.

When our recent college graduates make the honorable and tough choice of training today's youth and tomorrow's leaders, with little expectation of financial riches, such a choice should be encouraged and our teachers' choices should be recognized.

In my view, the most important factor in ensuring a quality education is having a quality teacher in the classroom.

The $1,000 Teacher Tax Credit recognizes the hard work our teachers have committed themselves to and helps improve education.

Under my legislation, teachers could receive up to a $1,000 tax credit for qualified education expenses, qualified professional development courses, and interest on student loans. Qualifying teachers would not have to itemize their deductions to receive the credit, and they would not have to exceed the two percent floor. Teachers would not be phased out of the student loan interest benefit based on income level, and there would be no 60 month limitation.

Mr. President, we all agree that our education system must ensure that no child is left behind. As we move towards education reforms to achieve this goal, we must keep in mind the other component in our education system—the teachers.

We must ensure that qualified teachers are not forgotten.

Quality, caring teachers, along with quality caring parents, play the predominant roles in ensuring that no child is left behind. Passage of The Teacher Tax Credit will help our school systems retain the good teachers they now have and recruit the good teachers they need for the future.

Mr. President, some of my colleagues in the Senate have recognized that we can and must do more for our teachers in this country. Senators COLLINS and KYL have worked on similar legislation, and I commend them for their efforts. I look forward working with them and my other colleagues on this important matter. I urge my colleagues to support this legislation.

I ask unanimous consent that letters from the National Education Association and the Virginia Education Association indicating their support for this legislation and the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 225

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as ''The TEACHER Tax Credit Act''.

SEC. 2. CREDIT FOR TEACHING EXPENSES, PROFESSIONAL DEVELOPMENT EXPENSES, AND INTEREST ON HIGHER EDUCATION LOANS OF PUBLIC ELEMENTARY AND SECONDARY SCHOOL TEACHERS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by inserting after section 25A the following new section:

''SEC. 25B. TEACHING EXPENSES, PROFESSIONAL DEVELOPMENT EXPENSES, AND INTEREST ON HIGHER EDUCATION LOANS OF PUBLIC ELEMENTARY AND SECONDARY SCHOOL TEACHERS.

''(a) ALLOWANCE OF CREDIT.—In the case of an eligible teacher, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

''(1) the qualified education expenses paid or incurred by the taxpayer during the taxable year,

''(2) the qualified professional development expenses paid or incurred by the taxpayer during the taxable year, and

''(3) interest paid by the taxpayer during the taxable year on any qualified education loan.

''(b) MAXIMUM CREDIT.—The credit allowed by subsection (a) for the taxable year shall not exceed $1,000.

''(c) DEFINITIONS.—For purposes of this section—

''(1) ELIGIBLE TEACHER.—The term 'eligible teacher' means an individual who is a kindergarten through grade 12 classroom teacher, instructor, counselor, aide, or principal in a public elementary or secondary school on a full-time basis for an academic year ending during a taxable year.

''(2) ELEMENTARY AND SECONDARY SCHOOLS.—The terms 'elementary school' and 'secondary school' have the respective meanings given such terms by section 14101 of the Elementary and Secondary Education Act of 1965, as in effect of the date of enactment of this section.

''(3) QUALIFIED EDUCATION EXPENSES.—The term 'qualified education expenses' means expenses for books, supplies (other than nonathletic supplies for courses of instruction in health or physical education), computer equipment (including related software and services) and other equipment, and supplementary materials used by an eligible teacher in the classroom.

''(4) QUALIFIED PROFESSIONAL DEVELOPMENT EXPENSES.—

''(A) IN GENERAL.—The term 'qualified professional development expenses' means expenses—

''(i) for tuition, fees, books, supplies, and equipment required for the enrollment or attendance of an individual in a qualified course of instruction, and

''(ii) with respect to which a deduction is allowable under section 162 (determined without regard to this section).

''(B) QUALIFIED COURSE OF INSTRUCTION.—The term 'qualified course of instruction' means a course of instruction which—

''(i) directly relates to the curriculum and academic subjects in which an eligible teacher provides instruction,

''(ii) is designed to enhance the ability of an eligible teacher to understand and use State standards for the academic subjects in which such teacher provides instruction,

''(iii) provides instruction in how to teach children with different learning styles, particularly children with disabilities and children with special learning needs (including children who are gifted and talented),

''(iv) provides instruction in how best to discipline children in the classroom and identify early and appropriate interventions to help children described clause (iii) learn, or

''(v) is tied to strategies and programs that demonstrate effectiveness in increasing student academic achievement and student performance, or substantially increasing the knowledge and teaching skills of the eligible teacher.

''(5) QUALIFIED EDUCATION LOAN.—The term 'qualified education loan' has the meaning given such term by section 221(e)(1), but only with respect to qualified higher education expenses of the taxpayer.

''(d) DENIAL OF DOUBLE BENEFIT.—

''(1) IN GENERAL.—No deduction or other credit shall be allowed under this chapter for any amount taken into account for which credit is allowed under this section.

''(2) COORDINATION WITH EXCLUSIONS.—A credit shall be allowed under subsection (a) for qualified professional development expenses only to the extent the amount of such expenses exceeds the amount excludable under section 135, 529(c)(1), or 530(d)(2) for the taxable year.

''(e) ELECTION TO HAVE CREDIT NOT APPLY.—A taxpayer may elect to have this section not apply for any taxable year.

''(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section.''.

(b) CONFORMING AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 25A the following new item:

''Sec. 25B. Teaching expenses, professional development expenses, and interest on higher education loans of public elementary and secondary school teachers.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

NATIONAL EDUCATION ASSOCIATION,
Washington, DC, January 25, 2001.

Senator JOHN WARNER,
U.S. Senate,
Washington, DC.

DEAR SENATOR WARNER: On behalf of the National Education Association's (NEA) 2.6 million members, we would like to express our support for the Educator and Classroom Help Education Resources (TEACHER) Tax Credit Act.

As you know, teacher quality is the single most critical factor in maximizing student achievement. Ongoing professional development is essential to ensure that teachers stay up-to-date on the skills and knowledge necessary to prepare students for the challenges of the 21st century. The TEACHER

Act tax credit for professional development expenses will make a critical difference in helping teachers access quality training.

In addition, the TEACHER Act will help encourage talented students to pursue a career in teaching by providing a tax credit for interest paid on higher education loans. Such a tax credit is particularly critical given the projected need to recruit two million qualified teachers nationwide over the next decade.

Finally, we are pleased that your legislation would provide a tax credit for teachers who reach into their own pockets to pay for necessary classroom materials, including books, pencils, paper, and art supplies. A 1996 NEA study found that the average K–12 teacher spent over $400 a year out of personal funds for classroom supplies. For teachers earning modest salaries, the purchase of classroom supplies represents a considerable expense for which they often must sacrifice other personal needs.

We than you for your leadership in introducing this important legislation and look forward to working with you to support our nation's teachers.

Sincerely,

MARY ELIZABETH TEASLEY,
Director of Government Relations.

VIRGINIA EDUCATION ASSOCIATION,
Richmond, VA, January 24, 2001.

Hon. JOHN W. WARNER,
U.S. Senate,
Washington, DC.

DEAR SENATOR WARNER: On behalf of all 56,000 members of VEA we congratulate you on your appointment to the Education Committee, and we look forward to working with you.

Christopher Yianilos reviewed ''The Educator and Classroom Help Education Resources (TEACHER) Tax Credit Act'' with Rob Jones and me on January 19th. We appreciated this opportunity to evaluate the bill and to receive a thorough briefing from Mr. Yianilos.

We both appreciate and support your efforts to provide a tax credit for teaching expenses, professional development expenses, and student education loans. Please call on VEA if we can be of assistance in gaining passage of this worthy bill.

In addition, please call on us if we can ever be of assistance to you in your new position as a member of the Education Committee.

Sincerely,

JEAN H. BANKOS,
President.

By Ms. SNOWE (for herself, Mr. JEFFORDS, and Mr. VOINOVICH):

S. 226. A bill to establish a Northern Border States-Canada Trade Council, and for other purposes; to the Committee on Finance.

Ms. SNOWE. Mr. President, today I am reintroducing legislation that would establish a Northern Border States Council on United States-Canada trade.

The purpose of this Council is to oversee cross-border trade with our Nation's largest trading partner—an action that I believe is long overdue and should be considered. The Council will serve as an early warning system to alert State and Federal trade officials to problems in cross-border traffic and trade from the very people who are dealing with trade problems. The Council will enable the United States to more effectively administer the trade policy with Canada by applying the wealth of insight, knowledge and expertise of people who reside not only in my State of Maine, but also in the other northern border States, on this critical policy issue.

Within the U.S. Government we already have the Department of Commerce and a U.S. Trade Representative, both Federal entities, responsible for our larger, national U.S. trade interests. But the fact is that too often such entities fail to give full consideration to the interests of the northern States that share a border with Canada, the longest demilitarized border between two nations anywhere in the world. The Northern Border States Council will provide State trade officials with a mechanism to share information about cross-border traffic and trade. The Council will also advise the Congress, the President, the U.S. Trade Representative, the Secretary of Commerce, and other Federal and State trade officials on United States-Canada trade policies, practices, and problems.

Canada is our largest and most important trading partner. It is by far the top purchaser of U.S. export goods and services, as it is the largest source of U.S. imports. In 1999, total two-way merchandise commerce was $365 billion—that's $1 billion a day. With an economy one-tenth the size of our own, Canada's economic health depends on maintaining close trade ties with the United States. While Canada accounts for about one-fifth of U.S. exports and imports, the United States is the source of two-thirds of Canada's imports and provides the market with fully three-quarters of all of Canada's exports.

The United States and Canada have the largest bilateral trade relationship in the world, a relationship that is remarkable not only for its strength and general health, but also for the intensity of the trade and border problems that do frequently develop—as we have seen in recent years with actual farmer border blockades in some border states because of the unfairness of agricultural trade policies.

Over the last decade, Canada and the United States have signed two major trade agreements—the United States-Canada Free Trade Agreement in 1989, and the North American Free Trade Agreement, or NAFTA, in 1993. They also negotiated the 1996 US-Canada Softwood Lumber Agreement, which will expire two months from now, on March 31. Even though some of us in Congress urged the last Administration on more than one occasion to negotiate a process with Canadian officials to work for a fairer alternative, nothing was attempted on a government to government basis.

Notwithstanding these trade accords, numerous disagreements have caused trade negotiators to shuttle back and forth between Washington and Ottawa for solutions to problems for grain trade, wheat imports, animal trade, and joint cooperation on Biotechnology.

Most of the more well-known trade disputes with Canada have involved agricultural commodities such as durum wheat, peanut butter, dairy products, and poultry products, and these disputes, of course, have impacted more than just the northern border States. Each and every day, an enormous quantity of trade and traffic crosses the United States-Canada border. There are literally thousands of businesses, large and small, that rely on this cross-border traffic and trade for their livelihood.

My own State of Maine has had a long-running dispute with Canada over that nation's unfair policies in support of its potato industry. Specifically, Canada protects its domestic potato growers from United States competition through a system of nontariff trade barriers, such as setting container size limitations and a prohibition on bulk shipments from the United States. I might add that there has still not been any movement towards solutions for these problems, even though I have been given promises every year that trade problems with Canada would be a top priority for discussion.

This bulk import prohibition effectively blocks United States potato imports into Canada and was one topic of discussion during a 1997 International Trade Commission investigations hearing, where I testified on behalf of the Maine potato growers. The ITC followed up with a report stating that Canadian regulations do restrict imports of bulk shipments of fresh potatoes for processing or repacking, and that the U.S. maintains no such restrictions. These bulk shipment restrictions continue, and, at the same time, Canada also artificially enhances the competitiveness of its product through domestic subsidies for its potato growers.

Another trade dispute with Canada, specifically with the province of New Brunswick, originally served as the inspiration for this legislation. In July 1993, Canadian federal customs officials began stopping Canadians returning from Maine and collecting from them the 11-percent New Brunswick Provincial Sales Tax, [PST] on goods purchased in Maine. Canadian Customs Officers had already been collecting the Canadian federal sales tax all across the United States-Canada border. The collection of the New Brunswick PST was specifically targeted against goods purchased in Maine—not on goods purchased in any of the other provinces bordering New Brunswick.

After months of imploring the U.S. Trade Representative to do something about the imposition of the unfairly administered tax, then Ambassador Kantor agreed that the New Brunswick PST was a violation of NAFTA, and that the United States would include the PST issue in the NAFTA dispute settlement process. But despite this explicit assurance, the issue was not, in fact, brought before NAFTA's dispute settlement process, prompting Congress in 1996, to include an amendment

I offered to immigration reform legislation calling for the U.S. Trade Representative to take this action without further delay. But, it took three years for a resolution, and even then, the resolution was not crafted by the USTR.

Throughout the early months of the PST dispute, we in the state of Maine had enormous difficulty convincing our Federal trade officials that the PST was in fact an international trade dispute that warranted their attention and action. We had no way of knowing whether problems similar to the PST dispute existed elsewhere along the United States-Canada border, or whether it was a more localized problem. If a body like the Northern Border States Council had existed when the collection of the PST began, it could have immediately started investigating the issue to determine its impact and would have made recommendations as to how to deal with it.

The long-standing pattern of unsuccessful negotiations is alarming. In short, the Northern Border States Council will serve as the eyes and ears of our States that share a border with Canada, and who are most vulnerable to fluctuations in cross-border trade and traffic. The Council will be a tool for Federal and State trade officials to use in monitoring cross-border trade. It will help ensure that national trade policy regarding America's largest trading partner will be developed and implemented with an eye towards the unique opportunities and burdens present to the northern border states.

The Northern Border States Council will be an advisory body, not a regulatory one. Its fundamental purpose will be to determine the nature and cause of cross-border trade issues or disputes, and to recommend how to resolve them.

The duties and responsibilities of the Council will include, but not be limited to, providing advice and policy recommendations on such matters as taxation and the regulation of cross-border wholesale and retail trade in goods and services; taxation, regulation and subsidization of food, agricultural, energy, and forest-products commodities; and the potential for Federal and State/provincial laws and regulations, including customs and immigration regulations, to act as nontariff barriers to trade.

As an advisory body, the Council will review and comment on all Federal and/or State reports, studies, and practices concerning United States-Canada trade, with particular emphasis on all reports from the dispute settlement panels established under NAFTA. These Council reviews will be conducted upon the request of the United States Trade Representative, the Secretary of Commerce, a Member of Congress from any Council State, or the Governor of a Council State.

If the Council determines that the origin of a cross-border trade dispute resides with Canada, the Council would determine, to the best of its ability, if the source of the dispute is the Canadian Federal Government or a Canadian Provincial government.

The goal of this legislation is not to create another Federal trade bureaucracy. The Council will be made up of individuals nominated by the Governors and approved by the Secretary of Commerce. Each northern border State will have two members on the Council. The Council members will be unpaid, and serve a 2-year term.

The Northern Border States Council on United States-Canada Trade will not solve all of our trade problems with Canada. But it will ensure that the voices and views of our northern border States are heard in Washington by our Federal trade officials. For too long their voices have been ignored, and the northern border States have had to suffer severe economic consequences at various times because of it. This legislation will bring our States into their rightful position as full partners for issues that affect cross-border trade and traffic with our country's largest trading partner. I urge my colleagues to join me in supporting this important legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 226

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Northern Border States Council Act''.

SEC. 2. ESTABLISHMENT OF COUNCIL.

(a) ESTABLISHMENT.—There is established a council to be known as the Northern Border States-Canada Trade Council (in this Act referred to as the ''Council'').

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Council shall be composed of 24 members consisting of 2 members from each of the following States:

(A) Maine.
(B) New Hampshire.
(C) Vermont.
(D) New York.
(E) Michigan.
(F) Minnesota.
(G) Wisconsin.
(H) North Dakota.
(I) Montana.
(J) Idaho.
(K) Washington.
(L) Alaska.

(2) APPOINTMENT BY STATE GOVERNORS.—Not later than 6 months after the date of enactment of this Act, the Secretary of Commerce (in this Act referred to as the ''Secretary'') shall appoint two members from each of the States described in paragraph (1) to serve on the Council. The appointments shall be made from a list of nominees submitted by the Governor of each such State.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for terms that are coterminous with the term of the Governor of the State who nominated the member. Any vacancy in the Council shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Council have been appointed, the Council shall hold its first meeting.

(e) MEETINGS.—The Council shall meet at the call of the Chairperson.

(f) QUORUM.—A majority of the members of the Council shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIRPERSON AND VICE CHAIRPERSON.—The Council shall select a Chairperson and Vice Chairperson from among its members. The Chairperson and Vice Chairperson shall each serve in their respective positions for a period of 2 years, unless such member's term is terminated before the end of the 2-year period.

SEC. 3. DUTIES OF THE COUNCIL.

(a) IN GENERAL.—The duties and responsibilities of the Council shall include—

(1) advising the President, the Congress, the United States Trade Representative, the Secretary, and other appropriate Federal and State officials, with respect to—

(A) the development and administration of United States-Canada trade policies, practices, and relations,

(B) taxation and regulation of cross-border wholesale and retail trade in goods and services between the United States and Canada,

(C) taxation, regulation, and subsidization of agricultural products, energy products, and forest products, and

(D) the potential for any United States or Canadian customs or immigration law or policy to result in a barrier to trade between the United States and Canada;

(2) monitoring the nature and cause of trade issues and disputes that involve one of the Council-member States and either the Canadian Government or one of the provincial governments of Canada; and

(3) if the Council determines that a Council-member State is involved in a trade issue or dispute with the Government of Canada or one of the provincial governments of Canada, making recommendations to the President, the Congress, the United States Trade Representative, and the Secretary concerning how to resolve the issue or dispute.

(b) RESPONSE TO REQUESTS BY CERTAIN PEOPLE.—

(1) IN GENERAL.—Upon the request of the United States Trade Representative, the Secretary, a Member of Congress who represents a Council-member State, or the Governor of a Council-member State, the Council shall review and comment on—

(A) reports of the Federal Government and reports of a Council-member State government concerning United States-Canada trade;

(B) reports of a binational panel or review established pursuant to chapter 19 of the North American Free Trade Agreement concerning the settlement of a dispute between the United States and Canada;

(C) reports of an arbitral panel established pursuant to chapter 20 of the North American Free Trade Agreement concerning the settlement of a dispute between the United States and Canada; and

(D) reports of a panel or Appellate Body established pursuant to the General Agreement on Tariffs and Trade concerning the settlement of a dispute between the United States and Canada.

(2) DETERMINATION OF SCOPE.—Among other issues, the Council shall determine whether a trade dispute between the United States and Canada is the result of action or inaction on the part of the Federal Government of Canada or a provincial government of Canada.

(c) COUNCIL-MEMBER STATE.—For purposes of this section, the term ''Council-member State'' means a State described in section 2(b)(1) which is represented on the Council established under section 2(a).

SEC. 4. REPORT TO CONGRESS.

Not later than 2 years after the date of enactment of this Act and at the end of each 2-year period thereafter, the Council shall submit a report to the President and the Congress which contains a detailed statement of the findings, conclusions, and recommendations of the Council.

SEC. 5. POWERS OF THE COUNCIL.

(a) HEARINGS.—The Council may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Council considers advisable to carry out the provisions of this Act. Notice of Council hearings shall be published in the Federal Register in a timely manner.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Council may secure directly from any Federal department or agency such information as the Council considers necessary to carry out the provisions of this Act. Upon the request of the Chairperson of the Council, the head of such department or agency shall furnish such information to the Council.

(c) POSTAL SERVICES.—The Council may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.—The Council may accept, use, and dispose of gifts or donations of services or property.

SEC. 6. COUNCIL PERSONNEL MATTERS.

(a) MEMBERS TO SERVE WITHOUT COMPENSATION.—Except as provided in subsection (b), members of the Council shall receive no compensation, allowances, or benefits by reason of service to the Council.

(b) TRAVEL EXPENSES.—The members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Council.

(c) STAFF.—

(1) IN GENERAL.—The Chairperson of the Council may, without regard to the civil service laws, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Council to perform its duties. The employment of an executive director shall be subject to confirmation by the Council and the Secretary.

(2) COMPENSATION.—The Chairperson of the Council may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Council without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Council may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(f) OFFICE SPACE.—The Secretary shall provide office space for Council activities and for Council personnel.

SEC. 7. TERMINATION OF THE COUNCIL.

The Council shall terminate on the date that is 54 months after the date of enactment of this Act and shall submit a final report to the President and the Congress under section 4 at least 90 days before such termination.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated an amount not to exceed $250,000 for fiscal year 2002 and for each fiscal year thereafter to the Council to carry out the provisions of this Act.

(b) AVAILABILITY.—Any sums appropriated pursuant to this section shall remain available, without fiscal year limitation, until expended.

By Mr. AKAKA:

S. 228. A bill to amend title 38, United States Code, to make permanent the Native American veterans housing loan program, and for other purposes; to the Committee on Veterans' Affairs.

Mr. AKAKA. Mr. President, I rise to introduce a bill which permanently authorizes the Native American Veteran Housing Loan Program.

In 1992, I authored a bill that established a pilot program to assist Native American veterans who reside on trust lands. This pilot program, administered by the Department of Veterans Affairs, VA, provides direct loans to Native American veterans to build or purchase homes on trust lands. Previously, Native American veterans who resided on trust lands were unable to qualify for VA home loan benefits. This disgraceful treatment of Native American veterans was finally corrected when Congress established the Native American Direct Home Loan Program.

Despite the challenges of creating a program that addresses the needs of hundreds of different tribal entities, VA has successfully entered into agreements to provide direct VA loans to members of 59 tribes and Pacific Island groups, and negotiations continue with other tribes. Since the program's inception, 233 Native American veterans have been able to achieve home ownership, and none of the loans approved by the VA have been foreclosed.

Unfortunately, the authority to issue new loans under this successful program will end on December 31, 2001. This would be devastating to a number of Native American veterans who would like to participate in this program. Native American veterans who reside on trust lands should be afforded the same benefits available to other veterans. Without this program, it would be incredibly difficult for Native Americans living on trust lands to obtain home loan financing.

Permanent authorization of this program will ensure that Native American veterans are provided equal access to services and benefits available to other veterans. I urge my colleagues to support this important legislation.

I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 228

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERMANENT AUTHORITY FOR NATIVE AMERICAN VETERANS HOUSING LOAN PROGRAM.

(a) PERMANENT AUTHORITY.—Section 3761 of title 38, United States Code, is amended by striking subsection (c).

(b) REPORTING REQUIREMENTS.—Subsection (j) of section 3762 of that title is amended—

(1) in the matter preceding paragraph (1), by striking ''through 2002''; and

(2) by striking ''pilot'' each place it appears.

(c) CONFORMING AMENDMENTS.—(1) Section 3761 of that title is further amended—

(A) in subsection (a)—

(i) in the first sentence, by striking ''establish and implement a pilot program'' and inserting ''carry out a program''; and

(ii) in the second sentence, by striking ''establish and implement the pilot program'' and inserting ''carry out the program''; and

(B) in subsection (b), by striking ''pilot''.

(2) Section 3762 of that title is further amended—

(A) in subsection (b)(1)(E), by striking ''pilot program established under this subchapter is implemented'' and inserting ''program under this subchapter is carried out'';

(B) in the second sentence of subsection (c)(1)(B), by striking ''in order to carry out'' and all that follows through ''direct housing loans'' and inserting ''to make direct housing loans under the program under this subchapter''; and

(C) in subsection (i)—

(i) in paragraph (1), by striking ''pilot'';

(ii) in paragraph (2)(A)—

(I) by striking ''pilot program'' the first place it appears and inserting ''program provided for under this subchapter''; and

(II) by striking ''pilot program'' the second place it appears and inserting ''that program''; and

(iii) in paragraph (2)(E), by striking ''pilot program'' and inserting ''program provided for under this subchapter''.

(d) CLERICAL AMENDMENTS.—(1) The section heading of section 3761 of that title is amended to read as follows:

''§ 3761. Housing loan program''.

(2) The subchapter heading of subchapter V of chapter 37 of that title is amended to read as follows:

''SUBCHAPTER V—NATIVE AMERICAN VETERAN HOUSING LOAN PROGRAM''.

(3) The table of sections at the beginning of chapter 37 of that title is amended by striking the item relating to subchapter V and the item relating to section 3761 and inserting the following new items:

''SUBCHAPTER V—NATIVE AMERICAN VETERAN HOUSING LOAN PROGRAM

''3761. Housing loan program.''.

By Mr. CAMPBELL:

S. 231. A bill to amend the Elementary and Secondary Education Act of 1965 to ensure that seniors are given an opportunity to serve as mentors, tutors, and volunteers for certain programs; to the Committee on Health, Education, Labor, and Pensions.

Mr. CAMPBELL. Mr. President, the future of our nation rests on the small shoulders of America's school children. To help them face that challenge, we must call on all of our resources and find new and innovative ways to support our schools, right now.

That is why today, I am introducing the ''Seniors As Volunteers in Our Schools Act,'' a bill that will be an important step in ensuring that our

schools provide a safe and caring place for our children to learn and grow. This bill is based on legislation which I introduced in the 106th Congress, S. 1851. I am pleased to have my colleagues Senators GRASSLEY, AKAKA and INOUYE as original co-sponsors.

Over the past week, under the leadership of President Bush, our nation and this body have committed to improving the nature of our schools. This bill presents one common-sense approach to enhancing the safety in our schools by utilizing one of our greatest resources—our senior citizens.

The bill I introduce today would encourage school administrators and teachers to use qualified seniors as volunteers in federally funded programs and activities authorized by the Elementary and Secondary Education Act, ESEA. The legislation specifically would encourage the use of seniors as volunteers in the safe and drug free schools programs, Indian education programs, the 21st Century Community before- and after-school programs and gifted and talented programs.

The Seniors as Volunteers in Our Schools Act creates no new programs; rather it suggests another allowable use of funds already allocated. The discretion whether to take advantage of this new resource continues to remain solely with the school systems.

In my home state of Colorado, a School Safety Summit recommended connecting each child to a caring adult as a way to reduce youth violence. Studies show that consistent guidance by a mentor or caring adult can help reduce teenage pregnancy, substance abuse and youth violence. Evidence also shows that the presence of adults on playgrounds, and in hallways and study halls, stabilizes the learning environment.

I know firsthand the importance of mentoring based on my own experiences as a teacher. A mentor can have a profound and positive impact on a child's life. What better way to make our schools safer for our children than to have more caring adults visibly involved?

I am pleased to note that the Colorado Association of School Boards supports the goal of this legislation. Jane Urschel, the Association's Associate Executive Director states, ''As many Colorado school districts have already discovered, having senior citizens in our classrooms helps to build intergenerational relationships and trust. It leads to a richer life for all.''

I am pleased that a number of seniors in Colorado already are helping in schools throughout my state. Many of my former and current staffers and their relatives care deeply about this issue and are very involved in volunteer and mentoring activities.

I do not expect this legislation to solve all the problems confronting our schools today. But, I see it as a practical way to help make our schools safer, more caring places for our children.

Mr. President, the Seniors as Volunteers in Our Schools Act of 2001 is one simple way to address the school safety issue in Colorado and nationwide. I believe that as we work to find the resources our schools require we must not overlook one of the more plentiful and accessible resources at our disposal—willing and capable adult role models. This bill provides an opportunity to immediately improve the lives of younger and older Americans alike by bringing them together in our schools. I urge my colleagues to support its passage.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 231

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Seniors as Volunteers in Our Schools Act''.

SEC. 2. REFERENCES.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

SEC. 3. GOVERNOR'S PROGRAMS.

Section 4114(c) (20 U.S.C. 7114(c)) is amended—

(1) in paragraph (11), by striking ''and'' after the semicolon;

(2) in paragraph (12), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(13) drug and violence prevention activities that use the services of appropriately qualified seniors for activities that include mentoring, tutoring, and volunteering.''.

SEC. 4. LOCAL DRUG AND VIOLENCE PREVENTION PROGRAMS.

Section 4116(b) (20 U.S.C. 7116(b)) is amended—

(1) in paragraph (2), in the matter preceding subparagraph (A), by inserting ''(including mentoring by appropriately qualified seniors)'' after ''mentoring'';

(2) in paragraph (2)(C)—

(A) in clause (ii), by striking ''and'' after the semicolon;

(B) in clause (iii), by inserting ''and'' after the semicolon; and

(C) by adding at the end the following:

''(iv) drug and violence prevention activities that use the services of appropriately qualified seniors for such activities as mentoring, tutoring, and volunteering;'';

(3) in paragraph (4)(C), by inserting ''(including mentoring by appropriately qualified seniors)'' after ''mentoring programs''; and

(4) in paragraph (8), by inserting ''and which may involve appropriately qualified seniors working with students'' after ''settings''.

SEC. 5. NATIONAL PROGRAMS.

Section 4121(a) (20 U.S.C. 7131(a)) is amended—

(1) in paragraph (10), by inserting '', including projects and activities that promote the interaction of youth and appropriately qualified seniors'' after ''responsibility''; and

(2) in paragraph (13), by inserting '', including activities that integrate appropriately qualified seniors in activities, such as mentoring, tutoring, and volunteering'' after ''title''.

SEC. 6. AUTHORIZED SERVICES AND ACTIVITIES.

Section 9115(b) (20 U.S.C. 7815(b)) is amended—

(1) in paragraph (6), by striking ''and'' after the semicolon;

(2) in paragraph (7), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(8) activities that recognize and support the unique cultural and educational needs of Indian children, and incorporate appropriately qualified tribal elders and seniors.''.

SEC. 7. IMPROVEMENTS OF EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN.

Section 9121(c)(1) (20 U.S.C. 7831(c)(1)) is amended—

(1) in subparagraph (J), by striking ''or'' after the semicolon;

(2) by redesignating subparagraph (K) as subparagraph (L); and

(3) by inserting after subparagraph (J) the following:

''(K) activities that recognize and support the unique cultural and educational needs of Indian children, and incorporate appropriately qualified tribal elders and seniors; or''.

SEC. 8. PROFESSIONAL DEVELOPMENT.

Section 9122(d)(1) (20 U.S.C. 7832(d)(1)) is amended in the second sentence by striking the period and inserting '', and may include programs designed to train tribal elders and seniors.''.

SEC. 9. NATIVE HAWAIIAN COMMUNITY-BASED EDUCATION LEARNING CENTERS.

Section 9210(b) (20 U.S.C. 7910(b)) is amended—

(1) in paragraph (2), by striking ''and'' after the semicolon; and

(2) in paragraph (3), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(4) programs that recognize and support the unique cultural and educational needs of Native Hawaiian children, and incorporate appropriately qualified Native Hawaiian elders and seniors.''.

SEC. 10. ALASKA NATIVE STUDENT ENRICHMENT PROGRAMS.

Section 9306(b) (20 U.S.C. 7936(b)) is amended—

(1) in paragraph (3), by striking ''and'' after the semicolon;

(2) in paragraph (4), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(5) activities that recognize and support the unique cultural and educational needs of Alaskan Native children, and incorporate appropriately qualified Alaskan Native elders and seniors.''.

SEC. 11. GIFTED AND TALENTED CHILDREN.

Section 10204(b)(3) (20 U.S.C. 8034(b)(3)) is amended by striking ''and parents'' and inserting '', parents, and appropriately qualified senior volunteers''.

SEC. 12. 21st CENTURY COMMUNITY LEARNING CENTERS.

Section 10904(a)(3) (20 U.S.C. 8244(a)(3)) is amended—

(1) in subparagraph (D), by striking ''and'' after the semicolon;

(2) in subparagraph (E), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(F) a description of how the school or consortium will encourage and use appropriately qualified seniors as volunteers in activities identified under section 10905.''.

By Mr. CLELAND (for himself, Mr. DURBIN, Mr. HAGEL, Mr. CORZINE, and Ms. LANDRIEU):

S. 232. A bill to amend the Internal Revenue Code for 1986 to exclude

United States savings bond income from gross income if it is used to pay long-term care expenses; to the Committee on Finance.

Mr. CLELAND. Mr. President, I am very pleased to begin this session with re-introduction of a measure to help Americans to better afford health care. Last Congress, I introduced S. 2066, which would have created a Savings Bond Income Tax-exemption for long-term care services. On July 17, 2000, this measure was adopted by the Senate as an amendment to S. 2839, the Marriage Penalty Reconciliation bill, but unfortunately was not retained in the final version of the legislation. As we all know, Congress did not pass any significant tax relief for health care coverage last year. Today, I am joined by Senators DURBIN, HAGEL, CORZINE and LANDRIEU in re-submitting this legislation.

Many have expressed their continuing interest in enacting our proposal which would result in a revenue loss of less than $22 million over ten years as estimated by the Joint Committee on Taxation while offering significant help in the financing of long-term health care needs. It is currently forecasted that in the next 30 years, half of all women and a third of all men in the United States will spend a portion of their life in a nursing home at a cost of $40,000 to $90,000 per year per person. I believe the proposed legislation would provide an excellent opportunity to assist millions of Americans facing the financial burdens of long-term care.

The bill we are re-introducing today would exclude United States savings bond income from being taxed if used to pay for long-term health care expenses. It will assist individuals struggling to accommodate costs associated with many chronic medical conditions and the aging process. Families that claim parents or parents-in-law as dependents on their tax returns would qualify for this tax credit if savings bond income is used to pay for long-term care services. ''Sandwich generation'' families paying for both college education for their children and long-term care services for their parents could use the tax credit for either program or a combined credit up to the allowable amount.

The last Congress took an important step in addressing our growing long-term care needs by enacting H.R. 4040, the Long-Term Care Security Act. H.R. 4040, which was signed into law on September 19, 2000, created the largest employer-based long-term care insurance program in American history. Additional steps are needed and our proposal will make long-term care more obtainable by more Americans. I urge you to support this needed tax relief for Americans struggling with the high cost of assistive and nursing home care.

I ask that this proposal to provide tax relief for long-term care services be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 232

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXCLUSION OF UNITED STATES SAVINGS BOND INCOME FROM GROSS INCOME IF USED TO PAY LONG-TERM CARE EXPENSES.

(a) IN GENERAL.—Subsection (a) of section 135 of the Internal Revenue Code of 1986 (relating to income from United States savings bonds used to pay higher education tuition and fees) is amended to read as follows:

''(a) EXCLUSION.—

''(1) GENERAL RULE.—In the case of an individual who pays qualified expenses during the taxable year, no amount shall be includible in gross income by reason of the redemption during such year of any qualified United States savings bond.

''(2) QUALIFIED EXPENSES.—For purposes of this section, the term 'qualified expenses' means—

''(A) qualified higher education expenses, and

''(B) eligible long-term care expenses.''.

(b) LIMITATION WHERE REDEMPTION PROCEEDS EXCEED QUALIFIED EXPENSES.—Section 135(b)(1) of the Internal Revenue Code of 1986 (relating to limitation where redemption proceeds exceed higher education expenses) is amended—

(1) by striking ''higher education'' in subparagraph (A)(ii), and

(2) by striking ''HIGHER EDUCATION'' in the heading thereof.

(c) ELIGIBLE LONG-TERM CARE EXPENSES.—Section 135(c) of the Internal Revenue Code of 1986 (relating to definitions) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

''(4) ELIGIBLE LONG-TERM CARE EXPENSES.—The term 'eligible long-term care expenses' means qualified long-term care expenses (as defined in section 7702B(c)) and eligible long-term care premiums (as defined in section 213(d)(10)) of—

''(A) the taxpayer,

''(B) the taxpayer's spouse, or

''(C) any dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151.''.

(d) ADJUSTMENTS.—Section 135(d) of the Internal Revenue Code of 1986 (relating to special rules) is amended by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and by inserting after paragraph (2) the following new paragraph:

''(3) ELIGIBLE LONG-TERM CARE EXPENSE ADJUSTMENTS.—The amount of eligible long-term care expenses otherwise taken into account under subsection (a) with respect to an individual shall be reduced (before the application of subsection (b)) by the sum of—

''(A) any amount paid for qualified long-term care services (as defined in section 7702B(c)) provided to such individual and described in section 213(d)(11), plus

''(B) any amount received by the taxpayer or the taxpayer's spouse or dependents for the payment of eligible long-term care expenses which is excludable from gross income.''.

(e) COORDINATION WITH DEDUCTIONS.—

(1) Section 213 of the Internal Revenue Code of 1986 (relating to medical, dental, etc., expenses) is amended by adding at the end the following new subsection:

''(f) COORDINATION WITH SAVINGS BOND INCOME USED FOR EXPENSES.—Any expense taken into account in determining the exclusion under section 135 shall not be treated as an expense paid for medical care.''.

(2) Section 162(l) of such Code (relating to special rules for health insurance costs of self-employed individuals) is amended by adding at the end the following new paragraph:

''(6) COORDINATION WITH SAVINGS BOND INCOME USED FOR EXPENSES.—Any expense taken into account in determining the exclusion under section 135 shall not be treated as an expense paid for medical care.''.

(f) CLERICAL AMENDMENTS.—

(1) The heading for section 135 of the Internal Revenue Code of 1986 is amended by inserting ''and long-term care expenses'' after ''fees''.

(2) The item relating to section 135 in the table of sections for part III of subchapter B of chapter 1 of such Code is amended by inserting ''and long-term care expenses'' after ''fees''.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

By Mr. FEINGOLD (for himself, Mr. LEVIN, Mr. WELLSTONE, and Mr. CORZINE):

S. 233. A bill to place a moratorium on executions by the Federal Government and urge the States to do the same, while a National Commission on the Death Penalty reviews the fairness of the imposition of the death penalty; to the Committee on the Judiciary.

Mr. FEINGOLD. Mr. President, one year ago today, Governor George Ryan took the bold step of placing a moratorium on executions in Illinois. He refused to sign off on a single execution in Illinois. Why? Because he saw that the system by which people were sentenced to death in Illinois was terribly flawed. In fact, by the time Governor Ryan made his decision, Illinois had seen more exonerations of innocent people than executions. There had been 13 exonerations and 12 executions. Of the 13 people found innocent, some were wrongfully convicted based on police or prosecutorial misconduct. Modern DNA testing played a role in yet another 5 exonerations. And in some cases, it was students from Northwestern University—people very much outside the criminal justice system—who played a key role in finding and presenting the evidence to secure the release of wrongfully condemned men.

What did Governor Ryan do in the face of this risk of executing innocent people? Governor Ryan recognized the moral stakes that faced him and took the courageous step of suspending executions. He said, ''until I can be sure with moral certainty that no innocent man or woman is facing a lethal injection, no one will meet that fate.'' Is that too much to ask—that innocent men and women not be put to death? I believe the vast majority of Americans would say it is not too much to ask. Governor Ryan has been an ardent death penalty supporter, having argued vehemently for its use while a member of the Illinois legislature. But now, as Governor, he was faced with the awesome responsibility of carrying out the final stage of this punishment. Following his decision to place a moratorium on executions, he promptly appointed a panel of distinguished prosecutors and defense lawyers, as well as

civic and political leaders. That panel is charged with thoroughly reviewing the flaws in the administration of the death penalty in Illinois.

But these problems—and particularly the risk of executing an innocent person—are not unique to Illinois. They exist throughout our Nation. That is why today I rise to re-introduce the National Death Penalty Moratorium Act. This bill seeks to apply the wisdom of Governor Ryan and the people of Illinois to the federal government and all states that authorize the use of capital punishment. I am pleased that my distinguished colleagues, Senators LEVIN, WELLSTONE and CORZINE, have joined me in cosponsoring this bill.

Governor Ryan's decision was a watershed event. During the last year, his action was a significant factor in unleashing a renewed, national debate on the death penalty. For the first time in many years, people are beginning to understand that our system is fallible. Mistakes can be made. Mistakes have been made. But mistakes should not be made, particularly when mistakes can mean the difference between life and death. In fact, overall support for the death penalty has dropped to an almost 20-year low. According to an NBC News/Wall Street Journal poll, 63 percent of Americans support a suspension of executions while questions of fairness are addressed.

The time to prevent the execution of the innocent is now. The time to restore fairness and justice is now. The time to act is now. The time for a moratorium is now.

Governor Ryan was greatly troubled by the number of innocent people sent to death row in Illinois—13 people, and still counting. Since the 1970s, 93 people have been exonerated nationwide. At the same time, we have executed close to 700 people. That means for every seven people who have been executed, we have found one person sitting on death row who should not have been there. And it's not just Illinois that has sent innocent people to death row. Twenty-two of the 38 states that authorize capital punishment have had exonerations. In fact, Florida actually exceeds Illinois in total number of people exonerated: Florida has had 20. Oklahoma has exonerated 7, Texas has exonerated 7 people, Georgia has exonerated 6 people, and on and on. Mr. President, while we explore ways to reduce and eliminate the risk of executing the innocent, not a single person should be executed. The time to act is now. The time for a moratorium is now.

My distinguished colleague from Vermont, the ranking member of the Judiciary Committee, Senator LEAHY, has championed the need for access to modern DNA testing and certain minimum standards of competency for defense counsel in capital cases. I have joined him and many of our distinguished colleagues, including Senators GORDON SMITH, COLLINS, JEFFORDS, and LEVIN, to support the Innocence Protection Act. This bill would bring greater fairness to the administration of the death penalty. I commend Senator LEAHY for his leadership on this bill, particularly for highlighting the need for access to modern DNA testing. During the last year, as a result of his leadership, the American people are beginning to understand the value and necessity of modern DNA testing in our criminal justice system. But while we work to pass these needed reforms, a time-out is needed to ensure the integrity and fairness of our criminal justice system. The time for a moratorium is now.

According to a study led by Columbia University Law Professor Jim Liebman and released last June, the overall rate of error in America's death penalty system is 68 percent. Reviewing over 4,500 appeals between 1973 and 1995, the report found that courts detected serious, reversible error in nearly 7 of every 10 of the capital sentences that were fully reviewed. It is appalling that the system is producing so many mistakes. And, of course, the question remains: Are we in fact catching all the mistakes?

The Columbia study is further evidence that Illinois' problems are not unique. The overall error rate in Illinois was 66 percent, just below the national average, which means that some states are well above Illinois. I can't underscore this enough. The serious, prejudicial error that results in reversals is a phenomenon nationally, not just in Illinois.

In the words of the study's authors, our system is ''collapsing under the weight of its own mistakes.'' Mr. President, if our death penalty system was a business enterprise that had an error rate in producing widgets of 68 percent, that business would undertake a thorough, top to bottom review. Let's conduct a thorough, top to bottom review of our nation's death penalty system.

The Columbia study found that the most common errors are (1) egregiously incompetent defense counsel who failed to look for important evidence that the defendant was innocent or did not deserve to die; and (2) police or prosecutors who discovered that kind of evidence but suppressed it, again keeping it from the jury. On retrial where results are known, 82 percent of the reversals resulted in sentences less than death, while another 7 percent were found to be innocent of the crime that sent them to death row. When the system sends an innocent person to death row, there is a double loss: the innocent person is robbed of freedom and the real killer is still free, free to potentially do more harm.

Senator LEAHY's Innocence Protection Act is a first step in the fight to ensure that defendants facing capital charges receive competent legal representation. We have heard stories of sleeping lawyers, drunk lawyers, lawyers who are paid less than a living wage, all of whom are lawyers who have represented people subsequently convicted and sentenced to death. But, as the Columbia study shows, access to modern DNA testing and efforts to ensure competent counsel in capital cases are only two of the many menacing problems plaguing the administration of the death penalty.

The second common error, according to the Columbia study, is the role of police or prosecutorial misconduct in suppressing evidence that could mean the difference between guilt and innocence, or life and death. The risk of police or prosecutorial misconduct is increased in capital cases. Why? Because capital cases are usually high profile, high stakes cases, particularly for the police or prosecutor's personal, professional advancement. One problem involves the use of jailhouse informant testimony. Police or prosecutors use jailhouse informants who claim to have heard the defendant confess to a crime. These informants' testimony, however, is inherently unreliable because they have a strong incentive to lie: their testimony to convict another person can mean reduced charges or a lighter sentence in their own case.

Similarly, prosecutors may rely on the testimony of co-defendants who also may have strong incentives to lie to avoid tougher charges or harsher sentences. Yet another area of police misconduct involves false confessions. Take the case of Gary Gauger. Gauger was wrongfully convicted of murdering his parents on the basis of a false confession obtained by police. In 1993, he was convicted and sent to Illinois' death row. The main piece of evidence against him was a so-called ''confession'' that the police claimed they obtained after holding Gauger for 21 hours without food or access to an attorney. The police wrote out a version of the murder and tried to convince Gauger that he had killed his parents while in a blackout state. He refused to sign the ''confession.'' But the prosecution introduced the unsigned confession against him at trial. His defense attorney did virtually no work preparing for trial, telling Gauger's sister that ''death penalty cases are won on appeal.'' Fortunately for Gauger, Northwestern University Law Professor Larry Marshall took over his case and Gauger's conviction was reversed. In the meantime, the real killers were discovered when FBI agents, listening to wiretapped conversations during an FBI investigation of a motorcycle gang, heard the killers describe murdering Gauger's parents.

Gauger finally got his freedom, but only after being unfairly and unjustly dragged through our criminal justice system. Our law enforcement officers do a great job, but we must act to understand the role of misconduct by police and prosecutors and its contribution to creating a high rate of error in capital cases. The time to act is now. The time for a moratorium is now.

Another problem with our nation's administration of the death penalty is

the glaring racial disparity in decisions about who shall be executed. One of the most disturbing statistics suggests that white victims are valued more highly by the system than non-whites. Since reinstatement of the modern death penalty, 83 percent of capital cases involve white victims, even though murder victims are African American or white in roughly equal numbers. Nationwide, more than half the death row inmates are African Americans or Hispanic Americans.

Racial disparities are particularly pronounced at the federal level. According to a report released by the Justice Department in September 2000, whether a defendant lives or dies in the federal system appears to relate to the color of the defendant's skin or the federal district in which the prosecution takes place. The report also found that 80 percent of the cases submitted for death penalty prosecution authorization involved minority defendants. Furthermore, according to the Department of Justice, white defendants are more likely than black defendants to negotiate plea bargains saving them from the death penalty in Federal cases. In fact, currently, 16 of the 20, or 80 percent, of federal death row inmates are racial or ethnic minorities.

The federal death penalty system also shows a troubling geographic disparity. The Department of Justice report shows that United States Attorneys in only 5 of 94 Federal districts—1 each in Virginia, Maryland, Puerto Rico, and 2 in New York—submit 40 percent of all cases in which the death penalty is considered. In fact, U.S. attorneys who have frequently recommended seeking the death penalty are often from States with a high number of executions under State law, including Texas, Virginia, and Missouri.

The National Institute of Justice is already setting into motion a comprehensive study of these racial and geographic disparities. Federal executions should not proceed until these disparities are fully studied and discussed, and until the federal death penalty process is subjected to necessary remedial action.

In addition to racial and geographic disparities in the administration of the federal death penalty, other serious questions exist about the fairness and reliability of federal death penalty prosecutions. Federal prosecutors rely heavily on bargained-for testimony from accomplices of the capital defendant, which is often obtained in exchange for not seeking the death penalty against the accomplices. This practice creates a serious risk of false testimony.

Federal prosecutors are not required to provide discovery sufficiently ahead of trial to permit the defense to be prepared to use this information effectively in defending their clients. The FBI, in increasing isolation from the rest of the nation's law enforcement agencies, refuses to make electronic recordings of interrogations that produce confessions, thus making subsequent scrutiny of the legality and reliability of such interrogations more difficult. Federal prosecutors rely heavily on predictions of ''future dangerousness''—predictions deemed unreliable and misleading by the American Psychiatric Association and the American Psychological Association—to secure death sentences.

I was pleased when, in December 2000, President Clinton stayed Juan Raul Garza's execution and ordered the Justice Department to conduct further reviews of the racial and regional disparities in the federal death penalty system. Before the federal government takes this step, resuming executions for the first time in almost 40 years, we should be sure that our system of administering the ultimate punishment is fair and just.

I urge my colleagues to join me in cosponsoring the National Death Penalty Moratorium Act. This bill would place a moratorium on federal executions and urge the States to do the same. The bill would also create a National Commission on the Death Penalty to review the fairness of the administration of the death penalty at the state and federal levels. This Commission would be an independent, blue ribbon panel of distinguished prosecutors, defense attorneys, jurists and others.

The need for a moratorium could not be more critical than it is today. The time to act is now. The time for a moratorium is now.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 233

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Death Penalty Moratorium Act of 2001''.

TITLE I—MORATORIUM ON THE DEATH PENALTY

SEC. 101. FINDINGS.

Congress makes the following findings:

(1) GENERAL FINDINGS.—

(A) The administration of the death penalty by the Federal government and the States should be consistent with our Nation's fundamental principles of fairness, justice, equality, and due process.

(B) At a time when Federal executions are scheduled to recommence, Congress should consider that more than ever Americans are questioning the use of the death penalty and calling for assurances that it be fairly applied. Support for the death penalty has dropped to the lowest level in 19 years. An NBC News/Wall Street Journal Poll revealed that 63 percent of Americans support a suspension of executions until questions of fairness can be addressed.

(C) Documented unfairness in the Federal system requires Congress to act and suspend Federal executions. Additionally, substantial evidence of unfairness throughout death penalty States justifies further investigation by Congress.

(2) ADMINISTRATION OF THE DEATH PENALTY BY THE FEDERAL GOVERNMENT.—

(A) The fairness of the administration of the Federal death penalty has recently come under serious scrutiny, specifically raising questions of racial and geographic disparities:

(i) Eighty percent of Federal death row inmates are members of minority groups.

(ii) A report released by the Department of Justice on September 12, 2000, found that 80 percent of defendants who were charged with death-eligible offenses under Federal law and whose cases were submitted by the United States attorneys under the Department's death penalty decision-making procedures were African American, Hispanic American, or members of other minority groups.

(iii) The Department of Justice report shows that United States attorneys in only 5 of 94 Federal districts—1 each in Virginia, Maryland, Puerto Rico, and 2 in New York—submit 40 percent of all cases in which the death penalty is considered.

(iv) The Department of Justice report shows that United States attorneys who have frequently recommended seeking the death penalty are often from States with a high number of executions under State law, including Texas, Virginia, and Missouri.

(v) The Department of Justice report shows that white defendants are more likely than black defendants to negotiate plea bargains saving them from the death penalty in Federal cases.

(vi) A study conducted by the House Judiciary Subcommittee on Civil and Constitutional Rights in 1994 concluded that 89 percent of defendants selected for capital prosecution under the Anti-Drug Abuse Act of 1988 were either African American or Hispanic American.

(vii) The National Institute of Justice has already set into motion a comprehensive study of these racial and geographic disparities.

(viii) Federal executions should not proceed until these disparities are fully studied, discussed, and the federal death penalty process is subjected to necessary remedial action.

(B) In addition to racial and geographic disparities in the administration of the federal death penalty, other serious questions exist about the fairness and reliability of federal death penalty prosecutions:

(i) Federal prosecutors rely heavily on bargained-for testimony from accomplices of the capital defendant, which is often obtained in exchange for not seeking the death penalty against the accomplices. This practice creates a serious risk of false testimony.

(ii) Federal prosecutors are not required to provide discovery sufficiently ahead of trial to permit the defense to be prepared to use this information effectively in defending their clients.

(iii) The Federal Bureau of Investigation (FBI), in increasing isolation from the rest of the nation's law enforcement agencies, refuses to make electronic recordings of interrogations that produce confessions, thus making subsequent scrutiny of the legality and reliability of such interrogations more difficult.

(iv) Federal prosecutors rely heavily on predictions of ''future dangerousness''—predictions deemed unreliable and misleading by the American Psychiatric Association and the American Psychological Association—to secure death sentences.

(3) ADMINISTRATION OF THE DEATH PENALTY BY THE STATES.—

(A) The punishment of death carries an especially heavy burden to be free from arbitrariness and discrimination. The Supreme Court has held that ''super due process'', a higher standard than that applied in regular

criminal trials, is necessary to meet constitutional requirements. There is significant evidence that States are not providing this heightened level of due process. For example:

(i) In the most comprehensive review of modern death sentencing, Professor James Liebman and researchers at Columbia University found that, during the period 1973 to 1995, 68 percent of all death penalty cases reviewed were overturned due to serious constitutional errors. In the wake of the Liebman study, 6 States (Arizona, Maryland, North Carolina, Illinois, Indiana, and Nebraska), as well as the Chicago Tribune and the Texas Defender Service are conducting additional studies. These studies may expose additional problems. With few exceptions, the rate of error was consistent across all death penalty States.

(ii) Forty percent of the cases overturned were reversed in Federal court after having been upheld by the States.

(B) The high rate of error throughout all death penalty jurisdictions suggests that there is a grave risk that innocent persons may have been, or will likely be, wrongfully executed. Although the Supreme Court has never conclusively addressed the issue of whether executing an innocent person would in and of itself violate the Constitution, in Herrara v. Collins, 506 U.S. 390 (1993), a majority of the court expressed the view that a persuasive demonstration of actual innocence would violate substantive due process rendering imposition of a death sentence unconstitutional. In any event, the wrongful conviction and sentencing of a person to death is a serious concern for many Americans. For example:

(i) After 13 innocent people were released from Illinois death row in the same period that the State had executed 12 people, on January 31, 2000, Governor George Ryan of Illinois imposed a moratorium on executions until he could be ''sure with moral certainty that no innocent man or woman is facing a lethal injection, no one will meet that fate''.

(ii) Since 1973, 93 persons have been freed and exonerated from death rows across the country, most after serving lengthy sentences.

(C) Wrongful convictions create a serious public safety problem because the true killer is still at large, while the innocent person languishes in prison.

(D) There are many systemic problems that result in innocent people being convicted such as mistaken identification, reliance on jailhouse informants, reliance on faulty forensic testing and no access to reliable DNA testing. For example:

(i) A study of cases of innocent people who were later exonerated, conducted by attorneys Barry Scheck and Peter Neufeld with ''The Innocence Project'' at Cardozo Law School, showed that mistaken identifications of eyewitnesses or victims contributed to 84 percent of the wrongful convictions.

(ii) Many persons on death row were convicted prior to 1994 and did not receive the benefit of modern DNA testing. At least 10 individuals sentenced to death have been exonerated through post-conviction DNA testing, some within days of execution. Yet in spite of the current widespread prevalence and availability of DNA testing, many States have procedural barriers blocking introduction of post-conviction DNA testing. More than 30 States have laws that require a motion for a new trial based on newly discovered evidence to be filed within 6 months or less.

(iii) The widespread use of jailhouse snitches who earn reduced charges or sentences by fabricating ''admissions'' by fellow inmates to unsolved crimes can lead to wrongful convictions.

(iv) The misuse of forensic evidence can lead to wrongful convictions. A recently released report from the Texas Defender Service entitled ''A State of Denial: Texas and the Death Penalty'' found 160 cases of official forensic misconduct including 121 cases where expert psychiatrists testified ''with absolute certainty that the defendant would be a danger in the future'', often without even interviewing the defendant.

(E) The sixth amendment to the Constitution guarantees all accused persons access to competent counsel. The Supreme Court set out standards for determining competency in the case of Strickland v. Washington, 466 U.S. 668 (1984). Unfortunately, there is unequal access to competent counsel throughout death penalty States. For example:

(i) Ninety percent of capital defendants cannot afford to hire their own attorney.

(ii) Fewer than one-quarter of the 38 death penalty States have set any standards for competency of counsel and in those few States, these standards were set only recently. In most States, any person who passes a bar examination, even if that attorney has never represented a client in any type of case, may represent a client in a death penalty case.

(iii) Thirty-seven percent of capital cases were reversed because of ineffective assistance of counsel, according to the Columbia study.

(iv) The recent Texas report noted problems with Texas defense attorneys who slept through capital trials, ignored obvious exculpatory evidence, suffered discipline for ethical lapses or for being under the influence of drugs or alcohol while representing an indigent capital defendant at trial.

(v) Poor lawyering was also cited by Governor Ryan in Illinois as a basis for a moratorium. More than half of all capital defendants there were represented by lawyers who were later disciplined or disbarred for unethical conduct.

(F) The Supreme Court has held that it is a violation of the eighth amendment to impose the death penalty in a manner that is arbitrary, capricious, or discriminatory. McKlesky v. Kemp, 481 U.S. 279 (1987). Studies consistently indicate racial disparity in the application of the death penalty both for the defendants and the victims. The death penalty is disparately applied in various regions throughout the country, suggesting arbitrary administration of the death penalty based on where the prosecution takes place. For example:

(i) Of the 85 executions in the year 2000, 51 percent of the defendants were white, 40 percent were black, 7 percent were Latino and 2 percent Native American. Of the victims in the underlying murder, 76 percent were white, 18 percent were black, 2 percent were Latino, and 3 percent were ''other''. These figures show a continuing trend since reinstatement of the modern death penalty of a predominance of white victims' cases. Despite the fact that nationally whites and blacks are victims of murder in approximately equal numbers, 83 percent of the victims involved in capital cases overall since reinstatement, and 76 percent of the victims in 2000, have been white. Since this disparity is confirmed in studies that control for similar crimes by defendants with similar backgrounds, it implies that white victims are considered more valuable in the criminal justice system.

(ii) Executions are conducted predominately in southern States. Ninety percent of all executions in 2000 were conducted in the south. Only 3 States outside the south, Arizona, California, and Missouri, conducted an execution in 2000. Texas accounted for almost as many executions as all the remaining States combined.

SEC. 102. FEDERAL AND STATE DEATH PENALTY MORATORIUM.

(a) IN GENERAL.—The Federal Government shall not carry out any sentence of death imposed under Federal law until the Congress considers the final findings and recommendations of the National Commission on the Death Penalty in the report submitted under section 202(c)(2) and the Congress enacts legislation repealing this section and implements or rejects the guidelines and procedures recommended by the Commission.

(b) SENSE OF CONGRESS.—It is the sense of Congress that each State that authorizes the use of the death penalty should enact a moratorium on executions to allow time to review whether the administration of the death penalty by that State is consistent with constitutional requirements of fairness, justice, equality, and due process.

TITLE II—NATIONAL COMMISSION ON THE DEATH PENALTY

SEC. 201. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the National Commission on the Death Penalty (in this title referred to as the ''Commission'').

(b) MEMBERSHIP.—

(1) APPOINTMENT.—Members of the Commission shall be appointed by the President in consultation with the Attorney General and the Chairmen and Ranking Members of the Committees on the Judiciary of the House of Representatives and the Senate.

(2) COMPOSITION.—The Commission shall be composed of 15 members, of whom—

(A) 3 members shall be Federal or State prosecutors;

(B) 3 members shall be attorneys experienced in capital defense;

(C) 2 members shall be current or former Federal or State judges;

(D) 2 members shall be current or former Federal or State law enforcement officials; and

(E) 5 members shall be individuals from the public or private sector who have knowledge or expertise, whether by experience or training, in matters to be studied by the Commission, which may include—

(i) officers or employees of the Federal Government or State or local governments;

(ii) members of academia, nonprofit organizations, the religious community, or industry; and

(iii) other interested individuals.

(3) BALANCED VIEWPOINTS.—In appointing the members of the Commission, the President shall, to the maximum extent practicable, ensure that the membership of the Commission is fairly balanced with respect to the opinions of the members of the Commission regarding support for or opposition to the use of the death penalty.

(4) DATE.—The appointments of the initial members of the Commission shall be made not later than 30 days after the date of enactment of this Act.

(c) PERIOD OF APPOINTMENT.—Each member shall be appointed for the life of the Commission.

(d) VACANCIES.—A vacancy in the Commission shall not affect the powers of the Commission, but shall be filled in the same manner as the original appointment.

(e) INITIAL MEETING.—Not later than 30 days after all initial members of the Commission have been appointed, the Commission shall hold the first meeting.

(f) MEETINGS.—The Commission shall meet at the call of the Chairperson.

(g) QUORUM.—A majority of the members of the Commission shall constitute a quorum for conducting business, but a lesser number of members may hold hearings.

(h) CHAIR.—The President shall designate 1 member appointed under subsection (a) to serve as the Chair of the Commission.

(i) RULES AND PROCEDURES.—The Commission shall adopt rules and procedures to govern the proceedings of the Commission.

SEC. 202. DUTIES OF THE COMMISSION.

(a) STUDY.—

(1) IN GENERAL.—The Commission shall conduct a thorough study of all matters relating to the administration of the death penalty to determine whether the administration of the death penalty comports with constitutional principles and requirements of fairness, justice, equality, and due process.

(2) MATTERS STUDIED.—The matters studied by the Commission shall include the following:

(A) Racial disparities in capital charging, prosecuting, and sentencing decisions.

(B) Disproportionality in capital charging, prosecuting, and sentencing decisions based on geographic location and income status of defendants or any other factor resulting in such disproportionality.

(C) Adequacy of representation of capital defendants, including consideration of the American Bar Association ''Guidelines for the Appointment and Performance of Counsel in Death Penalty Cases'' (adopted February 1989) and American Bar Association policies that are intended to encourage competency of counsel in capital cases (adopted February 1979, February 1988, February 1990, and August 1996).

(D) Whether innocent persons have been sentenced to death and the reasons these wrongful convictions have occurred.

(E) Whether the Federal government should seek the death penalty in a State with no death penalty.

(F) Whether courts are adequately exercising independent judgment on the merits of constitutional claims in State post-conviction and Federal habeas corpus proceedings.

(G) Whether mentally retarded persons and persons who were under the age of 18 at the time of their offenses should be sentenced to death after conviction of death-eligible offenses.

(H) Procedures to ensure that persons sentenced to death have access to forensic evidence and modern testing of forensic evidence, including DNA testing, when modern testing could result in new evidence of innocence.

(I) Any other law or procedure to ensure that death penalty cases are administered fairly and impartially, in accordance with the Constitution.

(b) GUIDELINES AND PROCEDURES.—

(1) IN GENERAL.—Based on the study conducted under subsection (a), the Commission shall establish guidelines and procedures for the administration of the death penalty consistent with paragraph (2).

(2) INTENT OF GUIDELINES AND PROCEDURES.—The guidelines and procedures required by this subsection shall—

(A) ensure that the death penalty cases are administered fairly and impartially, in accordance with due process;

(B) minimize the risk that innocent persons may be executed; and

(C) ensure that the death penalty is not administered in a racially discriminatory manner.

(c) REPORT.—

(1) PRELIMINARY REPORT.—Not later than 1 year after the date of enactment of this Act, the Commission shall submit to the President, the Attorney General, and the Congress a preliminary report, which shall contain a preliminary statement of findings and conclusions.

(2) FINAL REPORT.—Not later than 2 years after the date of enactment of this Act, the Commission shall submit a report to the President, the Attorney General, and the Congress which shall contain a detailed statement of the findings and conclusions of the Commission, together with the recommendations of the Commission for legislation and administrative actions that implement the guidelines and procedures that the Commission considers appropriate.

SEC. 203. POWERS OF THE COMMISSION.

(a) INFORMATION FROM FEDERAL AND STATE AGENCIES.—

(1) IN GENERAL.—The Commission may secure directly from any Federal or State department or agency information that the Commission considers necessary to carry out the provisions of this title.

(2) FURNISHING OF INFORMATION.—Upon a request of the Chairperson of the Commission, the head of any Federal or State department or agency shall furnish the information requested by the Chairperson to the Commission.

(b) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(c) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(d) HEARINGS.—The Commission or, at the direction of the Commission, any subcommittee or member of the Commission, may, for the purpose of carrying out the provisions of this title—

(1) hold hearings, sit and act at times and places, take testimony, receive evidence, and administer oaths that the Commission, subcommittee, or member considers advisable; and

(2) require, by subpoena or otherwise, the attendance and testimony of witnesses and the production of books, records, correspondence, memoranda, papers, documents, tapes, and materials that the Commission, subcommittee, or member considers advisable.

(e) ISSUANCE AND ENFORCEMENT OF SUBPOENAS.—

(1) ISSUANCE.—Subpoenas issued pursuant to subsection (d)—

(A) shall bear the signature of the Chairperson of the Commission; and

(B) shall be served by any person or class of persons designated by the Chairperson for that purpose.

(2) ENFORCEMENT.—

(A) IN GENERAL.—In the case of contumacy or failure to obey a subpoena issued under subsection (d), the district court of the United States for the judicial district in which the subpoenaed person resides, is served, or may be found, may issue an order requiring that person to appear at any designated place to testify or to produce documentary or other evidence.

(B) CONTEMPT.—Any failure to obey a court order issued under subparagraph (A) may be punished by the court as a contempt.

(3) TESTIMONY OF PERSONS IN CUSTODY.—A court of the United States within the jurisdiction in which testimony of a person held in custody is sought by the Commission or within the jurisdiction of which such person is held in custody, may, upon application by the Attorney General, issue a writ of habeas corpus ad testificandum requiring the custodian to produce such person before the Commission, or before a member of the Commission or a member of the staff of the Commission designated by the Commission for such purpose.

(f) WITNESS ALLOWANCES AND FEES.—

(1) IN GENERAL.—The provisions of section 1821 of title 28, United States Code, shall apply to witnesses requested or subpoenaed to appear at any hearing of the Commission.

(2) TRAVEL EXPENSES.—The per diem and mileage allowances for witnesses shall be paid from funds available to pay the expenses of the Commission.

SEC. 204. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Members of the Commission shall serve without compensation for the services of the member to the Commission.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairperson of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform the duties of the Commission.

(2) EXECUTIVE DIRECTOR.—The employment of an executive director shall be subject to confirmation by the Commission.

(3) COMPENSATION.—The Chairperson of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and the detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5.

SEC. 205. TERMINATION OF THE COMMISSION.

The Commission shall terminate 90 days after the date on which the Commission submits its report under section 202.

SEC. 206. FUNDING.

(a) IN GENERAL.—The Commission may expend an amount not to exceed $850,000, as provided by subsection (b), to carry out this title.

(b) AVAILABILITY.—Sums appropriated to the Department of Justice shall be made available to carry out this title.

By Mr. SHELBY:

S.J. Res. 3. A joint resolution proposing an amendment to the Constitution of the United States which requires (except during time of war and subject to suspension by the Congress) that the total amount of money expended by the United States during any fiscal year not exceed the amount of certain revenue received by the United States during such fiscal year and not exceed 20 per centum of the gross national product of the United States during the previous calender year; to the Committee on the Judiciary.

BUDGET AMENDMENT

Mr. SHELBY. Mr. President, I rise today to introduce a balanced budget

amendment to the Constitution. This is the same amendment which I have introduced in every Congress since the 97th Congress. Throughout my entire tenure in Congress, during the good economic times and the bad, I have devoted much time and attention to this idea because I believe that the most significant thing that the Federal Government can do to enhance the lives of all Americans and future generation is to ensure that we have a balanced Federal budget.

Our Founding Fathers, wise men indeed, had great concerns regarding the capability of those in government to operate within budgetary constraints. Alexander Hamilton once wrote that ''* * * there is a general propensity in those who govern, founded in the constitution of man, to shift the burden from the present to a future day.'' Thomas Jefferson commented on the moral significance of this ''shifting of the burden from the present to the future.'' He said: ''the question whether one generation has the right to bind another by the deficit it imposes is a question of such consequence as to place it among the fundamental principles of government. We should consider ourselves unauthorized to saddle posterity with our debts and morally bound to pay them ourselves.''

I completely agree with these sentiments. History has shown that Hamilton was correct. Those who govern have in fact saddled future generations with the responsibility of paying for their debts. For a large part of the past 30 years, annual deficits became routine and the federal government built up massive debt. Furthermore, I believe that Jefferson's assessment of the significance of this is also correct: intergenerational debt shifting is morally wrong.

Some may find it strange that I am talking about the problems of budget deficits and the need for a balanced budget amendment at a time when the budget is actually in balance. However, I raise this issue now, as I have time and time again in the past, because of the seminal importance involved in establishing a permanent mechanism to ensure that our annual federal budget is always balanced. Without such an amendment there is a no guarantee that the budget will remain balanced.

A permanently balanced budget would have a considerable impact in the everyday lives of the American people. A balanced budget would dramatically lower interest rates thereby saving money for anyone with a home mortgage, a student loan, a car loan, credit card debt, or any other interest rate sensitive payment responsibility. Simply by balancing its books, the Federal Government would put real money into the hands of hard working people. In all practical sense, the effect of such fiscal responsibility on the part of the government would be the same as a significant tax cut for the American people. Moreover, if the government demand for capital is reduced, more money would be available for private sector use, which in turn, would generate substantial economic growth and create thousands of new jobs. More money in the pockets of Americans, more job creation by the economy, a simple step could make this reality-a balanced budget amendment. Furthermore, a balanced budget amendment would also provide the discipline to keep us on the course towards reducing our massive national debt.

Currently, the Federal Government pays hundreds of billions of dollars in interest payments on the debt each year. This means we spend billions of dollars each year on exactly, nothing. At the end of the year we have nothing of substance to show for these expenditures. These expenditures do not provide better educations for our children, they do not make our Nation safer, they do not further important medical research, they do not build new roads. They do nothing but pay the obligations created by the fiscal irresponsibility of those who came earlier. In the end, we need to ensure that we continue on the road to a balanced budget so that we can end the wasteful practice of making interest payments on the deficit.

However, opponents of a balanced budget amendment act like it is something extraordinary. In reality, a balanced budget amendment will only require the government to do what every American already has to do: balance their checkbook. It is simply a promise to the American people, and more importantly, to future generations of Americans, that the government will act responsibility.

Thankfully the budget is currently balanced. However, there are no guarantees that it will stay as such. We could see dramatic changes in economic conditions. The drain on the government caused by the retirement of the Baby Boomers may exceed expectations. Future leaders may fall pray to the ''general propensity * * * to shift the burden'' that Alexander Hamilton wrote about so long ago. We need to establish guarantees for future generations. The balanced budget amendment is the best such mechanism available.

ADDITIONAL COSPONSORS

S. 9

At the request of Mr. CORZINE, his name was added as a cosponsor of S. 9, a bill to amend the Internal Revenue Code of 1986 to provide tax relief, and for other purposes.

S. 11

At the request of Mrs. HUTCHISON, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 11, a bill to amend the Internal Revenue Code of 1986 to eliminate the marriage penalty by providing that the income tax rate bracket amounts, and the amount of the standard deduction, for joint returns shall be twice the amounts applicable to unmarried individuals, and for other purposes.

S. 17

At the request of Mr. CLELAND, his name was added as a cosponsor of S. 17, a bill to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform.

S. 25

At the request of Mrs. FEINSTEIN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 25, a bill to provide for the implementation of a system of licensing for purchasers of certain firearms and for a record of sale system for those firearms, and for other purposes.

S. 29

At the request of Mr. BOND, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 29, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for 100 percent of the health insurance costs of self-employed individuals.

S. 41

At the request of Mr. HATCH, the names of the Senator from Louisiana (Ms. LANDRIEU), the Senator from Vermont (Mr. LEAHY), the Senator from Georgia (Mr. CLELAND), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Michigan (Mr. LEVIN), the Senator from Iowa (Mr. HARKIN), the Senator from Washington (Mrs. MURRAY), and the Senator from Nevada (Mr. REID) were added as cosponsors of S. 41, a bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit and to increase the rates of the alternative incremental credit.

S. 77

At the request of Mr. DASCHLE, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 77, a bill to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

S. 88

At the request of Mr. ROCKEFELLER, the names of the Senator from Maryland (Mr. SARBANES) and the Senator from Arkansas (Mr. HUTCHINSON) were added as cosponsors of S. 88, a bill to amend the Internal Revenue Code of 1986 to provide an incentive to ensure that all Americans gain timely and equitable access to the Internet over current and future generations of broadband capability.

S. 104

At the request of Ms. SNOWE, the names of the Senator from Connecticut (Mr. DODD) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. 104, a bill to require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans.

S. 126

At the request of Mr. CLELAND, the name of the Senator from California

(Mrs. BOXER) was added as a cosponsor of S. 126, a bill to authorize the President to present a gold medal on behalf of Congress to former President Jimmy Carter and his wife Rosalynn Carter in recognition of their service to the Nation.

S. 134

At the request of Mrs. FEINSTEIN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 134, a bill to ban the importation of large capacity ammunition feeding devices.

S. 148

At the request of Mr. CRAIG, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 148, a bill to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes.

S. 170

At the request of Mr. REID, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of S. 170, a bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive both military retired pay by reason of their years of military service and disability compensation from the Department of Veterans Affairs for their disability.

S. 205

At the request of Mrs. HUTCHISON, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 205, a bill to amend the Internal Revenue Code of 1986 to waive the income inclusion on a distribution from an individual retirement account to the extent that the distribution is contributed for charitable purposes.

S. 206

At the request of Mr. SHELBY, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 206, a bill to repeal the Public Utility Holding Company Act of 1935, to enact the Public Utility Holding Company Act of 2001, and for other purposes.

S. 220

At the request of Mr. GRASSLEY, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 220, a bill to amend title 11, United States Code, and for other purposes.

S. CON. RES. 3

At the request of Mr. FEINGOLD, the names of the Senator from Maine (Ms. COLLINS), the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Alabama (Mr. SESSIONS) were added as cosponsors of S. Con. Res. 3, a concurrent resolution expressing the sense of Congress that a commemorative postage stamp should be issued in honor of the U.S.S. *Wisconsin* and all those who served aboard her.

S. CON. RES. 5

At the request of Mr. INOUYE, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. Con. Res. 5, a concurrent resolution commemorating the 100th Anniversary of the United States Army Nurse Corps.

S. CON. RES. 6

At the request of Mr. BIDEN, his name was added as a cosponsor of S. Con. Res. 6, a concurrent resolution expressing the sympathy for the victims of the devastating earthquake that struck India on January 26, 2001, and support for ongoing aid efforts.

SENATE RESOLUTION 16—DESIGNATING AUGUST 16, 2001 AS ''NATIONAL AIRBORNE DAY''

Mr. THURMOND submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 16

Whereas the Parachute Test Platoon was authorized by the War Department on June 25, 1940, to experiment with the potential use of airborne troops;

Whereas the Parachute Test Platoon was composed of 48 volunteers that began training in July, 1940;

Whereas the Parachute Test Platoon performed the first official Army parachute jump on August 16, 1940;

Whereas the success of the Parachute Test Platoon led to the formation of a large and successful airborne contingent serving from World War II until the present;

Whereas the 11th, 13th, 17th, 82nd, and 101st Airborne Divisions and the numerous other regimental and battalion-sized airborne units were organized following the success of the Parachute Test Platoon;

Whereas the 501st Parachute Battalion participated successfully and valiantly in achieving victory in World War II;

Whereas the airborne achievements during World War II provided the basis for continuing the development of a diversified force of parachute and air assault troops;

Whereas paratroopers, glidermen, and air assault troops of the United States were and are proud members of the world's most exclusive and honorable fraternity, have earned and wear the ''Silver Wings of Courage'', have participated in a total of 93 combat jumps, and have distinguished themselves in battle by earning 69 Congressional Medals of Honor, the highest military decoration of the United States, and hundreds of Distinguished Service Crosses and Silver Stars;

Whereas these airborne forces have performed in important military and peacekeeping operations, wherever needed, in World War II, Korea, Vietnam, Lebanon, Sinai, the Dominican Republic, Panama, Somalia, Haiti, and Bosnia; and

Whereas the Senate joins together with the airborne community to celebrate August 16, 2001 (the 61st anniversary of the first official parachute jump by the Parachute Test Platoon), as ''National Airborne Day'': Now, therefore, be it

Resolved, That the Senate—

(1) designates August 16, 2001, as ''National Airborne Day''; and

(2) requests that the President issue a proclamation calling on Federal, State, and local administrators and the people of the United States to observe the day with appropriate programs, ceremonies, and activities.

Mr. THURMOND. Mr. President, I am pleased to rise today to introduce a Senate resolution which designates August 16, 2001 as ''National Airborne Day.''

On June 25, 1940, the War Department authorized the Parachute Test Platoon to experiment with the potential use of airborne troops. The Parachute Test Platoon, which was composed of 48 volunteers, performed the first official army parachute jump on August 16, 1940. The success of the Platoon led to the formation of a large and successful airborne contingent that has served from World War Two until the present.

I was privileged to serve with the 82nd Airborne Division, one of the first airborne divisions to be organized. In a two-year period during World War Two, the regiments of the 82nd served in Italy at Anzio, in France at Normandy (where I landed with them), and at the Battle of the Bulge.

The 11th, 13th, 17th, and 101st Airborne Divisions and numerous other regimental and battalion size airborne units were also organized following the success of the Parachute Test Platoon. In the last sixty years, these airborne forces have performed in important military and peace-keeping operations all over the world, and it is only fitting that we honor them.

Through passage of ''National Airborne Day'', the Senate will reaffirm our support for the members of the airborne community and also show our gratitude for their tireless commitment to our Nation's defense and ideals.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, January 31 at 9:30 a.m. to conduct an oversight hearing. The hearing is entitled ''California's Electricity Crisis and Implications for the West.''

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

COMMITTEE ON INDIAN AFFAIRS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, January 31, 2001 at 9:15 a.m. in room 485 of the Russell Senate Office Building to conduct a business/organizational meeting to elect the chairman and vice chairman of the committee.

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

PRIVILEGE OF THE FLOOR

Mr. LEAHY. Mr. President, I ask unanimous consent that David Goldberg and Kara Fecht be granted floor privileges for the remainder of the debate on the nomination of John Ashcroft to be Attorney General.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDERS FOR THURSDAY, FEBRUARY 1, 2001

Mr. ALLEN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9 a.m. on Thursday, February 1. I further ask consent that on Thursday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of the nomination of John Ashcroft to be Attorney General, as under the previous order.

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

PROGRAM

Mr. ALLEN. Tomorrow the Senate will resume debate on the Ashcroft nomination at 9 a.m. under the order. Closing remarks will be made throughout the morning. Senators should be aware that a vote on confirmation will occur at 1:45 p.m. Following the final confirmation of the President's Cabinet, the Senate is expected to adjourn in an effort to accommodate those participating in the party retreats taking place tomorrow afternoon and into the weekend.

ORDER FOR ADJOURNMENT

Mr. ALLEN. If there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order, following the remarks by the Senator from Florida, Mr. GRAHAM.

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

The Senator from Florida.

NOMINATION OF JOHN ASHCROFT

Mr. GRAHAM. Mr. President, the position of United States Attorney General is the most sensitive in the executive branch.

I have made a practice of setting a different standard for approval of persons nominated to serve in the president's cabinet and those the president has chosen for federal judgeships.

In the former instance, there is a very strong presumption that the president should have the right to choose whomever he feels would effectively carry out his administration's policies.

With a federal judge nominee, that presumption is lessened. Federal judges serve not at the pleasure of the president, but rather for a lifetime and represent the third, equal branch of government.

I place the appointment of an attorney general in between these two standards because of the office's unique role.

The attorney general has far more autonomy than does any other cabinet head. The attorney general decides when and how to take legal action and use government resources supplied by taxpayer dollars.

Attorneys general do not just enforce the law. They have broad discretion to interpret the law, then enforce it based on that interpretation. Traditionally, the attorney general does not attend political functions or otherwise engage in partisan politics to preserve the appearance of neutrality.

Rarely does the president interfere in the realm of the attorney general—a notable exception being when Attorney General Elliot Richardson resigned to avoid complying with President Nixon's order to fire the special prosecutor investigating the Watergate burglary. More often, the president consults the attorney general for legal counsel and follows that advice. The attorney general's interpretations then become government policy.

Interpretation of a law by a United States attorney general has been responsible for some of this country's proudest moments, and some of its most shameful. It was a United States attorney general, in the cabinet of President Martin Van Buren, who argued that the men and women who had rebelled against their slave masters on the Spanish ship Amistad, were property and should be returned to captivity.

It was also the interpretation of civil rights statutes that led Attorney General Robert Kennedy to use federal troops to desegregate schools. Kennedy also chose to use the government's resources to ensure the right of African-Americans to vote—filing more than 50 law suits in four states that were resisting change.

In large part because of this legacy, the attorney general has come to be seen as the primary defender of individuals' basic civil rights.

Because of this protective role, and because of the discretionary nature of the job, the attorney general must be a person who commands the respect of all people in the country. That doesn't mean that everyone has to agree with everything the attorney general has done in the past.

But the attorney general must be able to carry out the covenant with America that comes with the job—the agreement to look at the law with an unbiased eye and enforce it without personal or political prejudice.

I submitted questions to Senator Ashcroft to help me ascertain his level of commitment to that covenant. Specifically, I am concerned about the investigation by the Department of Justice Civil Rights Division into allegations of discrimination in the November 7, 2000 election in Florida. These are serious allegations. These are not about chads, or butterflies or any of the other arcane voting terms that have made their way into the wider American lexicon. These are about Americans and their fundamental rights. These must be investigated by someone who has the trust and confidence of the public.

Investigations are now being conducted by the Department of Justice's Civil Rights division and the United States Commission on Civil Rights.

The focus of these investigations is to determine whether these individual acts, which denied citizens the right to vote, were just that—individual acts of incompetence and inefficiency—or whether they represented a conscious pattern intended to deny thousands of Floridians the right to vote.

Allow me to share a few of the allegations. Donnise DeSouza, a Miami attorney, wanted to teach her 5-year-old son about democracy by letting him punch her ballot. Instead she was told her name was not on the proper list, and was sent home without having cast a vote.

Ernest Duval is a Haitian American who lives in Palm Beach County. He, like many others, found the ballot layout confusing. He punched the wrong hole, recognized his mistake, and asked for a new ballot. His request was denied. He was left with no choice but to repunch the original. His ballot became an official ''overvote'' and was discarded. He told the NAACP ''I left Haiti for the freedom to live in a free land. We have the right to choose the right person.''

Radio host Stacey Powers visited polling sites to encourage African-American voters and saw police officers harassing an elderly African-American man for doing nothing more than being in the neighborhood. After she reported it on the air, a police car followed her for five and a half miles.

These were not just the complaints of a few disenfranchised or intimidated voters. In an operation of this scale, reasonable people recognize that unfortunate mistakes will happen. But on Election Day, complaints came from every corner of the state.

Voters in the City of Plantation were never notified that their polling place, Plantation Elementary School, had been demolished two weeks before Election Day. Reports were made of police officers' blocking roads in close proximity to polling places and of minority voters being forced to show identification that white voters didn't need to have. Phones in a number of minority precincts were not working, leaving precinct workers unable to call central election offices for help with broken machines and other problems.

Just as troubling was the information that came out after the election. Statistical analyses by civil rights groups and news organizations suggest that outdated or dilapidated voting equipment was most likely to be found in areas with a high concentration of minority voters. And so it followed that minorities were far more likely to have their votes thrown out than were white Florida voters.

The question that remains is whether these were isolated, though widespread

incidences, or if there is a broad, systematic pattern of discouraging or preventing minority votes.

If these allegations are swept under the rug, if they go without a thorough review—and prosecutions if necessary—there will be a permanent scar on the face of our democracy. These allegations are germane to these proceedings because the attorney general, by congressional statute, has almost total discretion to enforce federal voting rights laws.

The attorney general will decide how the investigation into these allegations proceeds—if it does at all—and what will come of the findings.

I asked Senator Ashcroft several questions to further understand his commitment to this investigation: Whether he could assure us that such an investigation could be completed in a timely matter. What was his plan of action for remedies if violations of the Voting Rights Act are identified? Would he consider appropriate decertification of all punch-card voting methods and other unreliable methods, or discontinue purges of the voter registration rolls until procedures are put in place to ensure that such purges are done in a uniform and non-discriminatory fashion? If the United States Commission on Civil Rights does discover instances of voter disenfranchisement, will the Department of Justice expand its investigation and aggressively prosecute violations of the Voting Rights Act? How will the Department of Justice use information from this election to make sure discrimination is not given free reign in the future?

In answering my questions, Senator Ashcroft said the right thing, but did so in a perfunctory manner. The answers were long on platitudes, short on specificity. He did not present a course of action in pursuit of the truth, nor offer potential solutions.

Had these answers been the only information available about Senator Ashcroft's commitment to civil rights, I may have accepted them on their face and approved this nomination.

But Senator Ashcroft has a long record of public service that suggests enforcement of civil rights is not his highest priority. My colleagues on the Judiciary Committee raised questions about several of these incidents. I share their concern. I also believe, as his supporters have said, that Senator Ashcroft has a good heart and that he is a man of integrity.

I hope that my apprehensions about Senator Ashcroft turn out to have been unwarranted and that if confirmed, as I assume he will be, he will prove me wrong by carrying on a full, fair hearing of the allegations raised by thousands of Floridians.

I look forward to the opportunity to acknowledge my mistake. But I am not prepared to take the risk that Senator Ashcroft's longstanding practice of not defending the civil rights of minorities will be prologue to his policies as attorney general.

Since the birth of this country people have died fighting for the right to vote. Our own American Revolution was about lack of representation, lack of voice and choice in governance. Nearly two centuries later Michael Schwerner, Andrew Goodman and James Chaney, were brutally murdered for trying to register African-Americans to vote.

More recently, Americans have been lulled into complacency about voting rights. We seem to believe that if there are no obvious deterrents to voting, like poll taxes, then there are no voting-rights violations.

The events of the past election should wake us up. The right to vote can be violated by armed men lurking menacingly at the door of the polling place.

The right to vote can also be stolen by antiquated voting equipment and careless or discriminatory purging of the voter rolls. Coupled with his record, Senator Ashcroft's answers to my inquiries do not convince me of a genuine commitment to a forceful investigation and follow-up action of voting-rights violations in Florida.

I am not confident that action will follow words. Therefore, I will vote ''no'' on the confirmation of John Ashcroft for United States Attorney General.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

The PRESIDING OFFICER (Mr. ALLEN). Under the previous order, the Senate stands adjourned until the hour of 9 a.m. on Thursday, February 1, 2001.

Thereupon, the Senate, at 8:08 p.m., adjourned in executive session until Thursday, February 1, 2001, at 9 a.m.