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.