

record of objection to attempts to regulate this industry in order to protect our children, be confirmed for our Nation's second highest law enforcement position? Is he the best choice to actively identify and prosecute those who seek to harm our children?

Highlights of the Department of Justice's budget request for the year 2010 indicate an increased focus on educating and rehabilitating criminals, while neglecting funding for vital child-safety programs such as the Adam Walsh Act. I believe Mr. Ogden's past positions, coupled with the Department's growing trend to prioritize criminal rehabilitation over child safety, cause me great concern this afternoon.

There is not a quick and easy solution to the problems of child exploitation, but I can state unequivocally that we need a proactive and aggressive Department of Justice to take the steps necessary to attack this problem and demonstrate that protecting our children is a top priority. I am not certain David Ogden will bring that leadership to the Department; therefore, I must oppose this nomination.

This vote is made with the belief that a person's past legal positions do mean a great deal. I think if most Americans knew what this man has worked for and whom he has willingly represented, support for his nomination would disappear. I do not believe his legal philosophy, illustrated in the clients he freely chose to represent, reflects the majority's views on the issue of child exploitation. I know certainly they do not reflect mine.

TRAGEDY IN ALABAMA

Mr. SHELBY. Mr. President, I want to get into something else you have been reading about what happened in my State of Alabama yesterday. I offer my condolences to the families and friends of the victims killed in Samson, AL.

Yesterday, my State of Alabama suffered the worst mass shooting in our State's history. As this tragedy unfolded, our law enforcement responded bravely. I commend them for their actions and efforts. I also offer my sincere sympathies to the victims, their families, and the community. This is a tragedy that did not have to happen.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

(The remarks of Mr. LEVIN and Mr. GRASSLEY pertaining to the introduction of S. 569 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. GRASSLEY. I suggest the absence of a quorum and ask unanimous consent that the time be equally divided.

The PRESIDING OFFICER (Mrs. SHAHEEN). Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BROWNBACK. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. BROWNBACK. Madam President, I rise to speak about the nomination of David Ogden to be Deputy Attorney General of the Department of Justice. To summarize what I see in the RECORD, what I have read, I am very disappointed in the Obama administration for nominating this individual who is obviously talented but has also obviously chosen to represent, sometimes on a pro bono basis, groups that push pornography. He even represented interests against child pornography laws that we have passed by unanimous votes in the Senate.

Here is a gentleman who has taken up these causes as a lawyer. I appreciate his skill and ability as a lawyer. I appreciate his willingness to represent a client. But he has chosen to consistently represent pornography companies and groups. Even against the unanimous opinion of this body on child pornography cases, he has taken the other side. The message that sends across the country to people—when we are struggling with a huge wave of pornography, and then, at the worst end of it, child pornography—the message it sends around the rest of the country is this is a Justice Department that is not going to enforce these child pornography laws or is not concerned about this, when we have an epidemic wave of pornography, and particularly of child pornography, that is striking across the United States, and that this is harming our children. It is harming our society overall. Now, at the second to the top place of enforcement, you are putting your Deputy Attorney General who has taken on these cases, and sometimes in a pro bono manner.

I have no doubt of his legal skills. But the message this sends across the country to parents, who are struggling to raise kids, is not a good one. Our office has been receiving all sorts of calls opposed to Mr. Ogden's nomination because of that very feature—and deeply concerned calls because they are struggling within their own families to try to raise kids, to try to raise kids responsibly, and to try to raise them in a culture that oftentimes is very difficult with the amount of violent material, sexual material that is out there, and hoping their Government can kind of back them a little bit and say: These things are wrong. Child pornography is wrong. It should not take place. It should not be on the Internet. And you should not participate in it.

Instead, to then nominate somebody who has represented groups supporting that dispirits a number of parents and says: Is not even my Government and its enforcement arms going to take this on? Are they not going to be concerned about this, as I am concerned about it as a parent? I see it pop up on the Internet, on the screen, at our home way too often, and I do not want to see this continue to take place. Then along comes this nominee, who knocks the legs out from under a number of parents.

I want to give one quick fact on this that startled me when I was looking at it. It is about the infiltration of pornography into the popular culture, and particularly directly into our homes, and now it is an issue that all families grapple with, our family has grappled with. My wife and I have five children. Three of them are out of the household now. We still have two of them at home. We grapple and wrestle with this. Once relatively difficult to procure, pornography is now so pervasive that it is freely discussed on popular, prime-time television shows. The statistics on the number of children who have been exposed to pornography are alarming.

A recent study found that 34 percent of adolescents reported being exposed to unwanted—this is even unsolicited; unwanted—sexual content online, a figure that, sadly, had risen 9 percent over the last 5 years. Madam President, 9 out of 10 children between the ages of 8 and 16 who have Internet access have viewed porn Web sites—9 out of 10 children between the ages of 8 and 16 who have Internet access have viewed porn Web sites—usually in the course of looking up information for homework.

It is a very addictive situation we have today. I held a hearing several years back about the addictiveness of pornography, and we had experts in testifying that this is now the most addictive substance out in the U.S. society today because once it gets into your head, you cannot like dry off or dry out of it.

The situation is alarming on its impact on marriages. There is strong evidence that marriages are also adversely affected by addiction to sexually addictive materials. At a past meeting of the American Academy of Matrimonial Lawyers, two-thirds of the divorce lawyers who attended said that excessive interest in online pornography played a significant role in divorces in the previous year. That is two-thirds of the divorce lawyers saying this is getting to be a situation that is impacting so many of our clients and is so pervasive.

While David Ogden possesses impressive academic credentials, and he certainly is a talented lawyer, he has also represented several clients, significant clients, with views far outside the mainstream, and he has not, to my satisfaction, disavowed the views of these clients. He was given every chance to in hearings. He was trying to be pinned down by people on the committee about: What are your views? I understand your clients' views. What are your views? And he would not respond to those.

He said: Well, these are views of my clients. I understand the views of your clients. If they are pushing pornography, child pornography, want to have access to this, I understand that. What are your views? And he demurred each time and would not respond clearly.

Based on that record, I am led to believe it is highly likely David Ogden

may share the views of some of his clients—of those who have supported pornography—and I cannot trust him to enforce some of our Nation's most important antichild pornography laws—laws that he has a history of arguing are unconstitutional. That is a position he took as a lawyer: that these are unconstitutional, antichild pornography laws.

In an amicus brief David Ogden filed in *United States v. American Library Association*, he argued that the Children's Internet Protection Act, which requires libraries receiving Federal funds to protect children from online pornography on library computers, censored constitutionally protected material and that Congress was violating the first amendment rights of library patrons. Now, that was the position David Ogden took.

In a response to written questions submitted by Senator GRASSLEY after his confirmation hearing, David Ogden indicated he served as pro bono counsel—for people who are not lawyers, that means he did it for free—in this case, further calling into question his personal views. If you are willing to represent a client for free, it seems to me there is some discussion or possibility you may really share your client's views on this issue regarding access to online pornography at libraries.

The Children's Internet Protection Act passed this body, the Senate, by a vote of 95 to 3 back in 2000. Ninety-five Members of this body believed the Children's Internet Protection Act was an appropriate measure to protect children from Internet filth and was constitutional because our duty, as well, is to stand for the Constitution and to abide by the Constitution and uphold it.

How can we trust David Ogden to enforce this law when he argued against it as a pro bono counsel?

In another very disturbing case, *Knox v. the United States*, in which Stephen Knox was charged and convicted for violating antichild pornography laws—these are child pornography laws but child pornography laws which I think are in another thoroughly disgusting category—David Ogden filed a brief on behalf of the ACLU and others challenging the Federal child pornography statutes. At issue in this case was how child pornography is defined under the Federal statutes.

I am sure many of my colleagues will remember the controversy that surrounded this case. As you may recall, Stephen Knox was prosecuted by the Bush Justice Department—during the first Bush Presidency—and ultimately convicted, after U.S. Customs intercepted foreign videotapes he had ordered. By the time his conviction was appealed, however, President Clinton was in office, and the Justice Department changed its position on Knox's conviction. Drew Days, Clinton's Solicitor General at the time, chose not to defend the conviction of Knox.

The Clinton Justice Department said: Yes, he is convicted, but we are not going to prosecute this. But the Senate, by a vote of 100 to 0—which is really rare to get around this place—and the House, by a vote of 425 to 3, rejected the Clinton Justice Department's interpretation of the child porn laws. The Senate unanimously said: Prosecute this. Prosecute this child pornography case.

David Ogden was on the wrong side of this case. I urge my colleagues to consider whether a man who has taken such extreme positions on pornography, and especially child pornography, can be trusted to enforce Federal laws prohibiting this cultural toxic waste. I am not convinced that David Ogden does not share the views he advocated in the Knox case, and I am concerned that at the very least he may be sympathetic to the views of his former clients.

I hope David Ogden proves me wrong and he demonstrates a strong willingness to enforce Federal child pornography and obscenity laws. These laws are on the books. I hope he enforces them. But I cannot in good conscience vote in favor of his nomination given his past record and the positions he has taken. His past positions have been far too extreme and outside of the mainstream for me, or I think for most Americans, and certainly for most parents, to be able to support him to be No. 2 in command of the Justice Department that enforces these laws.

I realize many of my colleagues, and likely the majority, are going to cast their votes in favor of David Ogden. Before they do, I ask them to please consider the negative impact pornography has had—and particularly child pornography has had—on this society and the important role the Justice Department plays in protecting children from obscene and pornographic material, particularly child pornography.

The infiltration of pornography into our popular culture and our homes is an issue that every family now grapples with. Once relatively difficult to procure, it is now so pervasive that it is freely discussed all over. Pornography has become both pervasive and intrusive in print and especially on the Internet. Lamentably, pornography is now also a multibillion-dollar-a-year industry. While sexually explicit material is often talked about in terms of "free speech," too little has been said about its devastating effects on users and their families.

According to many legal scholars, one reason for the industry's growth is a legal regime that has undermined the whole notion that illegal obscenity can be prosecuted. The Federal judiciary continues to challenge our ability to protect our families and our children from gratuitous pornographic images, and we must have a Justice Department that is committed to combating this most extreme form of pornography.

Perhaps the ugliest aspect of the pornographic epidemic is child pornog-

raphy. This is where Mr. Ogden's record is most disturbing because he is outside of even the minimal consensus on pornographic prosecutions that exist. Children as young as 5 years old are being used for profit in this, regrettably, fast-growing industry. While there has been very little consensus on the prosecution of even the most hardcore adult pornography, there has been widespread agreement on the necessity of going after the purveyors of child porn. Despite this agreement, this exploitive industry continues to thrive. Every day, there are approximately 116,000 online searches for child pornography—116,000. I think we can all agree that we have a duty to protect the weakest members of our society from exploitation and from abuse.

I fear David Ogden will be a step backward—and certainly sends that signal across our society and to our parents and our families in this effort to combat this most dangerous form of pornography. For those reasons, I will be casting a "no" vote on his confirmation.

Madam President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

OBAMA BUDGET

Mr. HATCH. Madam President, a couple weeks ago the Obama administration released an outline of its budget plan for fiscal year 2010. The budget is a plan that reflects the President's agenda and priorities for the fiscal year.

The document with which most of our colleagues are quite familiar with by now is entitled, "A New Era of Responsibility—Renewing America's Promise." While this is a nice title for which I commend the President, it does not sound like the appropriate name for a work of fiction. Because of the impact of the policies outlined in this budget, a more fitting title might be, "How To End America's Global Leadership and Prosperity Without Really Trying." Even better, it sounds more like a 1973 Disney animation entitled "Robinhood."

In this Oscar-nominated movie about a legendary outlaw, I think a colloquy between Little John and Robinhood sums it up best. Little John said:

You know somethin', Robin? I was just wonderin', are we good guys or bad guys? You know, I mean our robbing the rich to give to the poor.

Robinhood responded:

Rob? Tsk, tsk, tsk. That's a naughty word. We never rob. We just sort of borrow a bit from those who can afford it.

Simply stated, this budget declares war on American jobs and on the ability of American businesses to save or