

Senate, immediately gavelled the motion out of order!

Deutsch was followed by a dozen members of the Congressional Black Caucus, including Alcee Hastings (D-Fla.), Sheila Jackson Lee (D-Tex.), William Clay (D-Mo.), Maxine Waters (D-Calif.), and Jesse Jackson, Jr. (D-Ill.). Gore repeatedly swung his gavel, ruling that unless their objection had a Senator's signature, they were out of order. Finally, Jackson appealed to Senate Democrats, "Is it the case, that no Democratic member of the Senate will rise in support of this Democratic objection, brought by Democratic members of the House, on behalf of Democratic voters?" Silence. Again, Gore swung his gavel. Thirteen members of the Congressional Black Caucus walked out in protest, and immediately convened a press conference.

In that press conference (see report, p. 62), the visibly upset and angry Representatives delivered powerful and articulate statements slamming the rampant violations of the Voting Rights Act that were apparent in the Federal elections, along with the unconscionable role of the right-wing U.S. Supreme Court majority around Chief Justice William Rehnquist and Associate Justice Antonin Scalia. Four speakers made clear that there would be no peace for the Bush Administration, and specifically challenged the Ashcroft nomination.

Meanwhile, Gore joked with the House Parliamentarian, whose advice he had repeatedly invoked in silencing the Congressional Black Caucus, "Hey, thanks, guys! I always do well when I'm given a script." Gore also smiled for photogra-

phers as he autographed the gavel he had swung so freely on Bush's behalf for Dennis Hastert (Ill.), the Republican Speaker of the House.

The Ashcroft Nomination

Now, the focus has shifted to the mounting controversy over the Ashcroft nomination. Despite an attempt to rush Ashcroft's confirmation through with hastily scheduled hearings that are to commence on Jan. 16, the nomination is recognized to be in serious trouble.

LaRouche has thrown the full weight of his international movement behind the effort to stop Ashcroft, and opposition to the nomination is growing rapidly. Although Lott has threatened to nullify all power-sharing deals if Ashcroft is given a hard time, it seems that this time, Daschle has no chance of silencing Senate Democrats, who have no choice but to respond to the growing outrage of their constituents. Lott has insisted that he has the 51 votes required for confirmation. But, as we go to press, there is a growing threat that a group of Democratic Senators will defy Daschle and launch a filibuster. And, although Lott and Daschle may be able to find 51 votes in favor of confirmation, well-placed Senate sources say that they absolutely do not have the 61 votes they would need to quell a filibuster.

Testimony to the Senate Judiciary Committee strongly opposing Ashcroft's nomination, delivered on behalf of Lyndon LaRouche, follows below.

LaRouche Spokesperson Tells Senate

Ashcroft as Attorney General Threatens Constitutional Rule

The following is testimony by Dr. Debra H. Freeman in opposition to the nomination of John Ashcroft to the post of U.S. Attorney General, as delivered to the Senate Judiciary Committee, Jan. 16, 2001. Subheads have been added.

My name is Dr. Debra H. Freeman. I appear before the Committee as the national spokesperson for Lyndon H. LaRouche, Jr., to voice the strongest possible opposition to the nomination of John Ashcroft as the next Attorney General of the United States. My opposition to Mr. Ashcroft's confirmation is shaped by two considerations that go beyond the normal factors that one would weigh, in considering a candidate for the top law enforcement post in the U.S. Federal Executive Branch.

The first of those factors is the extraordinary global finan-

cial and monetary crisis that will be the first and overriding order of business confronting the incoming Bush Administration, as even President-elect Bush and Vice President-elect Richard Cheney have limitedly acknowledged in public statements. The scope of the onrushing world financial and economic crisis, however, goes far beyond anything that anyone in the incoming Administration now anticipates, and it will require a dramatic reversal of most of the policy axioms that have governed U.S. official policy over the past 35 years, if the United States is to survive in its present, albeit weakened, Constitutional form. Unlike the so-called "Asia Crisis" of 1997-98, and the so-called "Russia" and "Brazil" crises of 1998-99, the epicenter of the current phase of global monetary and physical economic disintegration is the advanced sector, specifically the United States, with our skyrocketing balance

of trade deficit, negative household savings, and collapsing real industrial output. Thus, the crisis phase that we have now entered has the most profound implications for the well-being of the American population, and goes to the heart of our domestic tranquility and the common good.

The second factor, in this context, is the role that the next Attorney General will play, as a leading member of the Executive Branch crisis team, dealing with the global financial and monetary crisis, and the other consequent regional and domestic crises, that will arise from these extraordinary circumstances. As the chief law enforcement official of the Federal Executive Branch, the next Attorney General will have responsibilities in this broader crisis-management team setting, that will often supercede his more immediate role within the Justice Department and subsumed Federal law enforcement agencies, proper. Thus, no assessment of Mr. Ashcroft's qualifications can be competently made, without first considering his role within a Presidential team, focussed on dealing with this now unavoidable series of crises.

The Administration's Choices

The incoming Administration will be faced, immediately, with the choice between: 1) abandoning the current economic and monetary policy axioms and returning to policies that, in the past, have led the United States and the world out of the path of disaster, as during the Presidency of Franklin D. Roosevelt; or, 2) under the guise of "crisis management," imposing a form of brutal bureaucratic fascism on the United States, that bears striking similarities to the conditions under which Adolf Hitler seized power in Germany in 1933. It was Hitler's "crisis management" of the Reichstag fire and other events, real and manufactured, that established the dictatorship that no one in Germany had anticipated, even weeks before the coup was carried out. Unlike "normal times," the realities of the present crisis period mean that there is no middle ground between these two polar extremes. The luxury of "muddling through" for the next four years is no longer on the table.

These rather blunt words are necessary at this time. They underscore the danger represented by the confirmation of John Ashcroft, under circumstances compounded greatly by the Scalia-Rehnquist majority on the current U.S. Supreme Court, which further increases the danger of a Hitler-style crisis-management dictatorship. Lyndon LaRouche discussed this specific danger, during a Jan. 3, 2001 public symposium in Washington, D.C., in response to a question from members of the U.S. Congress. I quote from Mr. LaRouche's response to the question about the Ashcroft nomination:

"First of all, when Bush put Ashcroft in, as a nomination for the Justice Department, he made it clear, the Ku Klux Klan was riding again. That's clear. Now, maybe Bush didn't know what he was doing. But somebody in the Bush team did. And a lot of them had the voice to say something about it. Ashcroft

was an insult to the Congress. If the Democrats in the Congress, capitulate to the Ashcroft nomination, the Congress is finished.

"This is pretty much like the same thing that Germany did, in Feb. 28, 1933, when the famous *Notverordnung* (emergency decree) was established. Just remember, after the Reichstag burning, the Reichstag fire, that Göring, who commanded at that time, Prussia—he was the Minister-President of Prussia at the time—set into motion an operation. As part of this, operating under rules of Carl Schmitt, a famous pro-Nazi jurist of Germany, they passed this act called the *Notverordnung*, the emergency act, which gave the state the power, according to Schmitt's doctrine, to designate which part of his own population were enemies, and to imprison them, freely. And to eliminate them. This was the dictatorship.

"Now, remember, that Hitler had come into power on Jan. 30 of that same year. Less than two months earlier. He'd come in as a minority party, which had been discredited in the previous election. He was put in by bankers, including the father of President George Bush (the former President), Prescott Bush. Prescott Bush, as agent for Harriman of New York, worked with the British banks, to put Adolf Hitler into power in January of 1933. At that time Hitler was discredited, and about to be bombed out. He was stuck into power because that was the last chance to get him into power.

"Everyone said, no, Hitler's not going to make it, because the majority of the population is against him. Then, on Feb. 28, 1933, the *Notverordnung* act was passed, on the pretext of the Reichstag fire. And this established a dictatorship, which Germany did not get rid of until 1945.

"Now, I'm not suggesting that the case of Ashcroft is comparable to the Reichstag fire. But it's a provocation, a deliberate provocation. And if the Democratic Party and decent Republicans do not combine to throw that nomination back in the face of the nominator, this Congress isn't worth anything. That is, because it will have surrendered its dignity.

"If you give those kinds of powers, of a Justice Department, to that Ashcroft, and what he represents, under that flag, you don't have any justice left in the United States. . . .

"We're going into a period in which either we do the kinds of things I indicated in summary to you today, or else, what you're going to have, is not a government. You're going to have something like a Nazi regime. Maybe not initially at the surface. What you're going to have is a government which cannot pass legislation, meaningful legislation. How does a

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government which cannot pass meaningful legislation, under conditions of crisis, govern? They govern in every case in known history, by what's known as crisis management. In other words, just like the Reichstag fire in Germany.

“What you're going to get with a frustrated Bush Administration, if it's determined to prevent itself from being opposed, you're going to get crisis management. Where members of the special warfare types, of the secret government, the secret police teams, will set off provocations, which will be used to bring about dictatorial powers and emotion, in the name of crisis management.

“You will have small wars set off in various parts of the world, which the Bush Administration will respond to, with crisis-management methods of provocation. That's what you'll get. And that's the problem. And you have to face that. You've got to control this process now, while you still have the power to do so. Don't be like the dumb Germans, who, after Hitler was appointed to the Chancellorship, in January 1933, sat back and said, 'No, we're going to defeat him at the next election.' There was never a next election—there was just this '*Jawohl*,' for Hitler as dictator. Because the *Notverordnung* of February 1933, *eliminated* the political factor.

“And that's the danger you'll get here. If the Bush Administration is determined to hammer its way through on this thing, it's not resisted, and you allow it to do so, you will find that it is strongly tempted. And you look at, remember what former President George Bush's specialty was, as I remember very well. Remember Iran-Contra, one of the biggest mass-murder swindles in modern history, run by Vice President Bush, under special powers, given to him under special orders, with the Executive Branch. *He* ran Iran-Contra, the biggest drug-running game in the world. And behind Bush—and I know these guys very well, because I've been up against them; most of my problems came from these characters—these guys, pushed to the wall, will come out with knives in the dark. They will not fight you politically; they will get you in the back. They will use their thugs to get you. That's their method—know it.

“So, don't sit back and be nice guys. When Bush makes some proposal, which is sensible, it should be treated as a sensible proposal. But when he tries to shove a provocation down your throat, like Ashcroft, no. No way, buddy. No way.”

The Case of Antonin Scalia

Lyndon LaRouche, in an article published in the Jan. 1, 2001 issue of *Executive Intelligence Review*, developed, at great length, the added dangers inherent in the outlook of Associate Supreme Court Justice Antonin Scalia. These are not academic issues. Under the crisis conditions that I have already cited, the danger of a Rehnquist-Scalia Supreme Court majority, with a co-thinker like Mr. Ashcroft in the post of Attorney General, is that the Court and the Justice Department would function as a road-block to the necessary



Dr. Debra H. Freeman, who delivered Lyndon LaRouche's assessment of the danger of emergency rule by decree in the current crisis, to the Senate Judiciary Committee.

emergency economic measures that any sensible President would adopt, to promote the general welfare. Worse, they would usher in the kinds of police-state measures that were adopted by the Nazis after February 1933, against any pockets of policy resistance LaRouche began his article, “Scalia and the Intent of Law,” with the following warning:

“A crucial, systemic, and deadly element of constitutional fraud, permeates and subsumes the most notable rulings bearing upon criminal justice, political, and economic issues, among those uttered by the U.S. Supreme Court's Associate Justice Antonin Scalia. For reasons I shall identify here, Scalia's avowed doctrine of 'textualism,' if continued in practice under presently onrushing conditions of deep financial crisis, leads, quickly, either to a self-doomed fascist dictatorship, or a rapid descent of society directly into chaos.

“If Scalia's dogma were to continue to define the majority view of the U.S. Supreme Court, an early slide into chaos could occur simply as a result of a specific political inability of the incoming government: its inability to muster the kind of political support needed for any of those kinds of legislative and other measures, by means of which our nation could be saved from the now rapidly accelerating threat of financial and economic chaos. No effective measures to deal with this present crisis, could be taken, without overriding promptly virtually every principle for which Scalia has presently come to represent in that Court. . . .

“Given the implications of the grave financial crises faced by the U.S.A. today, the crucial fact of greatest importance concerning Scalia's doctrines on law, is that his political and legal outlook is identical, on all crucially relevant points of comparison, to the legal dogmas used to bring Adolf Hitler to

power during a roughly comparable period of grave financial crisis in Germany. Specifically, Scalia expresses the same explicitly Romantic dogmas of the pro-fascist ‘conservative revolution’ of G.W.F. Hegel, Friedrich Nietzsche, et al., which Scalia has imitated, in keeping with the model precedent of the so-called ‘Crown Jurist’ of Nazi Germany, Carl Schmitt. That is the Schmitt who was the legal architect of the doctrine creating those dictatorial powers given, with ‘finality,’ to the Nazi regime of Adolf Hitler.

“At this juncture, that importance of *that* issue of Scalia’s personality, must not be avoided, and my warning should not be considered as in any way an exaggerated one. Even allowing for the secondary differences in method between that British radical-empiricist school, which is followed by Scalia, and continental European forms of philosophical Romanticism of Schmitt and his predecessors, Scalia’s radically nominalist form of legal philosophy, is implicitly fully as evil in its inhering effects, and shares all of the crucial features, which were the worst implications of the way in which the doctrines of Schmitt were used to confer dictatorial (*Notverordnung*) powers upon Adolf Hitler. Indeed, from the standpoint of philosophy of law in general, Scalia’s doctrine is intrinsically even more hideous than that of Schmitt.

“Even from the standpoint of Scalia’s specifically British, radical-empiricist dogma of ‘textualism,’ it is already clear, that under the relatively gravest conditions of international banking crisis, such as those of 1932-1933 and, the worse crisis of today, that the application of the legal doctrines of either a Schmitt or a Scalia must tend to result, equally, in either the early imposition of the most hideous modern form of dictatorship, as ferocious as that of Hitler, within the U.S.A. itself; or, as I have already said, in the more likely alternative, the attempt to enforce Scalia’s or kindred doctrine, would lead to the simple disintegration of the U.S. as a nation, a disintegration like that of Shelley’s *Ozymandias*.

“I recapitulate that just-stated point for clarity, as follows. *It were inevitable, that if the doctrine expressed by Scalia, were to continue to prevail at the highest levels of the U.S. government, that under the conditions of crisis now confronting the U.S.A., and also the world at large, the result must either be a form of a dictatorship in the U.S.A. as bad, and probably worse than that in Germany under the Hitler dictatorship, or, should such a dictatorship fail, as is likely, the worst dark age in the recent memory of our planet.* I am not predicting an Armageddon; I am Jonah delivering a warning to the U.S. Nineveh, warning of the available choice before us all. Unless Scalia’s influence is effectively resisted, such dismal prospects were virtually inevitable for the near future.”

A Long-Standing Record

Mr. Ashcroft has a long-standing record of public policy positions that contradict the fundamental Constitutional provisions of the General Welfare Clause of the Preamble, that

demand of the Federal Government, nothing less than the zealous pursuit of the inalienable rights of every individual citizen to “life, liberty and the pursuit of happiness.” As Missouri Attorney General, as Governor, and later as U.S. Senator, Mr. Ashcroft has fought against the rights of all Americans to equal educational opportunities, he has been a zealous advocate of the death penalty, has placed states’ rights above the proper role of the Federal Government, and has labored to undermine the U.S. Constitution through a series of efforts to remove safeguards against frivolous or radical amendments.

One of the unfortunate legacies of the Clinton Administration is that the Department of Justice and the Federal Bureau of Investigation, today, enjoy greater unchecked bureaucratic power than at any time in recent memory. Early efforts by the Clinton Administration to curb the excessive powers of the DOJ and the FBI, built up during previous administrations, were successfully thwarted, to the point that the Presidency, itself, became a first-order target of Federal law enforcement agencies, rendering later reform impossible. In the past, I have presented testimony before this Committee, documenting the shameful pattern of judicial abuses by the FBI and the Department of Justice Criminal Division, in Operation Fruehmenschen (which targeted thousands of African-American elected officials for judicial frame-up), in the Waco and Ruby Ridge massacres, and, most emphatically, in the railroad prosecution of Lyndon LaRouche and dozens of his political associates. The LaRouche case was described by former U.S. Attorney General Ramsey Clark, in 1995 testimony before an independent commission on Justice Department tyranny: “I believe [the LaRouche case] involves a broader range of deliberate and systematic misconduct and abuse of power over a longer period of time in an effort to destroy a political movement and leader, than any other Federal prosecution in my time or to my knowledge.”

In 1998, a bipartisan majority of members of the House of Representatives backed the McDade-Murtha bill, which attempted to place serious constraints on the Justice Department, the FBI, and other Federal law enforcement agencies—to prevent the continuing pattern of official criminality and abuses, targeted against American citizens. That effort was only partially successful. Much remains to be done to assure that the U.S. Justice Department no longer serves as a government-sponsored political police and assassination bureau.

Were John Ashcroft to be confirmed as Attorney General, he would only augment the horrible abuses of power and criminal tyranny, already rampant within the Justice Department and FBI bureaucracies, especially under the global crisis conditions I have outlined above. For all of these reasons, the appointment of John Ashcroft must be rejected by this Committee.

Thank you.