

use of contraceptives “require an individual to draw upon education, judgment and skill based upon knowledge and application of principles in addition to and beyond biological, physical, social, and nursing sciences.” *Sermchief*, 660 S.W.2d at 686.

It was not unreasonable for the Board to argue that services that were generally performed by physicians and required the “education, judgment and skill” beyond “nursing sciences.” In fact, at trial, many prominent physicians testified as such. The Supreme Court, however, ruled in favor of the plaintiffs, based upon the legislative standard that was set at the time. The court relied on the nurses’ professional status to know what their limits were. The Board, in bringing the case originally, simply didn’t feel comfortable relying on the knowledge of an individual nurse as to what his or her limits were.

Any characterization of Senator Ashcroft’s actions as Missouri Attorney General as an effort to deny health services to rural or low income patients, is at war with the facts. He was the Attorney General, and he had an obligation to defend the constitutionality of the statute. That is what he did, and it was perfectly appropriate.

Finally, I would like to respond to some criticism leveled at Senator Ashcroft for his support of pro-life legislation while Governor of Missouri. Even ardent supporters of *Roe v. Wade* must admit that the decision is not the model of clarity. Moreover, it did not, contrary to what many special interest groups claim, authorize abortion on demand. The decision, while establishing a constitutional right to abortion, set up a scheme that, in the words of Justice White, left the Supreme Court to serve as the country’s “ex officio medical board with powers to approve or disapprove medical and operative practices and standards throughout the United States.” *Planned Parenthood of Central Mo. v. Danforth*, 428 U.S. 52, 99 (1976). Thus, even after the *Roe* decision, there remained many unanswered questions about the contours of this new constitutional right. These questions included, for example, issues about parental consent for minors, minimal standards for abortion clinics, and whether public facilities or employees can be used to perform abortions. Many state legislatures—not just Missouri’s—sought to answer these questions left unanswered by *Roe*.

The statute passed by the Missouri legislature and signed by then-Governor Ashcroft in 1986 was one of these attempts to define the parameters of the right to an abortion. Many abortions-rights extremists forget that the Supreme Court, in its abortion cases, has consistently held that states have an interest in protecting the health and safety of its citizens and in reducing the incidence of abortions. The 1986 Missouri statute sought to do just that, with 20 provisions covering various

issues left unresolved by the *Roe* decision. The Supreme Court, in its Webster decision, agreed that many of these provisions did not infringe on a woman’s constitutional right to an abortion. See *Webster v. Reproductive Health Services, et al.*, 492 U.S. 490, 522 (1989). Throughout this legislative and judicial process, the State of Missouri—not simply Governor John Ashcroft—followed established legal rules and procedures in their good faith effort to balance the right to an abortion with the state’s interest in protecting the health and safety of its citizens. While it may have asserted its rights to appeal, the State of Missouri and then-Governor Ashcroft always respected the opinions and orders of the court and the rules governing litigation. The good faith use of the courts to decide legal issues is no basis on which to criticize Senator Ashcroft.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, is Senator LEAHY going to speak?

Mr. LEAHY. I yield to the distinguished majority leader.

#### UNANIMOUS CONSENT AGREEMENT—ZOELLICK NOMINATION

Mr. LOTT. We have a couple of agreements we have worked out we want to get in place.

Mr. President, I ask consent that immediately following the reconvening of the Senate on Tuesday at 2:15 p.m. the Senate proceed to executive session to consider the nomination of Robert Zoellick to be the U.S. Trade Representative, and if not reported at that time, the nomination be discharged and the Senate proceed to its immediate consideration, and that there be up to 2 hours of debate, equally divided, between the chairman and the ranking minority member of the Finance Committee.

I further ask consent that at 4:15 on Tuesday the Senate proceed to vote on the confirmation, and following the confirmation, the motion to reconsider be laid upon the table, the President be immediately notified, and the Senate resume legislative session.

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

Mr. LOTT. Mr. President, I appreciate the fact there is no objection. I believe this nominee will be confirmed overwhelmingly, probably even unanimously. There is a feeling by Senators on both sides of the aisle that this trade issue is very important. This is an important position. A number of Senators did want to be able to have an opportunity to speak about our trade relations and our trade agreements around the world. That is why it was not completed this afternoon. I believe it will be done in regular order on Tuesday.

#### MEASURE READ THE FIRST TIME—S. 235

Mr. LOTT. I understand S. 235 is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 235) to provide for enhanced safety, public awareness and environmental protection in pipeline transportation, and for other purposes.

Mr. LOTT. Mr. President, I now ask for its second reading, and I object to my own request.

The PRESIDING OFFICER. The objection is heard.

The bill will be read the second time on the next legislative day.

Mr. LOTT. Mr. President, I should note that the purpose in taking this action now is to get this legislation ready for consideration next week. Senator DASCHLE and I are trying to get in a position to have the Zoellick nomination on Tuesday, the U.N. dues issue on Wednesday, and the pipeline safety legislation next week. These are all issues we are all very familiar with that have broad support. I believe we can do the three of them next week without any problem.

#### ORDERS FOR MONDAY, FEBRUARY 5, 2001, AND TUESDAY, FEBRUARY 6, 2001

Mr. LOTT. I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 10 a.m. on Monday, February 5, for a pro forma session only. No business will be transacted during Monday’s session. The Senate would immediately adjourn until 9:30 a.m. on Tuesday, February 6. I further ask consent that on Tuesday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate then proceed to a period of morning business until 12:30, to be divided in the following fashion: Senator DASCHLE or his designee controlling the time between 9:30 and 11 a.m.; Senator HUTCHISON of Texas or her designee controlling the time between 11 a.m. and 12:30.

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

Mr. REID. If I could ask for a modification, that Senator DORGAN control the time from 10:30 to 11 o’clock a.m. on that date.

Mr. LOTT. I have no objection to that addition to the request.

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

Mr. LOTT. I further ask consent that the Senate stand in recess between the hours of 12:30 and 2:15 in order for the weekly caucuses to meet.

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

#### PROGRAM

Mr. LOTT. On Tuesday, following the weekly recess, at 2:15 we will proceed to the nomination of Robert Zoellick