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December 10, 2001

U.S. POSTAL SERVICE - EXPRESS MAIL

Hon. Gaylord Nelson
The Wilderness Society
900 17th Street, NW
Washington, DC 20006-2596

Dear Gaylord:

I watched the testimony of Attorney General John Ashcroft before the Senate Judiciary Committee and was absolutely astounded when he said, "To those who scare peace-loving people with phantoms of lost liberty, my message is this: your tactics only aid terrorists." This is 14-karat McCarthyism. McCarthy used similar language about anyone who challenged him or questioned his tactics.

I enclosed a copy of an article I have written for the St. Louis Post-Dispatch.

Regards,

Tom Old Statesman
Thomas F. Eagleton

TFE/kh

Enclosure

Gaylord
He's BAD, BAD, BAD

The rule of law vs. the rule of Ashcroft

Attorney General John Ashcroft looks upon the
Bill of Rights as an inconvenience and an impediment

to vigorous law enforcement
St. Louis Post Dispatch 12/10/01

BY THOMAS F. EAGLETON

The president, understandably, has been focusing on foreign affairs. He has delegated to his attorney general the authority to deal with all potential domestic acts of terrorism. The attorney general has rounded up hundreds of "dangerous aliens and foreigners" — sometimes with warrants, sometimes without. He has held hundreds of them incommunicado and has not released all their names.

He declares that "a gang of cut-throat aliens are a menace to our nation." "Detention," the attorney general has said, "does not constitute imprisonment, nor even deprivation of liberty without due process of the law."

He earlier handpicked his FBI director, who obsequiously accompanies the attorney general in the contemporary manner of Robin following Batman. The attorney general has pointed out that the Constitution and the Bill of Rights were "very liberal" and "in a time of emergency, national safety took precedence over fine concern for constitutional rights."

For some weeks, public opinion has been with the attorney general. People believe that the security of the nation is at stake and that the attorney general is simply, as he puts it, "trying to safeguard America against catastrophe." A few law professors from Harvard, the University of Chicago and Washington University and a few editorial writers have quietly spoken out against the attorney general's views.

From time to time, the attorney general has issued a general warning about potential bombings and assassination plots. In addition, city police departments and state militia have been advised "to prepare for emergencies." When the "emergencies" did not occur, *The New York Times* began to wonder if the attorney general was suffering from "hallucinations."

Was the attorney general using his anti-alien tactics as a steppingstone to the presidency?

All of the foregoing may sound familiar, but it's not post-Sept. 11 America. It is a recitation of history — specifically, the activities of Woodrow Wilson's attorney general, A. Mitchell Palmer. In 1919 and 1920, Palmer sensed the fear in America that "a nativist excitement" was sweeping the land. "Strange looking" immigrants from Poland, Italy and Eastern Europe were flooding into America. Palmer, speaking before WASP audiences, always got a good response saying he believed in "undiluted Americanism."

Palmer himself led some "raids" to round up the "dangerous aliens." And

he was assisted by 24-year-old J. Edgar Hoover. At the time, Hoover was director of the "Anti-Radical Division" of the FBI, and he eagerly chased after thousands of immigrants. Hoover loved the publicity and thought it would help him get the top job at the FBI. He was right.

President Wilson had suffered a stroke and was out of it when Palmer was allowed to run amok. The ailing president had only one interest, ratification of the League of Nations treaty. Palmer believed that inflaming voters' nativist fears would open a path to the White House. His belief was unfounded. Palmer lost the Democratic nomination to Gov. James Cox of Ohio, who was defeated by Warren Harding in November.

Attorney General John Ashcroft, like Palmer, looks upon the Bill of Rights as an inconvenience and an impediment to vigorous law enforcement.

Yes, we are in a war. Yes, there are circumstances when aliens can be treated in a different (but still constitutionally protected) manner. Ashcroft, however, wants to throw out the Bill of Rights in toto. He claims the right to listen to telephone conversations between the accused and his attorney. Ashcroft orders secret, non-jury trials before three military officers with hearsay and illegally obtained evidence allowed. Throw in some rumors for good measure. Anything goes. Guilt does not require "beyond a reasonable doubt," just a two-out-of-three vote. No right of appeal to the courts. *The Wall Street Journal* advocates speedy justice. How about try 'em on Day One; hang 'em on Day Two?

It is one thing to have military, non-jury trials of terrorists captured in Afghanistan (including Osama bin Laden) where there is chaos and an absence of any judicial process. It is another to have secret trials in the United States with no regard to fairness or fundamental constitutional rights.

Ashcroft cites Franklin D. Roosevelt's authorization in World War II of secret trials of German saboteurs captured in America. Roosevelt's legacy has been irreparably tarnished by that kangaroo court and by his indefensible order to intern all Japanese-Americans — citizens and non-citizens alike. When one talks about civil liberties and civil rights during the Roosevelt era, the person to talk about is Eleanor, not Franklin.

The single greatest symbol of America is our faith in the rule of law. That symbol is besmirched by the rule of Ashcroft.

Thomas F. Eagleton, a Democrat represented Missouri in the U.S. Senate from 1969 to 1987.



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Counselor

December 13, 2001



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Dear Tom,

You are absolutely right about Ashcroft – this is McCarthyism pure and simple. Anyone paying serious attention to his record could have predicted this as you did.

Regards,

Gaylord Nelson

P.S. Your article on Ashcroft is right on target – I have sent it to a number of friends.



THE WILDERNESS SOCIETY

GAYLORD NELSON
Counselor



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December 13, 2001

The Honorable Russ Feingold
Senate Hart Office Building
Washington, DC 20510

Dear Russ,

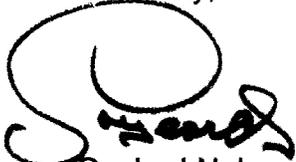
Enclosed – a copy of a letter from Tom Eagleton and an article by Tom on Ashcroft. He is the disaster Tom predicted – even worse.

I read, very carefully, your explanation for your support for the Ashcroft nomination. It was well written but not persuasive to anyone who had a good understanding of what “advice and consent” means.

You have a good productive career ahead of you – but you should re-think your view of your constitutional responsibility respecting presidential appointments.

Tom is right – Ashcroft’s comment is vintage McCarthyism. The President is not entitled to a “free pass” on every appointment he makes.

Sincerely,



Gaylord Nelson