

killed, claimed that "the best way to honor all those who lost their lives in the war on terrorism is to continue to wage a broad war and spread freedom throughout a dangerous part of the world." What a shameful thing that was to say.

It is clearly time for a new national security policy. I have introduced H. Con. Res. 392 to create a SMART security platform for the 21st century. SMART stands for Sensible Multilateral American Response to Terrorism. SMART security treats war as an absolute last resort. It fights terrorism with stronger intelligence and multilateral partnerships. It controls the spread of weapons of mass destruction with aggressive diplomacy, strong regional security arrangements, and vigorous inspection regimes. SMART security invests in the development of impoverished nations to prevent terrorism from taking root in the first place.

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SMART security is about preventing war, as opposed to preemptive war. It emphasizes brains over brawn. It is tough, but diplomatic; aggressive, but peaceful; pragmatic, but idealistic.

President Bush loves to think that those who support his efforts in Iraq are patriotic, and those that think there is a better way are unpatriotic, or, worse, un-American. But I can think of nothing more patriotic than pursuing a national security policy that protects America by relying on the noblest of American values: our capacity for global leadership, our compassion for the people of the world, our commitment to peace and freedom.

The SPEAKER pro tempore (Mr. PEARCE). Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

(Mr. BURTON of Indiana addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

COURT RULING UPHOLDS BARBARIC AND BRUTAL PRACTICE OF PARTIAL-BIRTH ABORTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. KING) is recognized for 5 minutes.

Mr. KING of Iowa. Mr. Speaker, I come to the House floor tonight on a very sad occasion, a day that marks a third Federal district court ruling upholding the barbaric and brutal practice of partial-birth abortion. Once again, the ethics and morality of the American people and Congress have been trumped by an activist Federal judge. As a result of this judicial arrogance, more innocent children will be gruesomely and barbarically killed by partial-birth abortions.

The practice of inducing birth for the sole purpose of brutally murdering an

innocent child has absolutely no place in civilized society, and it is an outrage to let a handful of lifetime-appointed judges overrule the will of the American people and essentially sentence these babies to death.

Today's court opinion especially drips with contempt for Congress and the people who elected their Representatives. Congress passed the partial-birth abortion ban with overwhelming support. These courts have displayed utter contempt for the factual findings of Congress, which proved that the legislation was constitutional. Congress decided, based on years of testimony by countless medical experts, that partial-birth abortion is never medically necessary. These three Federal district courts have now simply brushed aside this finding, those courts being in California, New York, and now today's ruling from Nebraska.

Both the California and Nebraska courts based their rulings on the idea that an expert witness must actually perform partial-birth abortions in order to be a credible expert. This is ludicrous. These witnesses, the good witnesses on our side, do not perform partial-birth abortions because, as they testified, they are never medically necessary, and the procedure endangers women. It would be malpractice for physicians to perform a procedure that they know to be unnecessary and injurious to their patients.

Both judges also said that those witnesses who supported the ban because they were prolife could not be objective about the procedures. These judges cannot seriously claim that the plaintiffs' trial experts for whom abortion is a business were not biased in favor of abortion.

Judge Kopf, the author of today's decision and also the decision in *Stenberg v. Carhart*, the infamous decision from Nebraska's State ban, did not even attempt to hide his support for the practice of abortion, and this is a quote from his opinion: "I do not use the term 'abortionist' pejoratively. So long as abortion is legal, doctors who perform abortions and who properly concentrate on the health of the female patients will be treated in this court with the same high degree of respect as fetal and maternal specialists who do not perform abortions and who properly divide their loyalties between the health of the fetus and the health of its mother."

That, Mr. Speaker, is a modern-day equivalent of the Nazi prison guard saying "I was just following orders." It was all legal in Nazi Germany at the time.

These three judges have overruled the will of the people, expressed through their elected representatives, by declaring the partial-birth abortion ban unconstitutional. They stepped outside the bounds of their judicial roles delineated by the Constitution and are vetoing legislation from the bench.

No cover provided by inferior courts will shield the Supreme Court from the

ire of the public or this Congress if the Court rules against the will of the people and the highest standard of fact-finding conducted by Congress in passing this ban.

Our Founders assigned the legislative role to Congress because, among other reasons, we are accountable to the people. If Americans do not agree with the partial-birth abortion ban, they can vote against the elected officials who supported it. Unelected lifetime-appointed judges are not accountable to the people unless impeachment proceedings are brought in the House of Representatives. That is the only way. We must rein in the runaway judiciary, even if that means bringing impeachment procedures. We as Members of the constitutionally established legislative branch must stand up for our Constitution against judges who ignore it.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. EMANUEL) is recognized for 5 minutes.

(Mr. EMANUEL addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

DEMOCRACY NOT PREVAILING WITH REGARD TO OVERTIME REGULATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, here we are again debating overtime in the Labor, Health and Human Services bill.

I feel like it was just last year when we had this same debate, because we did. Last year I supported a Democratic overtime pay amendment which proposed to prohibit the Department of Labor from using funds to enforce any regulation that would cut overtime pay. When the amendment was voted on in the House, the Republican majority blocked its passage.

However, the Senate approved an amendment offered by Senator HARKIN to block the Bush administration from issuing the overtime changes, protecting people's overtime. The House then reversed course, against leadership's advice, and bipartisanly voted to instruct the negotiators to instruct the Harkin language, therefore preserving workers' overtime. Even though both the House and Senate voted to protect overtime, a few hand-picked Republicans on the conference committee, all doing the bidding of President Bush and the Republican leadership, removed those protections from the bill.

The Economic Policy Institute study calculates that under the revised Bush overtime rules, kindergarten and nursery school teachers, firefighters, police, nurses and hundreds of thousands of other workers would lose an average of \$250 a week in overtime pay. Millions more lose future eligibility for it.

Under the Bush rules that cut back on overtime, we will see an explosion of executives in the United States workforce, companies redesignating regular workers to avoid paying overtime.

It will not be executives the way we think of executives in the traditional white-collar sense. Instead, it is workers who supervise only two coworkers, such as a shift manager in the toy department of Wal-Mart. That person could be classified as executive and then lose overtime eligibility.

Companies can exempt more than one executive for the same workers, as long as they maintain a 2-to-1 ratio of exempt to nonexempt employees. Supervising, therefore, does not have to include the right to hire and fire, as executives usually have, or even take up the majority of the executive's time under the new rules. A worker could spend all day serving customers, sweeping the floor, doing the same things coworkers do, be called a supervisor, and then be denied eligibility for overtime.

Similarly, the new rules create a broad new exemption called team leader that can exclude workers from overtime pay under the administrative classification. This is a huge loophole. Team leaders could have no supervisory authority at all, but still be prohibited from receiving overtime.

The new rules make it easier to exempt workers in financial services and in computer-related occupations, among dozens of other job categories.

Tonight the Labor-HHS bill was pulled off the floor and Members of Congress were sent home, that is why there are few here now, because Republican leadership lacked the votes to defeat this amendment on overtime.

The Department of Labor's mission statement describes it as the primary agency to promote the welfare of job seekers and wage earners. That is why the Department of Labor was created decades ago. It was established solely to represent the interests of the American workforce.

Now, under Secretary Chao, taking her orders from President Bush and especially from Vice President CHENEY, and especially from the Chamber of Commerce, and especially from the American National Association of Manufacturers, the Department of Labor now represents corporations at the expense of workers. That is why the assault on overtime pay coming from our government's Department of Labor against the workers it should be representing.

My colleague, the gentleman from Wisconsin (Mr. OBEY), wants to offer an amendment that prohibits the Department of Labor from implementing these new rules on overtime pay, which would protect American workers, if we could win our amendment, and protect American families from the rising cost of living. We have the votes to pass it, but Republican leadership, at President Bush's request, pulled the bill off the floor, and we are not going to vote on it. We have the votes to pass it, as I said.

In a democracy, you know, you vote on things. If you have enough votes, they pass; if you do not have enough votes, they fail. It is as simple as that.

But here tonight we saw something that cannot quite be considered democracy. We do not vote on something because the leadership on the other side of the aisle, taking huge campaign contributions from darn near every corporate interest in this country, we do not vote because leadership on the other side of the aisle simply does not want to lose. Their corporate contributors do not like that. The will of the American people has been stifled. A major appropriations bill has been held up. Also the Republicans do not lose a vote that their corporate backers want, that the majority of this House, the representatives of the American people, support. You can call that government, but it sure is not democracy.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. KIRK) is recognized for 5 minutes.

(Mr. KIRK addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFazio) is recognized for 5 minutes.

(Mr. DEFazio addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

IMPORTANT VICTORY FOR PEOPLE OF NEVADA REGARDING YUCCA MOUNTAIN

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Nevada (Ms. BERKLEY) is recognized for 5 minutes.

Ms. BERKLEY. Mr. Speaker, I rise today to mark an important victory for the people of Nevada in our 20-year struggle against becoming the Nation's nuclear waste dump.

Last week the U.S. Court of Appeals unanimously upheld its decision that radiation standards for the proposed nuclear waste repository at Yucca Mountain were not based on sound science and would not protect the health and safety of the American people. In ruling for Nevada, the court found that the Bush administration deliberately set radiation standards for Yucca Mountain that were not in keeping with the findings of the National Academy of Sciences as required by law.

The Academy reported to Congress in 1995 that waste stored at a repository would remain deadly for 300,000 years or more, and concluded that radiation standards for the Yucca Mountain project should reflect these scientific standards. Rather than incorporating the findings of the National Academy of Sciences when crafting safety guidelines, the Bush administration ignored

the law, ignored the science, and knowingly ordered the EPA to draft a radiation standard not based on the science, but an arbitrary period of 10,000 years. The gap between the science and the EPA standard? A mere 290,000 years.

The court's ruling voids the radiation standard established by the Bush administration and is the latest in a series of setbacks that have clouded the future of Yucca Mountain. These include the lack of funding in Congress, a refusal by the Nuclear Regulatory Commission to certify an electronic database required for licensing the repository, and a lawsuit filed by the State of Nevada challenging a portion of the administration's transportation plans for Yucca Mountain because they do not meet necessary NEPA standards.

On their own, any one of these issues is significant enough to stop the Yucca Mountain project in its tracks. But the nuclear industry has friends in the White House and is in control of Congress, and they are gearing up for a fight.

The administration's only option for addressing the court's ruling is to have the EPA revise the radiation standards to reflect the danger identified by the National Academy of Sciences. Such a standard will require that the repository isolate waste for 300,000 years or more. Yucca Mountain cannot possibly meet this science-based standard. The nuclear industry also knows that this court ruling would doom plans to ship nuclear waste to Nevada.

They are already planning a push in Congress to waive the requirement that radiation standards for this repository conform with the science. Changing the rules in the middle of the game seems to be standard operating procedure for this Congress. Putting politics over the safety of those people I represent and denying Nevada the protection of our courts and our court system of checks and balances is something this House of Representatives has done before. It must stop.

Changing the law will allow the administration to continue to railroad Nevadans by allowing Congress, not the National Academy of Sciences, to determine radiation standards for Yucca Mountain. There is not one Member of this esteemed body who knows anything, not one thing, about radiation standards or how to store nuclear waste safely at Yucca Mountain, not for 3 minutes, much less 300,000 years. Will Congress choose a 10,000-year standard? 5,000? Maybe Congress in its infinite wisdom is going to opt for no radiation standard at all.

When it comes to Yucca Mountain, there is no limit to the hoops this administration and Republican leaders in this House will jump through or the lies and misrepresentations they will tell to move this project forward.

I say to my colleagues on both sides of the aisle, there will come a time in the near future when you will be asked