

and security apparatus in Iraq, because they know that that is the beginning of the end.

We went there, we laid a wreath in recognition of the over 100 police cadets, policemen and women and potential recruits who were killed in the 8 to 10 days before we came there through suicide bombings. We then had the opportunity to shake hands and to meet many of these recruits. Their enthusiasm for their work, their enthusiasm for building a new Iraq, their enthusiasm that Saddam Hussein was gone and that they had their country back was very, very clear. They knew that it was the Americans that had given them their country back; and they were very, very appreciative and thankful. They knew that the future of Iraq was in their hands, and not in the hands of the Americans or the coalition forces, but that what we provided them was the framework to take back their country and to move in the future.

You could see it in their eyes when you looked at them, you could feel it in the vigor and the strength of their handshake, you could hear it in their voices; and as you left, they took their hand and put it on their heart and moved it away to express the deepness and the sincerity in the comments that they were making to us.

The Shia, how do our terrorists feel about the Shia? These, in our opinion, are the key to change. I mean, the key to change? What kind of change are they looking for? I mean that targeting and hitting them in their religious, political and military depth will provoke them to show the Sunnis their rabies and bear the teeth of the hidden rancor hidden in their breast. If we succeed in dragging them into the arena of sectarian war, it will become possible to awaken the inattentive Sunnis as they feel imminent danger and annihilating death at the hands of these Sabians. Despite their weakness and fragmentation, the Sunnis are the sharpest blades, the most determined and most loyal when they meet those Batinies, who are a people of treachery and cowardice. They are arrogant only with the weak and attack only the broken wing. Most of the Sunnis are aware of the danger of these people, watch their sides and fear the consequences of empowering them. Were it not for the enfeebled Sufi sheiks and the Muslim brothers, people would have told a different tale.

It is very clear what the folks who are opposed to us are going to do. They are going to kill the police and they are going to fight and drive sectarian violence.

I want to talk just briefly about Libya, because some have said showing strength is a problem. Take a look at what has happened with the Libyans. I was there a couple of weeks ago as well. At the end of the December visit, the Libyans admitted having a nuclear weapons program and having bought uranium feed material for gas cen-

trifuge enrichment, admitted having nuclear weapons design documents, acknowledged having made about 25 tons of sulfur mustard chemical weapons agents, aerial bombs for the mustard and small amounts of nerve agent, provided access to their deployed Skud-B forces and revealed the details of indigenous missile design work and of cooperation with North Korea on the 800 kilometer range Scuds-CSs.

□ 1530

What a change in Libya. The headlines in today's paper. "Ghadafi Vows No More Terror." He seeks a new era with the United States, seeks better relationships with the United States.

One of our colleagues who was there this weekend is quoted as saying, "The incredible thing about being here is to hear a former antagonist of our country say, 'What in the world was I thinking when I took on a superpower,' says SILVESTRE REYES, Texas, Democrat. 'I thought it was an incredible, historic moment. This could potentially redefine our relationships with Africa and potential with the most conflicted part of the world, which is the Middle East. If I had not been here and had Chairman WELDON or Congressman ORTIZ tell me about it, I would not have believed it,' he said."

So what a dramatic change we are seeing, I think, in many reasons because we have displayed strength and the determination in dealing with the types of threats that President Clinton and his administration identified throughout the 1990s, that President Bush and his administration identified during their administration, and because of the strong action we are seeing a change in behavior in Libya, with a possibility and hope for progress in Iran and North Korea.

#### ANNOUNCEMENT REGARDING AMENDMENT PROCESS FOR H.R. 3717, BROADCAST DECENCY ENFORCEMENT ACT OF 2004

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. (during the Special Order of Mr. HOEKSTRA) Madam Speaker, the Committee on Rules may meet the week of March 8 to grant a rule which could limit the amendment process for floor consideration of H.R. 3717, the Broadcast Decency Enforcement Act of 2004. The Committee on Energy and Commerce ordered the bill reported yesterday, March 3, 2004, and is expected to file its report in the House on Tuesday, March 9, 2004.

Any Member wishing to offer an amendment should submit 55 copies of the amendment and one copy of a brief explanation of the amendment to the Committee on Rules in Room H-312 of the Capitol by 10 a.m. on Wednesday, March 10.

Members should draft their amendments to the text of the bill as re-

ported by the Committee on Energy and Commerce which will be available tomorrow for their review on the Web sites of both the Committee on Energy and Commerce and the Committee on Rules.

Members should use the Office of Legislative Counsel to ensure that their amendments are drafted in the most appropriate format. Members are also advised to check with the Office of the Parliamentarian to be certain that their amendments comply with the rules of the House.

#### VICE PRESIDENT CHENEY'S ABUSES OF POWER

The SPEAKER pro tempore (Mrs. BLACKBURN). Under the Speaker's announced policy of January 7, 2003, the gentleman from New Jersey (Mr. PALLONE) is recognized for 60 minutes.

Mr. PALLONE. Madam Speaker, I come to the floor this afternoon to urge Supreme Court Justice Antonin Scalia to recuse himself from a case that the Supreme Court will hear this year regarding Vice President CHENEY.

I am also here this evening to voice my concern over another example of Vice President CHENEY abusing his power as Vice President to continue to keep secret documents that would significantly impact our Nation's future energy policy.

Madam Speaker, for 3 years now the Vice President has done everything he can to keep the record of his energy task force secret. This secret task force developed President Bush's energy policy, a policy that was then made into legislation here in Congress, legislation that is now stalled in the other body. Nevertheless, the end result of this task force and of that legislation was bad energy policy. There is no doubt that the energy industry succeeded with its influence during these secret closed door meetings in crafting an energy policy that benefited them rather than benefitting Americans who at the time desperately needed relief from high energy prices.

For 3 years now the Vice President has refused to let the American people know who made up this White House energy task force. For 3 years now the Vice President has refused to let the American people know how and why the task force came to the conclusions it did about energy policy. And finally, after 3 years of hiding the information, it appeared that we would finally get some of the information CHENEY was fighting so hard to keep secret, thanks to the Sierra Club and another conservative group called Judicial Watch who jointly sued the Vice President and the energy task force, seeking an accounting of energy participation in crafting the Bush administration's destructive energy policy.

There was a Federal district court order that said that the administration as a result of this suit had to provide information about participation from these industries, which the Bush administration refused to do. The Bush

administration claimed constitutional immunity from such inquiries. But the Federal court rejected the Bush administration's contentions and pointed out that the administration was attempting to "cloak what is tantamount to an aggrandizement of executive power with the legitimacy of precedent where none exists."

So what happened is that the district court basically at the request of the Sierra Club and Judicial Watch insisted that the members of the energy task force had to be made public.

Now, you would think under normal circumstances that the Bush administration or the Vice President would say okay, the court has now ruled on this. They have said that this secret energy task force has to be made public effectively and at that point would simply say, okay, we will make the information public. But no. Refusing to give in, Vice President CHENEY then appealed the court decision, asking the D.C. District Court to make new law that would effectively shield the Bush administration from any scrutiny.

In my opinion that is the height of arrogance. Here we have a district court saying that information about this task force should be made public. What is the real harm? I cannot imagine that there would be any harm in making it public, but he nonetheless insisted that he will not go along with the district court's opinion. And the Bush administration actually went to court and asked the court to shield President Bush, Vice President CHENEY, and the rest of the administration from any scrutiny from opening up this energy task force.

Now, what happened, of course, is that the court denied the Bush administration's request. And so what did Vice President CHENEY then do? Well, he appealed the decision to the United States Supreme Court. And on December 15 of last year, the Court agreed to take the case and the Supreme Court is expected to hear arguments next month in April.

An interesting phenomenon though is that 3 weeks after the Supreme Court agreed to hear this case on December 15, just 3 weeks later Justice Scalia, a member of the Supreme Court, and one of his children accompanied Vice President CHENEY on an Air Force II flight from Washington, D.C. to Morgan City, Louisiana.

There, according to news reports, Justice Scalia and the Vice President were guests of a Wallace Carline, president of an energy services company, and they went on a duck hunting vacation. Neither the Vice President nor Justice Scalia made this duck hunting vacation public. Had it not been for the investigative work of the Los Angeles Times we might still not know that these two spent several days together hunting duck in Louisiana.

After the vacation made national headlines, Justice Scalia offered the following response. He said, "Social contacts with high level executive offi-

cials, including Cabinet officers, have never been thought improper for judges who may have before them cases in which those people are involved in their official capacity. For example, Supreme Court Justices are regularly invited to dine at the White House, whether or not a suit seeking to compel or prevent certain presidential action is pending. I expect that all of the justices were invited to Vice President CHENEY's annual Christmas party. The invitation was not improper, nor was the attendance."

That was Justice Scalia's response.

Madam Speaker, let me say I do not think this response by Justice Scalia is acceptable. I do not think, Madam Speaker, you would expect the American people to believe that a social dinner in which hundreds of people are gathered at the White House is the same as spending one-on-one time with the Vice President on his jet, on the American taxpayers' dime. You spent days of quality one-on-one time with the Vice President, and that is certainly difficult than quickly exchanging a hello at a White House social gathering with hundreds of other people.

In case you think or someone thinks it is my own prejudice because I happen to be a Democrat, you do not have to take my word for it. The media and the American public are also not buying Justice Scalia's explanation for this duck hunting vacation. And I just wanted to quote several comments from editorials in newspapers around the country commenting on this conflict of interest or potential conflict of interest.

The San Diego Union Tribune said, "As legal experts point out, a private hunting trip is not a simple social event. It is extremely personal access by a litigant to a judge hearing his case."

The Charlotte Observer in North Carolina made the following observation in their editorial comments. "When a judge goes on a 3-day hunting trip in Louisiana as the guest of a man who is at the center of a case before the Supreme Court, that is hardly the kind of casual social contact that most people would consider innocuous."

Then we have a New York Times editorial, "Vacationing with a litigant in a small group outside the public eye raises a far greater appearance of impropriety than attending a White House dinner."

I could give you other examples, Madam Speaker, as well. I think the New York Times went on to say or I would like to go on to say that I think it is quite ironic that the man hosting the two men, Wallace Carline, made his fortune in the energy sector. He was the one that hosted the Vice President and Justice Scalia, and he of course is an energy corporate executive. And some of the newspapers commented on that as well.

The Salt Lake Tribune editorial page noted, "Perhaps the businessman, Wal-

lace Carline, of Diamond Services Corporation, was a member of the secret advisory committee that CHENEY convened to draft the administration's pro-oil energy policy. Perhaps he was not. Whether the public ever knows that is up in part to Mr. Hunting Buddy Scalia."

The point is we do not know what the conflicts are in terms of Mr. Carline because we do not know whether he is on the energy task force. If we found out that he was on the energy task force, which is one of the things that this suit is trying to determine, then that would indicate even more strongly the nature of the conflict of interest.

But I do not think there is any doubt that this vacation serves as a conflict of interest, and because of that Justice Scalia should recuse himself from hearing the Cheney case.

One has to understand that the issue here is not just the actual conflict but the appearance of it. Those of us who went to law school know that when you talk about ethics and the issue of whether a judge should recuse himself from a case, it is an issue not only of a potential conflict but also the appearance of conflict. And I do not think there is any question that the appearance of conflict is here because of the fact that this case involving the Vice President was imminent before the Supreme Court and that Justice Scalia would have to make a ruling and a decision on the case.

I want to point out that it is not just Justice Scalia who is responsible for the conflict of interest. Vice President CHENEY should have realized that vacationing with a Supreme Court Justice not even 3 weeks after the court agreed to hear his appeal had the appearance and was a conflict of interest. I think the Vice President, unfortunately, seems to be willing to do anything to ensure that the records of this energy task force are never made public.

I do not really understand, Madam Speaker, what the Vice President is trying to hide. Would it be embarrassing to the administration to have to admit that every member of the task force was an oil or gas executive? Probably. But thinking about it, that really would not be anything new. I do not know that anybody would really be surprised by that. So I am beginning to think that there is something else that is being hidden here.

What could be so damaging in these documents that the Vice President and the Bush administration do not want them released? We could speculate that somewhere within these documents there is proof that the Bush administration was looking at taking out Iraqi leader Saddam Hussein in order to take control of that nation's rich oil reserves.

Well, interestingly enough former Treasury Secretary Paul O'Neill stated in his recent book that Vice President CHENEY strongly suggested U.S. intervention in Iraq well before the terrorist attacks of September 11. Additional

evidence exists that CHENEY played an early planning role in the war in a national security document dated February 3, 2001, months before September 11.

According to a report in the New Yorker Magazine, the top secret document written by a high National Security Council staffer, "directed the NSC staff to cooperate fully with the energy task force as it considered the melding of two seemingly unrelated areas of policy, the review of operational policies towards rogue states such as Iraq and actions regarding the capture of new and existing oil and gas fields."

Now, I am just speculating here and I know others have speculated in this same manner, but really that is all we can do right now because the Vice President refuses to allow the American public to see these documents from his energy task force.

I would like to point out incidentally, Madam Speaker, that I do not understand why congressional Republicans are not demanding that these documents be released by the administration. Of course, some of my colleagues on the Democratic side have been asking for it. My colleague, the gentleman from California (Mr. WAXMAN), who tried for months to get the administration to turn over these documents from the energy task force, he said it best in my opinion during a floor speech last week after the General Accounting Office refused to force the Vice President to turn over the documents. And this is what the gentleman from California (Mr. WAXMAN) said. He said, "The hypocrisy about this issue on the Republican side is simply breathtaking. During the 1990s it was Republicans in Congress who embarked on a concerted effort to undermine the authority of then-President Clinton.

□ 1545

Congressional committees spent over \$15 million investigating the White House. They demanded and received information on the innermost workings of the White House. They subpoenaed top White House officials to testify about the advice they gave the President. They forced the White House to disclose internal White House documents, memos, e-mails, phone records, even lists of guests at White House movie showings; and they launched countless GAO investigations into everything from President Clinton's health care task force to his working group on China permanent normal trade relations.

Yet we do not see anybody on the Republican side insisting, even after the court has said that it should be, that any of the documents be released from this energy task force. How different is that in any way from President Clinton's health care task force or his working group on China permanent normal trade relations? We do not see any difference.

The gentleman from California (Mr. WAXMAN) continued in this speech

when he said, "And if the White House resisted, these same leaders insisted that Congress and the public's right to know was paramount."

Defending his numerous demands for White House records, for example, one of my colleagues, who I respect a great deal, the gentleman from Indiana (Mr. BURTON), insisted on the House floor that public disclosure of the facts is the essence and, in large part, the purpose of congressional oversight. The American people have a right to know the facts. Other Republican leaders reiterated this message over and over again on countless television shows.

So when President Clinton was President and he had task forces on health care, on China, on other issues, the Republicans insisted that this was a right-to-know issue and that the records of the White House task forces, such as the health care one, had to be made public, that this somehow was a fundamental issue that went to the public's right to know; but now we do not hear our colleagues on the other side of the aisle, the Republicans here in Congress, saying that the energy task force records should be made available, the document, the members of the energy task force should be made available.

Frankly, I do not see the difference. It seems to me the same right-to-know issue exists with regard to the energy task force under President Bush and Vice President CHENEY that existed with regard to similar-type task forces under President Clinton.

The bottom line is that on the Republican side oversight does not seem to be a priority anymore, not when it comes to a President who is of their own party or a Vice President who is of their own party.

Normally, I would not restate one of my colleague's statements, but the gentleman from California (Mr. WAXMAN) was right in what he was stating about access to these documents; and I think that he, being the ranking Democrat on the Committee on Government Reform, is frustrated because Republicans here in Congress no longer seem to care or play any role to oversee the actions of this Republican administration, and I think that is a very dangerous precedent for the future of our country.

Now that the Republican majority has given up its oversight ability, the only ones who can now force Vice President CHENEY to hand over these documents is the Supreme Court, and I do not know exactly, Madam Speaker, how we can effectuate that; but I do think that we need to speak out. We need to speak out and say that under the circumstances, Justice Scalia must recuse himself from this case; Vice President CHENEY must be forced essentially to turn over these documents. I would hope that the Justice would take this action on his own. I would hope that the Vice President would take this action on his own, and we would not have to have these lawsuits occur.

But until such time as they agree to do so, I also think it is important for us as Members of the Congress to come down on the floor and speak out because this is just another example, in my opinion, of the Republican Party's abuse of power and a very bad example because it basically nullifies our ability to know what happened in this White House energy task force which was essentially instrumental in putting together the legislation that is now pending in the other body, that passed this House, that is the basis for our national energy policy.

I see one of my colleague from Washington is here, and I appreciate his coming down; and I yield to the gentleman.

Mr. INSLEE. Madam Speaker, I thank the gentleman from New Jersey (Mr. PALLONE) for yielding. I appreciate him bringing this important matter up for discussion because I think it strikes at the very heart of American democracy, which is a fundamental tenet that people have to trust the system, to have confidence in the ultimate results of what has happened here in Washington, DC.

Unfortunately, due to ignoring some basic tenets that people have to trust the cards and who is dealing the cards before they are going to trust the outcome of the game, people have doubts about what is going on in Washington, DC right now; and my colleague has brought up two reasons why those doubts have been fanned, and those reasons have to do with being centered around this secretive energy task force which has been shielded from public attention, that has been cloaked by secrecy all the way now to the U.S. Supreme Court, which is now involved in a situation which I believe can diminish people's trust, not only in the executive branch in government but in the judicial branch in government. I would like to address those concerns if I can.

First, I want to talk about the judicial branch of government and why I believe right now it is at risk of undergoing some loss of trust in the American people associated with this energy task force situation. Perhaps my colleague has spoken about this already, but let me address what my understanding of the situation is, and what I know about this comes from the newspapers, so I am going to relay what I have read about this situation.

As we know, the Vice President convened a task force to develop the administration policy, official policy of the executive authority of the United States of America, and he asked people to come in secretly and who came in was secret. When they met was secret. What they talked about was secret. What policies were developed as a result of that input was secret. Who got the tax breaks as a result of those discussions is secret. Who got the public subsidies from American taxpayers was secret. What deals were cut to give American taxpayers' money away to multi-million dollar corporations was

secret. It was secret then, it is secret now, and apparently the executive branch wants to keep that secret to infinity, to eternity.

Now, this has caused extreme angst and concern of my constituents, and I hear about this problem frequently. So what has happened as a result of that abnormal, unusual, unjustified secrecy is some citizens have challenged that, rightfully so, I believe, in court. At least one significant court, a court of appeals, has ruled that this veil of secrecy should be lifted.

Appropriately, that matter is now pending before the U.S. Supreme Court. The executive branch has appealed. They have the right to appeal that, and we respect their right to appeal that so that the Supreme Court can decide the legal issue, and it is important for the Supreme Court to decide this legal issue, and we have no problem with the executive branch making whatever arguments they believe are appropriate to have this matter dealt with.

However, when it is dealt with, it has to be done in a manner that is consistent with American jurisprudence and consistent with Americans' expectation that the carving in the marble over the Supreme Court is going to be more than a carving because the carving says, "Equal Justice Under Law," and Americans expect equal justice under law; and when they expect equal justice under law, they expect that everyone will be treated equally, that there will not be personal relationships that could possibly influence the decision of the highest court, the bastion of liberty, the single most important court in the world that has been the bastion of preserving our personal individual liberties since the beginning of this country.

Now, I am going to display a little bit of pride in the American judicial system for a minute. I am an old lawyer, a small-town practicing lawyer; and I really, truly believe that the American independent judicial system is one of, if not the principal, the reasons we have personal liberties in America today, because the Supreme Court of the United States historically has been a guardian of personal liberty, has protected the first amendment. It has protected our rights of freedom of speech. It has protected our rights of freedom of religion. It has protected our rights that we enjoy in reality, not just in paper, because you know what? The Soviet Union had the same bill of rights we do. They just did not have the courts to enforce them.

We have a judicial system that is independent, and rightfully, from the political winds that blow, as much as we can make it, so that it will make decisions based on freedom rather than politics. So I believe very strongly in how important a clean, even-handed, fair, independent judiciary is to American democracy; and I believe right now that is at risk, that Americans' trust in that system is at risk.

Now, I will not mention one decision that had a little controversy associated

with it at the beginning of this administration. That is history. We do not want to talk about that, but today we have a situation where the Vice President, whose name is attached to this specific litigation, to decide whether or not his secret plan will remain secret, rather his cabal of people he got into the room, who he will not tell us about, will always remain secret and Americans will never know about it. Clearly, he has an interest in the resolution politically and a great sense personally in the resolution of this issue, and I respect the Vice President's right and the executive branch's right to have this matter heard on a fair basis by the U.S. Supreme Court.

But we know that what has happened is in a fairly short time, before this matter will be heard before the U.S. Supreme Court, we are told in press reports that the Vice President of the United States invited one of the nine people, the only nine people in the world that can affect his secret task force or the secrecy of his task force, of only nine people in the world who can help him win his victory to keep this information from the American public, he invited one of them to come down to a duck hunting club in the South, I believe it was Louisiana, invited him, gave him free, I believe, I am told, a flight down on a jet to this duck hunting club where they could hobnob in secrecy for several days, where the American public was not invited into their discussions, where they did whatever people rightfully do in duck blinds across the world, which I respect and admire and am somewhat jealous of, which is great, and we admire collegiality.

We admire people enjoying each other's company, but we cannot allow Americans to doubt the integrity of the United States Supreme Court, and when a Vice President of the United States, whose name is attached to the very litigation that we are associated with, whose political fate is somewhat tied up ultimately in the outcome of this litigation, who has the entire country focusing on the energy policy rightfully of this country, that is going to be decided by his duck hunting buddy, Americans are not wholly confident about that situation.

We have a concept in the law called "an appearance of fairness," and I do not mean any personal disrespect for the particular Justice involved here. I do not mean to demean his stature in any way, but under the circumstances of this case, it is not up to the standards of the American judicial system to have that situation exist while one of the nine people involved, where there is no further appeal, this is not just the district court where you can say well if the one district court makes a mistake later on, some appellate judge is going to clean it up. There is no more cleaning up after the U.S. Supreme Court. This is it.

That is why I believe that it was a mistake of significant order for the

Vice President of the United States to invite someone who will be deciding his case on this vacation shortly before this decision is going to be decided, and I can tell you that this has not helped restore the integrity and maintain the integrity of the U.S. Supreme Court on the high levels of expectations that we should have, and this is not a personal issue. It is a matter of integrity of the American judicial system.

Now, this is all tied up and it kind of flows from the concept of secrecy. I mean, what we found is that in public life openness and sunshine is the antivirus agent and the best antivirus agent for things that are not healthy in American democracy; and what the Vice President has found is his insistence of not allowing public disclosure of this information has resulted in this controversy, which is most unfortunate.

We have legitimate policy disagreements with this administration, about energy policy. We believe that the administration's energy policy is a tremendous energy policy for 2 centuries ago, in that it was very successful in handing out tremendous special interest breaks to large corporations, many in the fossil fuel business, that are not sufficiently visionary to deal with what we need to really break our addiction to Saudi Arabian oil, to stop global warming, and to grow new jobs in this country.

□ 1600

And we have a better policy, we believe.

But before we get to the policy, this administration needs to come clean with the American people about what type of back-door, closed-room dealing went on to create this proposal by them. And this administration should not infect the judicial system. The executive branch here should not infect the judicial system here by carrying this secret policy all the way to the U.S. Supreme Court and thereby reducing not only the respect for the executive branch but for the judicial branch as well.

I think at this point it would be well advised for the Supreme Court to consider this as a court, not as an individual judge or justice to resolve what its policies should be. I have heard the justification by the particular justice involved here. He has suggested that social interaction of one nature or another is to be expected in Washington, D.C. People are going to bump into each other at charity banquets, receptions and galas, and he is entirely correct. Those things will happen and they are expected, and I have never heard that anybody would gripe if this particular justice would have bumped into the Vice President at the former Members of Congress reception I was at the other night. I do not think anybody would have been raising a hue and cry about that issue.

The fact of the matter here is that we are talking about a very visible, important, and national public policy decision by the U.S. Supreme Court, and the gentleman who is the very person whose conduct is in question in this litigation spent several days, with very few other people, in a duck blind in Louisiana before this major national decision will be made by this sitting justice, based on discussions he has had with this Vice President, with no public disclosure whatsoever. And I am here to say that is wrong.

Republicans believe that is wrong, Independents believe that is wrong, Democrats believe that is wrong, and most importantly those who believe in the integrity of the American judicial system believe that is wrong. And I am one of them. I walk by the U.S. Supreme Court every day on my way to work. It is a beautiful white building. And the reason it is beautiful is it has maintained the trust of the American people that they will get a fair deal ultimately in the U.S. Supreme Court. The minute that they cannot believe that we have got big problems in American democracy.

I am encouraging the executive to rethink this entire secrecy policy and the U.S. Supreme Court to consider it as well, and I appreciate the gentleman bringing this to our attention.

Mr. PALLONE. Madam Speaker, I want to thank my colleague for the various points he made, but if I could develop a couple of them because I think some of them were particularly incisive.

First of all, the gentleman started off by talking about the reputation of the Supreme Court being at stake here. I think that is true. I have to say that I came to this issue initially because of my concern over the policy aspects. In other words, we have this energy task force which made recommendations and became the basis for legislation that moved in the Congress. And, frankly, I feel that most of that work should have been done here in the Congress.

In other words, we have committees, we have hearings, we introduce bills, and we move forward with legislation on something as important as this. But as the gentleman and I both know, in this case, almost everything that was in the legislation that was moved here by the Republican majority came out of this task force. So unlike the normal circumstance where somebody introduces a bill, we have a committee hearing, we have witnesses, we develop the legislation, it comes to the floor, and there is all this public input, which there was public input, that did happen in this case, but the seeds of this were developed in this secret task force.

We do not come to the floor and complain about these problems with the abuse of power by the Republicans just because we are Democrats. We worry about the impact on public policy and whether or not it is good public policy in terms of our energy independence,

for example, because of maybe who was involved in putting this legislation together.

So I did not come to this, is what I am trying to say, by reference to the Supreme Court and the reputation of the Supreme Court, but I think the gentleman justly brings up the fact that that is a very important part of this; the trust and the ability of us to believe that the Supreme Court is going to make a very fair decision. That is probably just as important here as what the energy policy is that came out of this task force.

When the gentleman mentioned that, I was looking at this New York Times editorial from last Saturday, which I had quoted earlier before the gentleman came down to speak, and I am not going to read the whole thing, but it is right on point in the last two paragraphs as to what the gentleman said. The New York Times editorial from February 28, last Saturday, reads: "The law says a Federal judge must recuse himself from proceedings where his impartiality might be questioned. What matters, the Supreme Court has held, is not the reality of bias but its appearance. By vacationing in a small group with Mr. CHENEY and taking things of value, Justice Scalia indicated an appearance of bias in Mr. CHENEY's favor. It raises an appearance of partiality and should have been avoided."

Then they go on to say, "the recusal rules protect not only litigants but also the court itself. Justice Scalia's actions have again made the court fodder for late night comedy, as it was after the 2000 election. If Justice Scalia stays on the case and votes in Mr. CHENEY's favor the Court will no doubt face more criticism. Justice Scalia should recuse himself either of his own volition or with the encouragement of his colleagues."

Of course, they are referencing back to the Presidential election and the Court's decision in the Presidential election. But the point is it is the Supreme Court itself whose reputation is at stake, as the gentleman pointed out. And they have had problems in the last few years, so they do not need another problem. Also, it is not really the issue of whether or not they actually discussed this litigation, because we do not know that, but the appearance of it, which is really what this is all about.

Madam Speaker, I yield to the gentleman once again.

Mr. INSLEE. And let me say why I think this is so important. This is not important to Democrats, this is important to all Americans, Republicans, Independents, Green Party, you name it. Again, the reason is this is the people's House, the House of Representatives. We like to believe we do a good, and we do a good job some of the time at least, when we win our battles anyway, but we have to understand that the way people set up this country is that they had a peculiar genius and they understood to protect individual

liberty they were going to need a separate entity that could stand alone and could even stand against sometimes very passionate emotional issues for individual liberty. That in our system of justice has been, I believe, a major tenet of the success of American democracy.

Brown vs. Board of Education came from the Supreme Court. It did not come from the House of Representatives. The protection of people's civil liberties and their religious expression came from the Supreme Court. The Supreme Court has enforced the Bill of Rights in a lot of ways. And unless the Supreme Court remains inviolate and enjoys the popular support of the American people to understand they are going to get a fair shake, then those individual liberties are in danger.

So I think this is much bigger than the energy task force. Although this is important, the issue of secrecy, but what is more important is the basic trust of the American people in that white marble building there that I believe is at risk in this very, very high profile decision. That is why I believe the Supreme Court should make a decision as a group on this, not as individual justices, because they as a group have a stake in this particular controversy.

Again, I do not blame the Supreme Court. I think this was a mistake by the Vice President to initiate this controversy both in the secrecy aspect of it and the effort to have these out of court contacts with the person who will be deciding the case. So we hope that those things are remedied.

Mr. PALLONE. Madam Speaker, I know my colleague mentioned the fact that the Supreme Court should act on this collectively. My understanding is that on Tuesday of this week, March 2, the Supreme Court issued its first collective statement related to the controversy surrounding Justice Scalia, and basically said they would let Justice Scalia decide by himself whether he should sit in on this case in which the Vice President is the named plaintiff.

Again, I think that is unfortunate, because I do think that since Justice Scalia has been so reluctant to recuse himself, the likelihood that he would do it on his own is probably less than if the Court as a whole made that decision. But, nonetheless, we can still hope that if we continue to talk about this and bring it up that maybe he will recuse himself.

I have some statistics about the current justices recusing themselves from cases, and the fact is many have recused themselves in many cases. Chief Justice Rehnquist, for example, has recused himself 299 times since he joined the Court and Justice Clarence Thomas has recused himself 199 times. So it is not unusual for that to happen. I still, for the life of me, do not understand why in this situation, which is so high profile, that Justice Scalia does not simply say, look, I will stay out of

this one. I will recuse myself and I will not allow myself to participate.

It seems like it is a very simple thing that could be done, and I do think it is important for us to continue to bring it up. Because the bottom line, Madam Speaker, is that this energy task force has played a very important part in energy legislation that was developed here. And the whole concept of the appearance of impropriety on behalf of both the Vice President and the Supreme Court is at stake.

So we are bringing this up tonight, myself and the gentleman from Washington, but we are going to have to come back here again and bring it up because this case will be heard in April and there is still the opportunity for Justice Scalia to heed the advice of the litigants, the Sierra Club and the other public advocates who have asked he recuse himself in this case.

#### MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Williams, one of his secretaries.

#### SOCIAL SECURITY

The SPEAKER pro tempore (Mrs. BLACKBURN). Under the Speaker's announced policy of January 7, 2003, the gentleman from Michigan (Mr. SMITH) is recognized for 60 minutes.

Mr. SMITH of Michigan. Madam Speaker, I am going to give a short tutorial on Social Security tonight, and this is going to be somewhat bipartisan because I am going to criticize both parties a little bit for not acting on one of the most serious problems I think is facing our country, and that is unfunded liabilities. In other words, the kind of promises that Congress has made to make themselves more popular back home and yet not having any way to pay for it.

The estimated unfunded liabilities in today's dollars of the promises that we have made that we do not know where the money is coming from is estimated now at \$53 trillion. In other words, we would have to come up with \$53 trillion and put it in a savings account that is going to return at least inflation and the time value of money in order to pay for these kind of future benefits. Even at this time, when Republicans are talking about the diligence that we must have in reducing spending, and my guess is we are going to reduce spending even less than what the President has suggested, there still is the problem of dealing with Social Security.

I asked the pages a little earlier to listen up to my comments tonight on Social Security because our pages, who are 16- and 17-year-olds and in high school, are the generation at risk that are going to have to put up with our nonaction to solve this serious problem. And as long as the pages are listening, let me just say it is a tremen-

dous service that they provide to America, giving up their time, getting up at 5:30 in the morning, eating quickly and doing all the work we put before them.

Okay, here goes the roughly 30, 35-minute tutorial on Social Security. First, I am going to start out with how we divide up government spending. If you look at this pie chart, we see that the expense for Social Security is the largest piece of this pie.

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Let me remind everyone that Social Security is a pay-as-you-go program where the taxes, FICA taxes that come out of your paycheck immediately, once it gets to the Department of Treasury, is either sent out in benefits to current retirees, or where there is a surplus it is spent for other government programs. Social Security even exceeds the 20 percent increase in cost of defense. Interest is 14 percent, but to continue to borrow this money and pretend that our problems today are so serious that it justifies taking money away from our kids and grandkids that cannot defend themselves I think is unconscionable.

Here is briefly how Social Security works. Benefits are highly progressive and based on earnings. Some people have said if the economy improves it will satisfy the problems that we are facing with Social Security. That is not true because as the economy improves and wages go up, that means future benefits, because they are directly related to the wages that you are making, future benefits are also going to go up. It might solve the problem in the short run, but in the long run it does not solve the problem.

The second is at retirement all of a worker's wages up to the tax ceiling are indexed to present value using wage inflation. In other words, if you made \$20,000 a year 15 to 18 years ago, the wage inflation would credit you on the way your benefits are calculated up to what that \$20,000 is worth today. In other words, it would be written down someplace around \$40,000. The third blip, the best 35 years of earnings are averaged. So if you only work 20 years, 15 years go as a zero for your average earnings in terms of defining your benefits.

The annual benefit for those retiring in 2004 equals, and this is how it is progressive, it equals 90 percent of the earnings up to 7 percent. These are the benefits you are going to get or are getting. It equals 90 percent up to the first \$73,440; 32 percent of the earnings between that figure \$73,440 and \$44,000; and 15 percent of the earnings above the \$44,286. In other words, if you are a very low-income person, you can receive back on our average Social Security check 90 percent of what you averaged during the 35 years. If you are a very high income recipient, you are going to get 15 percent of the earnings up to the maximum of what is now \$89,000. We have capped your earnings

in terms of defining Social Security benefits up to \$89,000, and that is geared to inflation in future earnings.

Early retirees receive adjusted benefits. If you retire at 62, they figure out how long you are going to live and reduce your benefits accordingly. However, if you decide to put off retirement, maybe until you are 70, then your retirement benefits are indexed to a higher calculation in your monthly payment. So if you are in good health, keep exercising and eat right, sometimes it is going to be to your advantage to put off receiving those Social Security benefits for a few years.

What a lot of people come to me and ask, what about all this cheating on SSI? These people are getting my Social Security benefits. That is not true. SSI comes out of the general fund. It does not come out of Social Security.

Well, Social Security started in 1934 with President Franklin Roosevelt. When President Roosevelt created the Social Security program over 6 decades ago, he wanted it to feature a private sector component to build retirement income. Social Security was supposed to be one leg of a three-legged stool to support retirees. It was supposed to go hand-in-hand with personal savings accounts.

Researching the archives, and if you have never looked at the archives and the history of this country, it is very interesting. Looking at the archives when Social Security was passed, the Senate actually said there should be personal retirement savings accounts owned by the individual worker. The House said no, let us have government take all of the money and the government can invest it. That way we can be sure no snake oil salesman comes in and tries to convince individuals to invest their money some place where it might be risky.

In conference committee the House won out, the government won, and from then on every time Social Security gets into a little trouble in terms of income, enough income coming in to pay benefits, it does one of three things: It increases taxes; it reduces benefits; or a combination of those two. Most often it is a combination of the two.

Social Security is, what I wrote on this chart, is a system stretched to its limit. There are 78 million baby boomers that begin retiring in 4 years in 2008. This is part of the problem. With a pay-as-you-go program with more and more retirees and a lower birth rate, you end up with fewer and fewer workers paying for the benefits of that increasing number of retirees. Social Security spending exceeds tax revenue in 2017. That is the current estimate. Later this month the Social Security Administration is going to come out with their new projections of how big a problem we have for Social Security.

Chairman Greenspan at a House Budget Committee hearing said a couple weeks ago that Congress has got to