

which Republicans, then in the minority, insisted that judicial vacancies in the last year of a President's term remain vacant in order to be filled with the nominations of the next President. He understands the dynamics in the last year of a President's term. And no modern President has been as divisive as this President on these issues.

This is the Senate. This is not Alice in Wonderland. I would rather see us work with the President on his selection of nominees that the Senate can proceed to confirm than waste precious time fighting about controversial nominees. That is why I have urged the White House to work with Senators WARNER and WEBB to send to the Senate without delay nominees to the Virginia vacancies on the fourth circuit.

Mr. President, you have had enormous experience in your own State. I ask this of all Senators: If you have a highly respected Republican Senator and a highly respected Democratic Senator both saying we want this person to be on a Federal circuit court, and they both vouch for him or her, you know that person is going to go sailing through this place.

I thank the Republican members of the Judiciary Committee this week for not boycotting our meeting. As a result, we have seven nominations on the Executive Calendar who would not be there if they continued the boycott.

I have urged the White House to work with all Senators from States with vacancies on the Federal bench. We may still be able to make progress before the Thurmond rule comes into effect but only with the full cooperation of this President and of the Republican Members of this Senate.

OIL PRICES

Mr. LEAHY. Mr. President, the Organization of Petroleum Exporting Countries, OPEC, is an international cartel. It limits the supply of oil, which helps keep fuel prices high, and it is one of the major causes of the relentless increase in oil prices.

This week, OPEC members met again. They refused to increase the supply of oil. If such a meeting took place in almost any other context, the participants would likely be arrested for an illegal conspiracy in restraint of trade. Can you imagine somebody selling some other supplies such as medical equipment or items we need in this Nation, electricity. Let's say the utilities all met like that and they said: We will hold back electricity so we can raise the prices. There would be an antitrust suit, there would be an illegal-restraint-of-trade suit brought immediately.

I wish the administration would join me and Senator KOHL and 68 other Senators—Republicans and Democrats alike—and 345 Members of the House of Representatives of both parties who have voted for NOPEC legislation. This would hold accountable certain oil-producing nations for their collusive be-

havior which has artificially reduced the supply and inflated the price of fuel.

In April 2004, when American consumers were paying \$1.78 per gallon at the pump, I warned energy experts were predicting the price of gas might rise to \$2.50, to \$3 a gallon. The administration did nothing. Last October, when American consumers were paying \$2.87 per gallon at the pump, I warned that oil might be on its way to over \$100 a barrel, and the administration did nothing. This week, oil reached a record \$104 a barrel and gas prices averaged \$3.16 a gallon. So how much will families in Vermont and across America have to pay to heat their homes in this long winter or to drive to work before the President takes action?

Further, at a news conference last week, the President was not even aware—was not even aware as President of the United States—that many are predicting that gas prices will hit \$3.50 or even \$4 a gallon by spring. He simply was not aware of how crippling high prices really are for Americans.

Two facts are painfully clear: Gas prices have more than doubled since the President took office, and the President has no plan to protect consumers and our economy. He promised the American people that with his family's oil ties, he would effectively be able to jawbone OPEC into being nice to him and that they would raise production to lower prices if he asked them. It is now evident for all to see that it is just another unfulfilled commitment from the administration.

I said this before and I say it again today: The principal cause of the relentless increase in oil prices is not just a natural supply issue but market manipulation by OPEC.

In January, the President's best attempt to increase the supply of oil was to tell Saudi King Abdallah that paying more for gasoline hurt some American families. Well, yes. It is a lot more than some families, it is most. I am pleased the administration acknowledges the effects of rising gas prices on Americans, but Saudi Arabia is a founding member of OPEC, and they have every incentive to limit output and keep prices artificially high. The futility of going to an OPEC member and pleading for it to raise output is now obvious to all. Instead of President Bush holding hands with the oil cartel—literally and figuratively—the administration should join us in trying to protect the interests of the American people.

It is important to emphasize again that if a meeting such as the OPEC meeting that took place this week happened in almost any other context, the participants would likely be arrested for an illegal conspiracy in restraint of trade. Yet this President stood in front of the King of the largest participant in the oil cartel and asked for relief instead of saying: It is an illegal activity, stop it.

If the administration truly acknowledges the impact artificially high oil

prices have on our Nation, he should join with this Congress and support NOPEC legislation. Instead of pleading for help, the next time the President of the United States meets with members of the cartel, the President should be able to explain that entities engaging in anticompetitive conduct that harms American consumers can expect an investigation and they can expect prosecution. When I was a prosecutor, it was not enough just to ask people: Don't break the law. You had to outright say: If you break the law, we will arrest you.

We cannot claim to be energy independent while we permit foreign governments to manipulate oil prices in an anticompetitive manner. It is wrong to let these members of OPEC off the hook just because their anticompetitive practices come with the seal of approval of national governments.

Mr. President, I see the distinguished Senator from Texas on the floor. I already asked that he be recognized after me.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, I ask unanimous consent to speak as in morning business for up to 15 minutes.

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

THE INTELLIGENCE GAP

Mr. CORNYN. Mr. President, I thank the distinguished Senator from Vermont, the chairman of the Judiciary Committee, for his courtesy.

When the Senate debates the budget next week, we will hear a lot about the tax gap. This is the name given to uncollected taxes which some have said, if collected, could pay up to \$300 billion in additional revenue to the Federal Treasury. I wish to talk about this in a minute, first of all to ask the question why it is, notwithstanding this so-called tax gap, we have not seen any money at all collected over the last year to fill that gap. But first I want to talk about the intelligence gap. This has to do with the critical information the United States should be collecting in pursuit of radical Islamists but is not because of burdensome and unnecessary legal restrictions—restrictions Congress has within its power to remove.

To the Senate's credit, in a bipartisan fashion, the Senate Intelligence Committee passed out a bill that I hope the House of Representatives will vote on soon. That same bill passed by a bipartisan majority of 68 Senators. That is not easy, but it does demonstrate a bipartisan consensus in this body to make sure we have our eyes open and our ears open when it comes to foreign intelligence that could detect, deter, and even defeat future terrorist attacks against the United States and our allies.

The intelligence gap is also closed not only by passing that important legislation which the House of Representatives has inexplicably sat on for the

last couple of weeks but also by providing protection against frivolous litigation against communications providers that have assisted the Nation in the wake of the 9/11 attacks on a voluntary basis.

It is no secret that the Director of National Intelligence has noted that given this world of wireless communications, we need to adopt new means to intercept communications from foreign nationals to other foreign nationals which could well be directed through the infrastructure in the United States and which, unless we pass this legislation, we would not be able to intercept. The biggest problem we have, of course, is that their cooperation is entirely voluntary, and unless we protect them under this bipartisan Senate legislation from frivolous litigation, in the future not only will citizens—whether they be individuals or corporate—not cooperate, but we will be left with a fraction of the actionable intelligence necessary to detect, deter, and defeat those whose sole wish is the murder of innocent Americans.

I quote the Democratic chairman of the Senate Intelligence Committee, who said:

What people have to understand here is the quality of intelligence we are going to receive is going to be degraded.

Those, of course, are not my remarks, and they are not the words of a member of the Bush administration; those are the words of JAY ROCKEFELLER, the distinguished chairman of the Senate Intelligence Committee. That is why this legislation passed out of the Senate with a strong bipartisan vote.

I don't know about the political implications of the Democratic House leadership's failure to act responsibly, and I am not here to talk about politics, but I do know there are serious national security interests that we face, and threats, and the majority of Democrats in the House are not taking those threats seriously enough. So rather than taking a vacation from their duties, it is past time for the House to act and to do the responsible thing. I hope Speaker PELOSI and Majority Leader HOYER will call up this important bipartisan legislation and allow an up-or-down vote on the bipartisan Senate legislation that will make this Nation safer from the terrorist threats we face.

Mr. President, I have other remarks I wish to make, but I see the distinguished majority leader on the floor. I want to make sure—if he has any housekeeping business he wants to take care of, I will be glad to defer to him for that purpose and then to reclaim the floor later on. I do not want to have him necessarily have to wait.

I understand he is motioning for me to continue, and I will do that. I thank the Senator.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, I appreciate very much my friend from Texas allow-

ing me to do that, but he should finish his statement, and I will do some wrap-up when he finishes.

THE FEDERAL BUDGET

Mr. CORNYN. I thank the majority leader.

Mr. President, I wish to now transition to talk about the issue that will be in front of the Senate next week, and this has to do with the Federal budget.

This is so important across so many areas because not only does this budget talk about what the tax burden of hard-working Americans will be in the coming year, it also has an impact on energy costs, on health insurance costs, on the ability of Americans to buy homes. How do we create better schools for better jobs? How do we deal with the issue of runaway lawsuits that threaten the business environment and have a dampening effect on job creation? How do we revive capital markets, rebuild our roads, bridges, railroads and airports? How do we provide a simpler, fairer tax system than we have now? And How do we make sure Americans retain the right to work in the job of their choosing without having to become part of a union when they don't want to?

The part of this budget that concerns me the most is not the proposed \$1.2 trillion tax hike that is contemplated under this budget that passed strictly along party lines in the Budget Committee yesterday afternoon, although that is bad enough. It will hit family budgets hard. Mr. President, 43 million families will owe an average of \$2,300 more in 2009 in taxes as a result of this budget if it is adopted on the Senate floor. I am also concerned about the spending increase under this budget, some \$211 billion in additional spending that is part of this budget proposed from the Budget Committee that will be before the Senate this next week. That means, in fiscal year 2009, if adopted, a 9-percent increase over what the Federal Government spent in fiscal year 2008. Now, as bad as the higher taxes and higher spending is, I wish I could say that was the end of the story, but it goes on from there and it doesn't get any better.

As a result of the increased spending and the increased taxes contemplated under this budget, America will find itself \$2 trillion deeper in debt by the year 2013 if this budget is adopted. That is more than \$6,000 in extra debt for every American.

And I would say this budget also fails in another important respect. It fails to deal with the impending crisis in entitlement spending and the future insolvency of both Medicare and Social Security, two important safety net programs, and ones we have made a promise to fund and to make sure is there for not only present beneficiaries of these programs but for our children and grandchildren as well. We know that unless something dramatic hap-

pens, we will not be able to keep that commitment.

As a matter of fact, unless this Congress acts, there is \$66 trillion in unfunded responsibilities under the current entitlement programs we need to fix; that we need to take into account.

Now, there is an important piece of legislation I think we ought to take up and that is the Conrad-Gregg task force to deal with this gathering storm of an entitlement crisis. It is a bipartisan bill by the chairman and the ranking member of the Budget Committee. But we are not taking that up, as we should, as part of dealing with the Federal budget. Because we know that if we don't do anything, there is going to be a terrible financial catastrophe, and the people who will ultimately suffer as a result of our failure to act will be future beneficiaries under Social Security and Medicare—our children, our grandchildren, and future generations.

The last thing I wish to mention with regard to the budget is what the Wall Street Journal has called the pay-go farce. You will recall that pay-go was the name given to pay-as-you-go requirements under the budget. Sounds good. That is what the family budget has to do. If there is no money coming in the front door, then you are not going to be able to spend yourself into debt. You pay as you go. That is the way most businesses operate but not the Federal Government. The Federal Government can continue to print money and spend money it doesn't have and pass the debt down to our children and grandchildren.

If you take into account this unfunded liability of \$66 trillion because of the entitlement crisis—the gathering storm I mentioned a moment ago—that boils down to about \$175,000 per person—every man, woman, and child—that we owe now for those unfunded liabilities unless we take action now. But the pay-go farce the Wall Street Journal article mentions—and the date of this article is December 10, 2007—quotes Speaker NANCY PELOSI in remarks she made on December 12, 2006. She said:

Democrats are committed to ending years of irresponsible budget policies that have produced historic deficits. Instead of compiling trillions of dollars of debt onto our children and grandchildren, we will restore pay-as-you-go budget discipline.

Now, I have to tell you, just taken at face value, that sounds pretty good. We do need to take responsibility. We do need to do that on a bipartisan basis. But the pay-go promise made by this Congress looks like Swiss cheese. There are so many holes in it that you could drive—not to mix my metaphors—but you could drive a truck through it. And let me explain why.

First of all, these pay-go rules that promise financial discipline do not apply to discretionary spending. That is about \$1 trillion a year. And it doesn't restrain spending increases under current law in entitlements,