

have not been distracted by politically driven fights but stayed focus on making real progress. Even now, while others insist on fussing and fighting, I am working to continue to make progress where we can.

We have already cut the circuit court vacancies more than in half. Today circuit court vacancies stand at 12, the lowest number of such judicial vacancies in more than a decade, indeed since the Republican effort to stall President Clinton's nominees and increase circuit court vacancies. By the end of President Clinton's administration, the Republican majority in the Senate had expanded those vacancies from 12 to 26. When I began the consideration of President Bush's nominees in the summer of 2001, circuit court vacancies stood at 32 and overall vacancies topped 110. Yet we get no credit or even acknowledgement from the Republican side of the aisle for all our efforts and accomplishments in cutting those vacancies. In fact, we are being penalized for doing a good job early and not following their pattern of building up massive vacancies before allowing nominations to proceed.

While I continue to process nominations in the last year of this President's term, we have already lowered the vacancies in the Second Circuit, the Fifth Circuit, the Sixth Circuit, the Eighth Circuit, the Ninth Circuit, the Tenth Circuit, the Eleventh Circuit, the DC Circuit, and the Federal Circuit. Both the Second and Fifth Circuits had circuit-wide emergencies due to the multiple simultaneous vacancies during the Clinton years with Republicans in control of the Senate, some numbering as high as five. Both the Second Circuit and the Fifth Circuit now are without a single vacancy after last week's confirmation of Judge Catharina Haynes. Circuits with no vacancies also include the Seventh Circuit, the Eighth Circuit, the Tenth Circuit, the Eleventh Circuit and the Federal Circuit. That is five circuits without a single vacancy due to our efforts. Indeed, the only circuit that has more vacancies than it did at the end of the Clinton administration is the First Circuit, which has gone from no vacancies to one. The other three circuits, the Third, the Fourth and the Seventh have the same number of vacancies today that they had at the end of the Clinton administration. When we take action on the Agee nomination from the Fourth Circuit, even that circuit will be in an improved posture.

I am trying to make significant progress. I have made sure that we did not act as Republicans did during the Clinton administration when they pocket filibustered more than 60 judicial nominations and voted lock step against the confirmation of Ronnie White. I am also mindful that their bad behavior not simply be forgotten, and thereby rewarded. They have yet to acknowledge responsibility and accept any accountability for their actions. We have not engaged in a tit-for-tat.

Rather, by cutting the vacancies as we have, we have taken a giant step toward resolving these problems, just as we are now on course to resolve the longstanding impasse in the Sixth Circuit. We have acted more fairly. I hope to be able to complete the restoration of the confirmation process during the next President's administration. We will then have overcome years of partisan rancor.

#### THE MATTHEW SHEPARD ACT OF 2007

Mr. SMITH. Madam President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would strengthen and add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

Early in the morning of September 9, 2007, a gay man was walking home when he was attacked near the Georgetown University campus. According to the victim, two men at a college party began following him while yelling homophobic slurs. As the victim turned a corner, one of the men began punching him in the head, resulting in cuts and bruises to his face, and a broken thumb. The victim immediately reported the incident to the Georgetown campus police. The attack was investigated as a bias-related crime based on the victim's sexual orientation and the circumstances of the attack. However, the Washington, DC, Metropolitan Police Department has charged Philip Cooney, a 19-year-old Georgetown sophomore, with simple assault.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. Federal laws intended to protect individuals from heinous and violent crimes motivated by hate are woefully inadequate. This legislation would better equip the Government to fulfill its most important obligation by protecting new groups of people as well as better protecting citizens already covered under deficient laws. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

#### FOREIGN POLICY VISION

Mr. CARPER. Madam President, I wish to bring to the attention of my colleagues a speech that my good friend and fellow Delawarean JOE BIDEN delivered yesterday at Georgetown University. In his remarks, Senator BIDEN eloquently laid out a foreign policy vision for Democrats and outlined what is at stake for our country in the years ahead. I urge my colleagues to read Senator BIDEN's speech, and I ask unanimous consent that it be printed in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

When people say "this is the most important election in my lifetime," they're right.

So much is at stake. The physical security of our children. The retirement security of our parents. The economic and health security of our families. And, above all else, the national security of our country, which is a President's first responsibility.

I start from a simple premise: we cannot afford another four years of Republican stewardship of our nation's security.

After eight years of the Bush Administration, our country is less secure and more isolated than it has been at any time in recent history. This administration has dug America into a very deep hole—with very few friends to help us climb out.

It doesn't have to be this way. The next President will have an awesome responsibility—but also the greatest opportunity since FDR—to change the direction of our country\* \* \* and the world.

It starts with a much clearer understanding of how the world has changed over the past two decades. As Yeats wrote in "Easter 1916," our world has "changed utterly, a terrible beauty has been born."

The emergence of China and India as major economic powers. The resurgence of Russia floating on a sea of oil. A unifying Europe. The spread of dangerous weapons and lethal diseases. The shortage of secure sources of energy, water and even food. The impact of climate change. Rising wealth and persistent poverty. A technological revolution that sends people, ideas and money hurtling around the planet at ever faster speeds. The challenge to nation states from ethnic and sectarian strife. The struggle between modernity and extremism.

That's a short list of the forces shaping the 21st century. No one country can control these forces, but more than any other country, we have an ability to affect them—if we use the totality of our strength.

Our military might and economic resources are necessary but not sufficient to lead us into this new century. It is our ideas and ideals that will allow us to exert the kind of leadership that persuades others to follow and to deal effectively with these forces of change.

Over the next few months, I'll speak in detail about how Democrats will exert that kind of leadership.

For today, I want to concentrate on this administration. It has squandered our ability to shape this new world. It has put virtually all of these issues on the back burner, failing to devote the intellectual capital and constant effort they require. It has destroyed faith in America's judgment. And it has devalued America's moral leadership in the world.

Instead, this administration has focused to the point of obsession on the so-called "war on terrorism" and produced a one-size-fits-all doctrine of military preemption and regime change ill suited to the challenges we face.

It has made fear the main driver of our foreign policy. It has turned a deadly serious but manageable threat—a small number of radical groups that hate America—into a ten-foot tall existential monster that dictates nearly every move we make.

Even if you look at the world through this administration's distorted lens, you see a failed policy. This failure flows from a dangerous combination of ideology and incompetence and a profound confusion about whom we're fighting.

It starts with the very language the President has tried to impose: "the global war on

terror." That is simply wrong. Terrorism is a means, not an end, and very different groups and countries are using it toward very different goals. If we can't even identify the enemy or describe the war we're fighting, it's difficult to see how we will win.

The most urgent threat is the intersection of the world's most radical groups—like Al Qaeda—with the world's most lethal weapons.

But we also must confront groups that use terror not to target us directly, but to advance their own nationalistic causes. We must deal with outlaw states that support them and otherwise flout the rules. We must face a civil war in Iraq, a renewed war for Afghanistan, and an ideological war for the future of Pakistan. We must help resolve a historic conflict between Arabs and Israelis.

And we must contend with Iran, especially its efforts to acquire the capacity to build a nuclear weapon.

This administration spent five years fixated on changing the Iranian regime. No one likes the regime, but think about the logic: renounce the bomb—and when you do, we're still going to take you down. The result is that Iran accelerated its efforts to produce fissile material and is closer now to the bomb than when Bush took office.

Instead of regime change, we should focus on conduct change. We should make it very clear to Iran what it risks in terms of isolation if it continues to pursue a dangerous nuclear program but also what it stands to gain if it does the right thing.

That will require keeping our allies in Europe, as well as Russia and China, on the same page as we ratchet up pressure. But it also means doing much more to reach out to Iran—including through direct talks—to exploit cracks within the ruling elite and between Iran's rulers and its people, who are struggling economically and stifled politically. The Iranian people need to know that their government, not the United States, is choosing confrontation over cooperation.

Saber rattling is the most self-defeating policy imaginable. It forces Iranians who despise the regime to rally behind their leaders and spurs instability in the Middle East, which adds to the price of oil, with the proceeds going right into Tehran's pockets. The worst nightmare for a regime that thrives on isolation and tension is an America ready, willing and able to engage. It's amazing how little faith this administration has in the power of America's ideas and ideals.

All these fronts throughout the Middle East and South Asia are connected. But this administration has wrongly conflated them under one label, and argued that success on one front ensures victory on the others. It has lumped together, as a single threat, extremist groups and states more at odds with each other than with us. It has picked the wrong fights at the wrong time, failing to finish a war of necessity in Afghanistan before starting a war of choice in Iraq.

The result is that, to quote the findings of the most recent National Intelligence Estimate on the Terrorist Threat: "Al Qaeda is better positioned to strike the West . . . [it has] regenerated . . . and remains determined to attack us at home."

Of course, we must destroy Al Qaeda.

But instead of rolling back the threat it poses, this administration's approach has helped produce a global breakout of extremism, which now threatens more people in more places than it did before 9-11.

So even on its own terms, the national security strategy of this administration has been a failure. We cannot afford four more years.

Last month, a man I greatly admire and consider a friend, Senator John McCain, set out his vision for our foreign policy.

To his credit, John repudiates some of the Bush Administration's approach to the world. He recognizes that the power of our example is as important as the example of our power . . . that allies we respect, not disdain, can advance our interests. He is especially eloquent about his abhorrence for war—as JOHN is uniquely placed to be.

But John McCain remains wedded to the Bush Administration's myopic view of a world defined by terrorism. He would continue to allow a tiny minority to set the agenda for the overwhelming majority.

It is time for a total change in Washington's world view. That will require more than a great soldier. It will require a wise leader.

Nowhere is this truer than in Iraq. The war dominates our national life. It stands like a boulder in the road between us and the credibility we need to lead in the world and the flexibility we require to meet our challenges at home.

When it comes to Iraq, there is no daylight between John McCain and George W. Bush. They are joined at the hip.

When it comes to Iraq, there will be no change with a McCain administration . . . and so there is a real and profound choice for Americans in November.

Like President Bush, Senator McCain likes to talk about the dire consequences of drawing down our forces in Iraq. He argues that Iraq is the meeting point for two of the greatest threats to America: Al Qaeda and Iran. It's an argument laden with irony. After all, who opened Iraq's door to Al Qaeda and Iran? The Bush Administration.

"Al Qaeda in Iraq" is a Bush-fulfilling prophecy: it wasn't there before the war, but it is there now. As to Iran, its influence in Iraq went from zero to sixty when we toppled Saddam's Sunni regime and gave Shi'ite religious parties inspired and nurtured by Iran a path to power.

No matter how we got to this point, President Bush and Senator McCain argue that if we start to leave, it will further empower Al Qaeda and Iran.

I believe they are exactly wrong. And so do a large number of very prominent retired military and national security experts who testified before the Foreign Relations Committee this month.

Would drawing down really strengthen "Al Qaeda in Iraq" and give it a launching pad to attack America? Or would it help eliminate what little indigenous Iraqi support "Al Qaeda in Iraq" retains?

Most Sunni Arabs have turned on "Al Qaeda in Iraq," alienated by their tactics and ideology. "Al Qaeda in Iraq" is down to about 2,000 Iraqis and a small number of foreigners whose almost exclusive focus is Iraq. When we draw down, the most likely result is that Iraqis of all confessions will stamp out its remnants—and we can retain a residual force in or near Iraq to help them finish the job.

Last week, I asked our ambassador to Iraq, Ryan Crocker, to tell us where al Qaeda poses a greater threat to America's security: in Iraq, or in Afghanistan and Pakistan. He said: Afghanistan and Pakistan.

So what about Al Qaeda in Pakistan and Afghanistan—the people who actually attacked us on 9-11? If we draw down, would they be emboldened?

Or, to paraphrase the National Intelligence Estimate on Terrorism, would they lose one of their most effective recruiting tools—the notion that we're in Iraq to stay, with permanent military bases and control over the oil? And would they finally risk the full measure of America's might?

Senator McCain has taken a lot of heat for saying he would not mind if American troops stay in Iraq for 100 years. The truth is, he

was trying to make an analogy to our long term presence in peaceful post-war Germany, post-armistice Korea and post-Dayton Bosnia.

But Germany, Korea or Bosnia after the peace are nothing like Iraq today—with thousands of bombs, hundreds of American injured and dozens of American killed every month—and there is little prospect Iraq will look like them anytime soon.

Worse, saying you're happy to stay in Iraq for 100 years fuels exactly the kind of dangerous conspiracy theories about America's intentions throughout the Arab and Muslim worlds that we should be working to dispel.

What about Iran? Would drawing down increase its already huge influence in Iraq? Or would it shift the burden of helping to stabilize Iraq from us to them and make our forces a much more credible deterrent to Iran's wider misbehavior?

The idea that we could or even should wipe out every vestige of Iran's influence in Iraq is a fantasy. Even with 160,000 American troops in Iraq, our ally in Baghdad greets Iran's leader with kisses. Like it or not, Iran is a major regional power and it shares a long border—and a long history—with Iraq.

Right now, Iran loves the status quo, with 140,000 Americans troops bogged down and bleeding, caught in a cross fire of intra Shi'a rivalry and Sunni-Shi'a civil war.

The challenge for us is not eliminating all Iranian influence in Iraq, but forcing Iran to confront the specter of a disintegrating Iraq or all-out war between different Shi'a factions.

By drawing down, we can take away Iran's ability to wage a proxy war against our troops and force Tehran to concentrate on avoiding turmoil inside Iraq's borders and instability beyond them.

Finally, would our responsible draw down accelerate sectarian chaos?

Or would it cause Iraq's leaders and Iraq's Sunni Arab neighbors to finally act responsibly? To date, both have used our large presence as a crutch or an excuse for inaction. When that stops, they will have to start to fill the vacuum or put their interests at much greater risk.

We should debate the consequences of drawing down in Iraq. But more importantly, we should talk about what both President Bush and Senator McCain refuse to acknowledge: the increasingly intolerable costs of staying.

The risks of drawing down are debatable. The costs of staying with 140,000 troops are knowable—and they get steeper every day: the continued loss of the lives and limbs of our soldiers; the emotional and economic strain on our troops and their families due to repeated, extended tours, as Army Chief of Staff General George Casey recently told Congress; the drain on our Treasury—\$12 billion every month; the impact on the readiness of our armed forces—tying down so many troops that, as Vice Chief of Staff of the Army Richard Cody said, we don't have any left over to deal with a new emergency; and the inability to send enough soldiers to the border between Afghanistan and Pakistan, where Al Qaeda has regrouped and is plotting new attacks.

When I visited Afghanistan in February, General McNeil, who commands the international force, told me that with two extra combat brigades—about 10,000 soldiers—he could turn around the security situation in the south, where the Taliban is on the move. But he can't get them because of Iraq.

Even when we do pull troops out of Iraq, the Chairman of the Joint Chiefs, Admiral Mullen, says he would want to send them home for a year to rest and retrain before sending them to Afghanistan.

The longer we stay in Iraq, the more we put off the day when we fully join the fight

against the real Al Qaeda threat and finally defeat those who attacked America 7 years ago.

It is long past time to clearly define our interests in Iraq. It is not in our interest to intervene in an internal power struggle among Shi'a factions. It is not in our interest to back one side or the other, or get caught in the cross fire of a Sunni-Shi'a civil war. It is in our interest to start to leave Iraq without leaving chaos behind.

Even if we could keep 140,000 troops in Iraq, they will not be the deciding factor in preventing chaos. Instead, we need to focus all our remaining energy and initiative on achieving what virtually everyone agrees is the key to stability in Iraq: a political power sharing agreement among its warring factions. I remain convinced that the only path to such a settlement is through a decentralized, federal Iraq that brings resources and responsibility down to the local and regional levels.

We need a diplomatic surge to get the world's major powers, Iraq's neighbors and Iraqis themselves invested in a sustainable political settlement.

Fifteen months into the surge that President Bush ordered and Senator McCain embraced, we've gone from drowning to treading water. We are no closer to the President's stated goal of an Iraq that can defend itself, govern itself and sustain itself in peace. We're still spending \$3 billion every week and losing 30 to 40 American lives every month.

We can't keep treading water without exhausting ourselves and doing great damage to our other vital interests around the world. That's exactly what both the President and Senator McCain are asking us to do.

They can't tell us when, or even if, Iraqis will come together politically, which was the purpose of the surge in the first place. They can't tell us when, or even if, we will draw down below pre-surge levels. They can't tell us when, or even if, Iraq will be able to stand on its own two feet. They can't tell us when, or even if, this war will end.

Most Americans want this war to end. They want us to come together around a plan to leave Iraq without leaving chaos behind.

They're not defeatists. They're patriots who understand the national interest—and the great things Americans can achieve if we responsibly end a war that we should not have started.

I believe it is fully within our power to do that. Then, with our credibility restored, our alliances repaired and our freedom renewed, we will once again lead the world. We will once again address the hopes, not play to the fears, of our fellow Americans.

That is my hope for next November—and for the country we all love.

May God bless America and protect our troops.

#### TAX REFORM

Mr. VOINOVICH. Madam President, the time for a honest, national discussion of fundamental tax reform is long overdue. Each year, April 15 looms on the calendar as a day of reckoning for American taxpayers facing a laborious and needlessly stressful process. Since enacting the Tax Reform Act of 1986—legislation intended to simplify the filing process for taxpayers—more than 15,000 provisions have been added to the Internal Revenue Code.

The irony of our complex Tax Code is that in order to take advantage of all

the benefits and deductions for which they qualify, Americans have to spend a significant amount of money to pay someone or something to do their taxes for them—thus decreasing the value of their return. According to the President's Advisory Panel on Federal Tax Reform, only 13 percent of taxpayers are able to file without the help of either a tax preparer or computer software.

The Tax Foundation estimates that in 2005, individuals, businesses, and nonprofits spent an estimated 6 billion hours complying with the Federal income tax code, with an estimated compliance cost of more than \$265 billion. This amounts to imposing a 22-cent tax compliance surcharge for every dollar the income tax system collects.

Tinkering with the current Tax Code won't get the job done. Tinkering is what got us into this mess in the first place. We must enact fundamental tax reform—a complete overhaul of the system that would make the Tax Code simple, fair, transparent, and conducive to economic growth and private savings.

Tax reform is not just a matter of simply saving taxpayers time and effort. This is about saving taxpayers real money. Comprehensive tax reform could save Americans the \$265 billion in compliance costs. Now, that would be a real tax reduction that wouldn't cost the Treasury one dime.

A new tax system is also vitally important to job creation and economic growth. In addition to simplification for average families, we must address one of the biggest problems with the current code: it rewards moving production activity—and the good-paying jobs that accompany such activity—overseas. It taxes domestically produced goods heavily and taxes foreign-made goods lightly. We have the second highest corporate tax rate in the developed world, but we are near the bottom in corporate tax collections as a share of the economy. Such a system sounds absolutely perverse, but that is what we have in the United States.

Some of my colleagues will suggest that we can just increase marginal rates to raise the revenue we need. But in a competitive global economy, I can't understand why we would choose such a self-defeating approach. Higher marginal rates on an already-broken tax system would only discourage economic ingenuity and reduce U.S. competitiveness. Recent economic research concludes that in a global economy workers bear the brunt of higher corporate tax rates, through lower wages and fewer jobs.

The bottom line is Congress needs to take tax reform seriously. I am actively evaluating proposals that would simplify the Tax Code, save taxpayers billions of dollars, expand the economy, and most importantly, protect American jobs. I have already discussed the need for such legislation with many of my colleagues, and I know there is bipartisan support in the

Chamber for comprehensive and timely action.

We can start the process by enacting legislation to create a bipartisan commission to propose tax and entitlement reform legislation that Congress must vote on under fast-track procedures, such as my SAFE Commission Act or the Bipartisan Task Force for Responsible Fiscal Action that has been proposed by Senate Budget Committee chairman KENT CONRAD and ranking Republican JUDD GREGG. With or without such a commission, Congress and the next President must move forward on comprehensive tax reform that simplifies the code and creates jobs in the United States.

#### SUPREME COURT CONFIRMATION PROCESS

Mr. KENNEDY. Madam President, an editorial in Monday's New York Times called attention to a new academic study on the Supreme Court confirmation process. The study, "An Empirical Analysis of the Confirmation Hearings of the Justices of the Rehnquist Natural Court," was conducted by Professors Jason Czarnecki of the Marquette Law School, William Ford of the John Marshall Law School, and Lori Ringhand of the University of Kentucky College of Law, and it was published in the Spring 2007 issue of Constitutional Commentary. The study compares the statements made by nine Supreme Court nominees—Justices Rehnquist, Stevens, O'Connor, Scalia, Kennedy, Souter, Thomas, Ginsburg, and Breyer—at their confirmation hearings with their subsequent rulings on the Court to determine whether their statements as nominees on stare decisis, originalism, legislative history, and the rights of criminal defendants were consistent with their rulings as Justices.

The authors found that a large gap often exists between what nominees told the Senate Judiciary Committee and how they later ruled from the bench. For example, in their confirmation hearings, Justices Scalia and Thomas indicated a stronger commitment to stare decisis than most of their colleagues did, yet on the Court they were the Justices most likely to vote to overturn precedents. On none of the subjects was the correlation very strong between the testimony by the nominees at the Senate hearings and their rulings on the Court. The authors conclude that Senators have a better chance at obtaining useful information in confirmation hearings if they "focus their questions on specific issue areas rather than 'big picture' issues involving interpretative methods."

As the authors state, their results are far from definitive and are meant only to start a conversation. The evidence is certainly suggestive, however, and is consistent with what legal scholars have been saying for many years. Supreme Court nominees reveal very little substantive information at their