

against an opponent at the bitter end of a race, when it can't be answered, and the next thing you know the person they defended against the opponent is in their pocket. No appearance of corruption? Well, the Supreme Court has decided it: No appearance of corruption. That is clear to them.

Here is another finding of fact by this bloc of judges:

The appearance of influence or access, furthermore, will not cause the electorate to lose faith in our democracy.

They made that up out of whole cloth. There are hundreds of thousands of pages of findings to the contrary in the record of previous Supreme Court decisions they overruled. But, no, they made these unsupported findings.

It is novel, it is naive, and it contrasts with the actual findings of this Senate 100 years ago, which said the following:

The evils of the use of [corporate] money in connection with political elections are so generally recognized that the committee deems it unnecessary to make any argument in favor of the general purpose of this measure. It is in the interest of good government and calculated to promote purity in the selection of public officials.

The evils of the use of corporate money in connection with political elections was so generally recognized 100 years ago that the Senate committee working on that legislation deemed it unnecessary to make any argument in favor of the measure—it was too obvious. Yet now this appellate tribunal has made fact findings that that is all wrong.

Moreover, a small band of conservative Justices departs from regular judicial practice by relying for precedent on its own members' previous concurring and dissenting opinions, as if they were their own little court, building a scaffold of arguments alongside the law, in wait for the right case with a sufficient majority to abandon the law and jump to their scaffold of argument. As Justice Stevens accurately pointed out, the majority opinion of the right wing bloc is essentially an "amalgamation of resuscitated dissents."

Finally, and most disturbingly, the Chief Justice evaluates precedent in terms of whether his five-member bloc objects to it. He is surprisingly outright about this. He said this: "Stare decisis," the principle that a settled question is settled, that it stands decided—"stare decisis effect is . . . diminished when the precedent's validity is so hotly contested that it cannot reliably function as a basis for decision in future cases."

He later continues: "The simple fact that one of our decisions remains controversial . . . does undermine the precedent's ability to contribute to the stable and orderly development of the law."

As anybody looking at this can see, it is a completely self-fulfilling theory, and it allows the five-man right wing bloc on the Court to gradually undermine settled precedent, to tunnel under

it with quarreling objections, hotly contesting it, perhaps even to accelerate the process of undermining it; then, at some point, decree that the settled precedent is no longer valid because they have quarreled with it. Now it must fall.

There can be little doubt that the conservative bloc is laying the foundation for future right wing activism in a seemingly deliberate and concerted effort to expand its political philosophy into our law. Of course, always the dramatic changes observably fall in the direction of the Republican Party's current political doctrine and interests.

I will close by quoting Justice Stevens, who I think puts the fundamental issue of the Citizens United majority opinion in clear relief. "At bottom," he says:

. . . the court's opinion . . . is a rejection of the common sense of the American people, who have recognized a need to prevent corporations from undermining self-government since the founding, and who have fought against the distinctive corrupting potential of corporate electioneering since the days of Theodore Roosevelt. It is a strange time to repudiate that common sense. While American democracy is imperfect—

Justice Stevens concludes—

few outside the majority of the Court would have thought that its flaws included a dearth of corporate money in politics.

I yield the floor.

ANNUAL REPORT OF THE SELECT COMMITTEE ON ETHICS

Mrs. BOXER. Mr. President, the Honest Leadership and Open Government Act of 2007 calls for the Select Committee on Ethics of the U.S. Senate to issue an annual report not later than January 31 of each year providing information in certain categories describing its activities for the preceding year. Reported below is the information describing the committee's activities in 2009 in the categories set forth in the act:

(1) The number of alleged violations of Senate rules received from any source, including the number raised by a Senator or staff of the Committee: 99. (In addition, 26 alleged violations from the previous year were carried into 2009.)

(2) The number of alleged violations that were dismissed—

(A) For lack of subject matter jurisdiction or in which, even if the allegations in the complaint are true, no violation of Senate rules would exist: 58. (This figure includes 12 matters that were carried into 2009.)

(B) Because they failed to provide sufficient facts as to any material violation of the Senate rules beyond mere allegation or assertion: 45. (This figure includes 5 matters that were carried into 2009.)

(3) The number of alleged violations for which the Committee staff conducted a preliminary inquiry: 13. (This figure includes 8 matters from the previous year carried into 2009.)

(4) The number of alleged violations for which the Committee staff conducted a preliminary inquiry that resulted in an adjudicatory review: 0.

(5) The number of alleged violations for which the Committee staff conducted a pre-

liminary inquiry and the Committee dismissed the matter for lack of substantial merit: 8. (This figure includes matters in which the Committee subsequently lost jurisdiction. It also includes two letters of public dismissal.)

(6) The number of alleged violations for which the Committee staff conducted a preliminary inquiry and the Committee issued private or public letters of admonition: 1.

(7) The number of matters resulting in a disciplinary sanction: 0.

(8) Any other information deemed by the Committee to be appropriate to describe its activities in the previous year:

In 2009, the Committee staff conducted 10 Member code of conduct training sessions and 5 new Member sessions; 19 employee code of conduct training sessions; 12 Member and committee office campaign briefings; 27 ethics seminars for Member DC offices, state offices, and Senate committees; 3 private sector ethics briefings; and 7 international ethics briefings.

In 2009, the Committee staff handled 12,667 telephone inquiries for ethics advice and guidance.

In 2009, the Committee wrote 996 ethics advisory letters and responses including, but not limited to, 752 travel and gifts matters (Senate Rule 35) and 111 conflict of interest matters (Senate Rule 37).

In 2009, the Committee issued 3,309 letters concerning financial disclosure filings by Senators, Senate staff and Senate candidates and reviewed 1,663 reports.

DENYING AL-QAIDA SAFE HAVENS

Mr. FEINGOLD. Mr. President, the attempt to blow up a U.S. airliner on Christmas Day has shined a spotlight squarely, if belatedly, on Yemen. I cannot overstate the importance of denying al-Qaida safe havens in Yemen and countries like it, an issue on which I have been working for years. The threat from al-Qaida in Yemen, as well as the broader region, is increasing, and our attention to this part of the world is long overdue.

That is why I welcome the President's increased focus on Yemen. But we need to remember, as we focus needed resources and attention on Yemen, that it shouldn't be seen as the new Afghanistan, or the new Iraq. Instead, Yemen highlights the importance of a comprehensive, global counterterrorism strategy that takes into account security sector reform, human rights, economic development, transparency, good governance, accountability, and the rule of law.

We must seize the opportunity to focus attention on the strategy and policies we need to deny al-Qaida safe havens around the world, including in Yemen. Concurrently, we need to examine our policy in Yemen and better understand how we can develop a partnership that is both in our national security interest and helps Yemen to move towards becoming a more stable, secure nation for its people. The recognition at the recent high-level international meeting on Yemen in London of the importance of addressing broader economic, social and political factors in Yemen is thus very welcome.

Any serious effort against al-Qaida in Yemen will require strengthening the

weak capacity of the government as well as its legitimacy in the eyes of its citizens. We need to be careful about providing assistance to a government that isn't always aligned with the needs of the Yemeni people, as last year's State Department report on human rights notes. I am pleased to be an original cosponsor with Senators KERRY and FEINSTEIN of a resolution that urges the implementation of a comprehensive strategy to address instability in Yemen that also calls on the Yemeni government to strengthen efforts to address corruption, to respect human rights and to work with its citizens and the international community to address the factors driving instability in the country.

Yemen is a fragile state whose government has limited control in many parts of the country. It faces a multitude of challenges including poverty, a young and growing population, resource scarcities, and corruption. It is also distracted from the counterterrorism effort by two other sources of domestic instability—the al-Houthi rebellion in the North and tensions with a southern region with which Sana'a was united less than 20 years ago. In other words, counterterrorism is hampered by weak governance and by internal conflicts that would not appear on the surface to threaten our interests. With this in mind, we must also work to ensure that, in the provision and use of our counterterrorism assistance to Yemen, care is taken to protect civilians and prevent the alienation of the local population and attention is given to the local conditions that enable militants to recruit followers.

Instability in Yemen is, of course, also closely linked to conflict in the Horn of Africa. Last year, Somali pirates attacked a U.S. vessel, which briefly raised awareness of maritime insecurity fostered by a lack of effective governance and insufficient naval capacity on both sides of the Gulf of Aden. This problem continues, even when it is not on the front pages, and is both a symptom and a driver of overall instability in the region. Meanwhile, refugees from the conflict in Somalia, as well as from the broader region, are fleeing to Yemen. According to the Office of the United Nations High Commissioner for Human Rights, more than 70,000 Somalis and Ethiopians arrived on Yemen's shores in 2009—a dramatic increase from previous years. The human cost to this exodus, as well as the potentially destabilizing effects, demand our attention.

Congress and the executive branch need to work together to ensure that the weak states, chronic instability, vast ungoverned areas, and unresolved local tensions that have created safe havens in which terrorists can recruit and operate do not get short shrift in our counterterrorism efforts. We cannot continue to jump from one perceived “central front in the war on terror” to the next. Local conditions in places like Yemen—as well as Somalia,

north Africa and elsewhere—will continue to enable al-Qaida affiliates and sympathizers to recruit new followers. As a result, although we should aggressively pursue al-Qaida leaders, and our efforts to track individual operatives are critical, we will not ultimately be successful if we treat counterterrorism merely as a manhunt with a finite number of al-Qaida members. I am pleased to see that Ambassador Daniel Benjamin has underscored the importance of our counterterrorism efforts addressing conditions that facilitate recruitment to terrorism and extremism. I hope this understanding is shared throughout our government agencies and in the implementation process.

To effectively fight the threat from al-Qaida and its affiliates in Yemen and elsewhere, we also need to change the way our government is structured and how it operates.

In this regard, we need better intelligence. For example, we need to improve the intelligence that relates directly to al-Qaida affiliates—where they find safe haven and why and the local conflicts and other conditions that create a fertile ground for terrorist recruitment. And we need to pay attention to all relevant information—including the information that the State Department and others in the Federal Government openly collect. Conditions around the world that allow al-Qaida to operate are often apparent to our diplomats, and do not necessarily require clandestine collection. The information diplomats and others collect therefore should be fully integrated with the intelligence community.

That is why I have proposed and the Senate has approved a bipartisan commission to provide recommendations to the President and to the Congress on how to integrate and otherwise reform our existing national security institutions. Unless we reform how our government collects, reports and analyzes information from around the world, we will remain a step behind al-Qaida's global network.

We also need better access to important countries and regions. When our diplomats aren't present, not only will we never truly understand what is going on, but we also won't be able to build relationships with the local population. In some cases, we can and should establish new embassy posts, such as in northern Nigeria. In other cases, such as Yemen, where security concerns present obstacles, we should develop policies that focus on helping to reestablish security, for the sake of the local populations as well as for our own interests.

In addition, as Yemen makes clear, we need strong, sustained policies aimed directly at resolving conflicts that allow al-Qaida affiliates to operate and recruit. These policies must be sophisticated and informed. We have suffered from a tendency to view the world in terms of extremists versus

moderates, good guys versus bad guys. These are blinders that prevent us from understanding, on their own terms, complex conflicts such as the ones in Yemen that undermine broader counterterrorism goals. This approach has led us to prioritize tactical counterterrorism over long-term strategies. And it has contributed to the misperception that regional conflicts, which are often the breeding grounds for al-Qaida affiliates, are obscure and unimportant and can be relegated to small State Department teams with few resources and limited influence outside the Department. We must change this dangerous pattern, which is why my resolution with Senators KERRY and FEINSTEIN urges a comprehensive policy toward Yemen, approved at the highest levels and agreed upon by the entirety of the U.S. Government.

We have an opportunity to take a smarter approach. By recognizing al-Qaida as a global network that takes advantage of local conditions, instead of a monolithic threat, we can get ahead of the curve and identify threats before the next attack.

65TH ANNIVERSARY OF THE LIBERATION OF AUSCHWITZ

Mr. CARDIN. Mr. President, on January 27, 1945, the Nazi concentration camp at Auschwitz, including Birkenau and other related camps near the Polish city of Oswiecim, was liberated by the Soviet Army. This week, people have gathered at Auschwitz and in many other places to mark the 65th anniversary of that event. I am pleased that President Obama presented a video address in which he underscored—using Elie Wiesel's words—the sacred duty of memory.

Auschwitz-Birkenau was the principal and most notorious of the six death camps built by Nazi Germany to achieve its goal of the mass extermination of the Jewish people of Europe. Built in Nazi-occupied Poland initially as a concentration camp for Poles and later for Soviet prisoners of war, it soon became a prison for a number of other nationalities.

Ultimately, a minimum 1,300,000 people were deported to Auschwitz between 1940 and 1945, and of these, at least 1,100,000 were murdered at that camp. An estimated 6 million Jews—more than 60 percent of the pre-World War II Jewish population of Europe—were murdered by the Nazis and their collaborators at Auschwitz and elsewhere in Europe. In addition, hundreds of thousands of civilians of Polish, Roma, and other nationalities, including in particular disabled individuals, homosexuals, political, intellectual, labor, and religious leaders, all of whom the Nazis considered ‘undesirable,’ as well as Soviet and other prisoners of war, perished at Auschwitz.

On that day of liberation, 65 years ago, only 7,000 camp prisoners who had passed through the infamous Auschwitz gates, the ones who promised