

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