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FOR THE NEXT FOUR YEARS

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P R O C E E D I N G S

MS. SAWHILL: Good afternoon. Welcome to this Brookings forum. I'm Belle Sawhill. We're here to discuss the State of the Union Address and the Bush agenda over the next four years.

Got a terrific group of panelists up here, some of our scholars and writers in residence. I think you know them well and you probably have their bios. Each of them is going to take roughly 5 minutes at the beginning to say whatever they like about the state of the union and the next four years, and then we're going to open it up for a discussion up here, and then we're going to bring the audience in.

Let me begin by taking just a few moments to try to set the stage here. I thought the Washington Post summarized very nicely Bush's second term today. They said the President is going to be remembered for saying that we should stay the course in Iraq and change the course on Social Security, and I think those are the two big issues that we will probably talk about today along with others.

As I listened to the speech I was struck by several things. First of all, the President began and ended the speech on the same theme that he addressed in his inaugural address, and that's the importance of freedom and democracy around the world. His objectives here I think are clearly lofty, ambitious. The question is whether they're realistic.

And despite a very emotional moment surrounding the recognition of the parents of a Marine who was killed in Iraq and the obvious boost that the President has gotten from the recent turnout in the Iraqi elections, the end game in Iraq remains quite uncertain.

With respect to Social Security the President has clearly decided to keep his options open, since he can't do Social Security reform without at least some Democratic support. He invoked a number of prominent Democrats, especially the late Senator Moynihan, and talking about

various ways in which benefits could be cut or trimmed, but he deliberately avoided saying how he would change benefits or how he would pay for the transition cost of moving to personal accounts.

Another theme the President stressed throughout his speech in talking about a number of both domestic and foreign policy questions is the importance of creating a better world and a better life for our children. One obvious question here is are we leaving them a better world, particularly given the amount of money that we're borrowing to pay for the war, for his tax cuts, and for making the transition to personal accounts. At some point our children are going to have to pay those bills.

On cultural and legal issues he reiterated all of the positions that were important particularly to his political base during the campaign, a constitutional amendment banning gay marriage, the encouragement of a culture of life, an end to judicial activism and an up or down vote on his judicial nominees, tort reform and other issues.

The question in my mind with respect to at least some of those issues, especially the fight over judicial nominations, is will they prove so divisive or so toxic that they make it impossible to get other legislation enacted this year, and especially difficult to move his Social Security reform agenda.

So with that, I'm going to turn this over to my colleagues starting with Ivo Daalder.

MR. DAALDER: Thanks, Belle, for that introduction, and thank you all for coming out on what by the time you leave here will be five feet of snow, if you're lucky.

Once again I think we saw President Bush as the bold, audacious leader that he has now made us accustomed to seeing. What I saw in that 50 or so minutes of speaking was a leader who's extraordinarily self-confident in what he wants to do. And my worry about him is not that he

lacks confidence, it's just he's got a little bit too much of it, and that there may be an overconfidence when we come to foreign policy.

When you look at what he actually said in that 30 percent of the speech that was devoted to foreign policy, it was an extraordinarily rosy picture about the future. It was a future in which terrorism was dealt with, Iraq was a success, and democracy had spread all around the world, and there was nothing about the cost of getting there, the time it will take and the steps we will have to step back in order to achieve any of those goals. In fact, let me talk about those three specifics for just the couple of minutes that I have.

On terrorism, you had the real sense that we were very close to victory in this war on terror. I've remarked in the past that the war on terror is not something we hear a lot about anymore, at least not since November 2nd. It sort of disappeared. Now we know why. Apparently, we have done so well at home, and are doing so well abroad, that we don't have to think about the war any more because we kind of won it. I mean we've got a new department up and running, we have intelligence reform, and at the central front on the war on terror in Iraq, we're winning. That was the statement that the President put forward.

Let's look at the reality, however, for a second. Let's look at how successful this war on terror has really been. Spending on homeland security remains by any account, by anybody who's looked at it, woefully inadequate. We're still confronted with ports, with chemical facilities, with transportation systems, with critical infrastructure, exceedingly vulnerable to attack.

Reform of the intelligence community hasn't gone further than the bill, than the paper the bill was written on. Two plus months after the Congress passed its major intelligence reform legislation, we still do not have a nominee for the Director of National Intelligence. In fact, we've forgotten that the President is supposed to nominate the Director of National Intelligence.

Something that has struck me, but I haven't seen many people comment on, the Department of Homeland Security has lost its entire top layer of management, not only the secretary, but the deputy secretary and all the under secretaries of a department that was created not more than two years ago are gone. It's as if all the smart people have decided that they're going to abandon a sinking ship.

And then for Iraq, if Iraq is the central front in the war on terror, we've got a problem, because by the Rumsfeldian logic and the metric, whether we're killing them quicker than we are creating them, we're failing. According to General Casey who runs our military operations in Iraq, we have captured or killed in the last year 15,000 insurgents and terrorists. In that same year we've gone from 5,000 insurgents to over 20,000. If we're winning the war on terror in Iraq, it's a strange way of calculating that win. But as the President reassured us, victory is around the corner. With the war on terror, and I think as he reassured us, victory is already here almost when it comes to Iraq. He has basically portrayed the elections as the definitive point proving right now that the Iraqi people have chosen democracy against tyranny, and that all we need to do is train some security forces so we can go home. That was the picture at least that I heard the President convey.

Well, it's a little more difficult I think than that. Elections, and certainly not one election, certainly not an election in which the people who voted hardly knew who the candidates were, let alone what they stood for, such an election does not a democracy make. The fundamental political issues like who rules over whom, when, how, and for what period, issues that are written up in a constitution, are all to be decided. None of them have been decided. All we did is we elected—we—the Iraqi people did, is elect 275 people who are going to have to decide those fundamental political issues, all of which are going to be extraordinarily difficult to resolve.

Even if there is progress on that effort, the insurgency, the terrorists, as the President refers to them, will continue, and Americans and Iraqis will pay with their lives, at what is likely to be not a lesser rate but at an increasing rate. 10,000 Americans, that's the number of casualties we have right now. When we focus on the people who died, we tend to forget about the people who are wounded. When you don't have a leg or an arm or you're paralyzed, there really isn't that much—your life has been affected in ways that are pretty fundamental.

10,000 casualties, \$200 billion and counting, that's what we have paid. Now what is the future going to bring about? The President didn't talk about the hard, long slog, as Don Rumsfeld calls it, still ahead in fighting this insurgency. And in the meantime he's portraying such a rosy scenario about what is happening in Iraq, that people will be forgiven for saying, "If things are going so swimmingly, why are we there?" And I'm worried that in fact that is the kind of attitude that we may well be seeing emerging in the United States in the months ahead.

The third issue on democracy, once again the President reiterated his goal of ending tyranny in our world, a wonderful phrase, a little more difficult to achieve than I think the President admitted. We also notice something else. I think we saw a redefinition from the inaugural to the state of the union about what this strategy is all about. In the inaugural it was a global quest for democracy around the world. In the state of the union it was the Middle East that was the focus. There was no talk about China. There was no talk about Russia. There was no talk about Latin America or Africa or Asia. There was only talk about the Middle East.

And in the Middle East really the focus was on the two tyrannies that we don't like, Syria and Iran. Yes, Saudi Arabia and Egypt were mentioned as countries that could take the lead in showing the way to get to a democracy, but those were sentiments we've heard from the President before. In fact, he used exactly the same language 16 months ago when he first talked about democratization in the Middle East.

The real question is how are we going to get there? What price is Cairo or Riyadh going to pay if they don't follow the path the President has set out, and more importantly in my view, what are we prepared to do to help the oppressed in the Middle East once they decide to try to take on their oppressors? The President yesterday called on the Iranian people to revolt. Americans have done this before. In 1956 the Hungarians followed that lead. In 1968 the Czechs followed that lead. In 1991 the Shi'as and the Kurds of Iraq followed that lead.

If the Iranians are to follow the President's lead in 2005, are they going to find a different American response than Hungarians found in '56, the Czechs in '68, the Shi'as and the Kurds in '91? And if it is different, what, Mr. President, did you have in mind? Are we going to help these people militarily? Are we about to have an invasion as part of the regime change doctrine in the Middle East? I don't know. But what does it mean when you call on people to revolt, particularly when you have 150,000 American troops next door? None of that was talked about. The costs of what we were about was not talked about. The dangers that are confronting us was not talked about.

And that's my worry about the speech that paints a rosy scenario, a speech that tries to buck up American pride, a speech that looks to the bright side but not to the dark side. What happens when the dark side comes forward? What happens when the difficult steps that need to be taken all of a sudden confront us? What happens when danger is really here as opposed to somewhere in the distance? How are the American people to react? Where is the leadership that tells the American people how to sacrifice and why it is important, how to pay for the taxes, whether it is important to join the army? None of that was there, and yet we have a vision here that is mind boggling in its extraordinariness in terms of what is being asked, but we have not, it seems to me, any of the steps that are necessary to get us from A to B. And as a result, the real danger is when

we get confronted with those dangers, when the difficulties confront us and the costs become real, the American people may not be prepared to take them.

MS. SAWHILL: Thanks, Ivo. That's a pretty gloomy assessment, and when we have a chance to get into the discussion period, I think I want to ask you what would you do if you were the President or his top advisers on these issues.

But let's turn to Bill.

MR. GALE: Thank you. I always like going after Ivo. First, I always learn an enormous amount from what he says. Second, he makes me look like an optimist.

[Laughter.]

MR. GALE: And third, there are actually some stunning comparisons between the President's vision in foreign policy and his vision in fiscal policy.

I think at the very end Ivo said something basically applauding the President's bold far-reaching vision, but then criticizing the fact that there's no discussion of the costs, there's no discussion of how you get from A to B, there's no discussion of the tradeoffs involved. You could not have a better description of fiscal policy in the Bush administration than what Ivo described for foreign policy.

I want to cover the budget deficit, the tax policy and Social Security in about 4 minutes, so—

[Laughter.]

MR. DAALDER: Which is twice as long as the President.

MR. GALE: Well, yeah, for the deficit and tax policy, I think he uttered four words on each, or six on the deficit, cut the deficit in half by 2009. On the tax cuts it was four words, make the tax cuts permanent. I guess that's five words. In any case, let me just talk about these briefly and then turn to Social Security.

The notion that we're going to cut the budget deficit to 2009 is unrealistic. It's also meaningless. The unrealistic stuff we can get into. Let's just wait and see. The meaningless part is that the two big things the President wants to do on the fiscal side, which is make the tax cuts permanent and install personal accounts in Social Security, both kick in after 2009. So it's like saying you're going to go on a diet until dinner, right?

[Laughter.]

MR. GALE: The tax cuts cost three times as much as fixing the Social Security problem. That's worth emphasizing, that if you make the tax cuts permanent, you reduce revenues by 2 percent of GDP going forward every year. The Social Security shortfall itself is only 7/10ths of a percent of GDP, according to the Social Security actuaries. It's less than half a percent, according to CBO. So the cost of the tax cuts are three to five times the size of cost of fixing the Social Security shortfall. Yet making the tax cuts permanent got literally, you know, one part of one sentence in the talk last night.

Let's think about this for a second. Permanent tax cuts have to be paid for. You can't finance by borrowing forever. That just postpones the time at which you either need to raise taxes or cut spending. The President has never proposed a way to pay for his tax cuts. He's been arguing for these tax cuts since 1999, and everybody knows the government faces a budget constraint. There has never been a proposal put on the table or even floated on how to pay for these cuts.

In fact, last year the budget had in it a provision that would have let the tax cuts be made permanent without ever recognizing the cost in the budget. It would have just been folded into the baseline. So let's be sure to check to see if that's in there this year, because this year he has Republican majorities in both houses, and there's actually some concern—although I'm falling into Ivo talk here—there is some concern that the dark forces that are anxious to hide the cost of the tax cuts will actually use that manipulative scheme, which would be a fiscal disaster.

Let me give you one statistic on that. In order to pay for the tax cuts, if we didn't cut Social Security or we're using that somewhere else, if you exempted Social Security, Medicare, Medicaid, defense and homeland security, and you exempted net interest because you can't not pay net interest, that's called defaulting.

[Laughter.]

MR. GALE: So if you exempt those six things, you have to cut the rest of the government by more than half, more than half to pay for the tax cuts on an ongoing basis. So we're talking massive cuts in spending that are completely inconceivable from a political perspective, but you will never hear the administration talk about it, you will never hear the President talk about it. On top of that it's regressive and it reduces long-term economic growth to be running these sustained budget deficits. But the main point is we have to pay for these tax cuts somehow, and as Ivo mentioned, there's no discussion, there's no concept of how you get from A to B in the current system.

The President's talking about cutting discretionary spending. Let's be clear, that's non-defense, non-homeland security domestic discretionary spending. It's a tiny fraction of the budget. You could eliminate the entire thing—well, you couldn't—but if you did as a matter of arithmetic, you would barely cover the size of the tax cuts. But any realistic cut falls far, far short of that. So bold idea, no concept of how you get from A to B.

Social Security. Belle complimented the Washington Post this morning. I was appalled when I read the Washington Post this morning. The headline was, "Bush makes case for Social Security Plan." Let's be clear about this. The President did not propose a Social Security reform plan. All he did was suggest that we add individual accounts to Social Security and finance them by borrowing trillions of dollars now and cutting Social Security benefits for those people later. That is not a fix for Social Security.

The administration, in an extraordinarily rare act of honesty, a senior administration official admitted at a briefing yesterday that their individual accounts proposal would have no effect on the long-term status of Social Security. It is a bait and switch red herring. Choose your metaphor. It does nothing to fix Social Security. Well, it's a fix the same way that the Medicare prescription drug benefit was a fix to the Medicare problem.

The individual accounts proposal is going to run into some issues because people are going to think of it as it's their money, but they're really just sort of renting the money from the government. It's really a loan from the government that you have to pay back if you participate in this individual account. The government's lending you the money at 3 percent real. They're telling you how you can invest it, when you can take it out, how you can take it out, and when you do take it out, you get what's a claw-back on the benefits, somewhere between two-thirds to 100 percent, in some cases even more of that would be taken back in benefit cuts. So it's a much less attractive deal than it's made out to be by the administration.

We should point out two things. One is we don't need to—I already mentioned we don't need individual accounts to fix Social Security. It's also true we do not need to borrow money to create individual accounts, and we should not borrow money to create individual accounts or to fix Social Security. The whole point of fixing Social Security is reducing the burdens on future generations. If the government borrows more money now, it increases the amount that has to be paid back in the future. That's why we talk about deficits as mortgaging our future. We don't want to borrow to fix Social Security. That completely undercuts the entire purpose of fixing Social Security, of aiming to fix Social Security.

All right. I don't have time for a detailed response to what the President said, but let me highlight a few issues. He said under current law by 2018 Social Security will be paying out more than it takes in. True, but under his proposal, that would happen in 2012, not 2018. He

said in 2027 if we do nothing we'll have to come up with \$200 billion to keep Social Security solvent. That's also true, but if we do the President's plan we'll have to spend over 300 billion in that year, and if we do his plan plus tax cuts, we'd have to spend almost 700 billion in that year.

The President mentioned thrift savings accounts for federal workers and said everyone should have the same option. That's a striking example, because that's an add-on account to Social Security. That's not a replacement for Social Security. I agree with that President that everyone should have the option to have a private account on top of Social Security, but it sounds like the President doesn't understand his own proposal. His own proposal is not a add-on proposal.

He said he'll make sure his plan is fiscally responsible. How? This is another Ivo example. By starting the accounts gradually and raising the contribution limits over time. Well, pardon me, but this has nothing to do with fiscal responsibility. If you have a teenage kid at home, it's like talking to them, you know, "You knew you were supposed to do this." "Yes." "But you didn't do it." "No." "Why?" "I don't know."

[Laughter.]

MR. GALE: This has nothing to do with fiscal responsibility. Fiscal responsibility means you're paying for this somehow. There is no notion in here of how Social Security is going to be fixed.

Let me close with one last point. The President ruled out tax increases as a measure of dealing with Social Security. This is not surprising. He's a signer of the "no new taxes" pledge, but it's still an issue. It means that he wants the entire adjustment to restore solvency to occur on the benefits side. A couple of comments on that. One is that is not a view that's supported by the American people. Two, note that these benefit cuts would come on top of any benefit cuts that you would have to have to pay for the private accounts. So you're talking about very large benefit cuts. You're talking about for someone born in 2000 under the President's plan, the

percentage of reduction that they would get relative to scheduled benefits right now would be half, would be 50 percent. The scheduled reduction they would get relative to payable benefits, which accounts for the fact that there's already a shortfall, would still be a third. So we're talking about massive benefit cuts if we go that route.

Lastly, the President quoted former President Clinton, Senator Moynihan and others on the wisdom of benefit cuts. Let's be clear here. None of the people he quoted was saying that the only thing we should do was cut benefits. They were all talking about balanced changes in Social Security that took some tax increases, some benefit cuts. What the President did was come in and say, "I want all benefit cuts, and look, here is all these people in the past who said we should have benefit cuts." That's true, but none of them would endorse what the President's talking about in terms of doing the whole fix on the benefits side.

So in a particularly misleading speech on fiscal issues, that particular passage was even more misleading than most.

MS. SAWHILL: Thank you, Bill.

Let's turn to my right here, Stuart.

MR. TAYLOR: My issues are assigned. I'm going to talk about judicial appointments, tort reform and the PATRIOT Act. These were minor themes, and in the last case a non-theme of last night's address, but the good news is, none of my issues, win, lose or draw in terms of the President's policies are going to destroy the country.

[Laughter.]

MR. TAYLOR: The country may be destroyed but not on my watch, at least not by my issues. Judicial appointments, the President threw in a couple of sentences last night, his usual thing, interpret the law, not legislate from the bench, which is more and more in the eye of the

beholder. I used to think I knew what that meant, but then when the conservatives started doing things that the liberals were calling legislate from the bench, I began to get confused.

And he also mentioned that everyone should get an up or down vote on the merits, which I think was a reference to the filibuster, and that's where my issue, although it's not going to destroy the country, has a great potential to destroy what little bit of bipartisan bonhomie may be left in Washington, depending on how it unfolds. The President in particular is pushing ahead with most of the 10 or so lower court nominees who were stopped by democratic filibusters last year or in the last couple of years. And by stopped, I mean all of these people had 50 plus votes to be confirmed, but they didn't have the 60 votes needed to stop a filibuster, and that's what stopped them.

The Republican complaint on this is that that is new in American history. Judges have never been filibustered to prevent them from getting a vote on the merits before, and there's a lot of truth to that. The Democratic response is, yes, but the Republicans did every dirty trick in the book they could to stop Clinton nominees and were able to do it without filibustering because they had a majority of the Senate. So one Senator could stop a nominee. Now at least it takes 40 of us to stop a nominee.

But the way this is going to unfold, the Democratic Senate leader, Harry Reid, kind of threw down the gauntlet the other day with a great phrase. He said, "We're prepared to go behind the pool hall and see who wins this one."

[Laughter.]

MR. TAYLOR: And what he means is, this was a reference to the so-called nuclear option, which as many of you probably know is a complicated parliamentary maneuver that Senate Majority Leader Bill Frist and other Republicans would like to use to basically break the back of the filibuster, not only now but for all time, at least as far as nominees are concerned, by getting

a ruling from the Chair, which would probably be Vice President Cheney, that filibustering nominees is unconstitutional and then the theory is you would only need 51 votes to push that through, as opposed to the 66 or the 67 I think it takes to change the rules.

It's really up for grabs. And that fight's going to start pretty soon I think on these lower court nominees, and it's really up for grabs I think whether the Republican leadership will be able to put together 51 votes to do this so-called nuclear option. There are several moderate Republican Senators, the usual suspects, the two from Maine, Snowe and Collins, John McCain, and a couple of others, who don't seem very eager to do this. But if they succeed in doing it, it will be an explosion of bitterness. The Democrats will use every obstructionist tactic they can—they've already said they will—to try and prevent all business from moving in the chamber, and the President can probably forget about his domestic agenda. So it remains to be seen how this will shake out.

If somehow we get past these lower court nominees and get to a Supreme Court nomination, the stakes will obviously be somewhat higher, not as high if it's Chief Justice Rehnquist being replaced since he's a conservative. Replacing him with a conservative really wouldn't change the votes that much. But emotions get so high any Supreme Court nominee, that it would be—even if the President was trying to avoid an explosion of partisan bitterness by choosing a nominee who would be on the moderate side of conservatism as opposed to a provocative nominee, I'm not sure he would succeed, because groups like People for the American Way are going to be pushing the Democrats to fight to the death I think over just about any conservative nominee.

So that has a lot of potential to—judicial appointments, I think, you know, who gets through, frankly, I don't think the nature of whether Bush gets this or that nominee through or all of his nominees through is going to change the law in America very dramatically in particular, for

reasons I'll explain later if you want. I don't believe Roe v. Wade will be overruled even if he gets all the nominees he wants through.

On tort reform, the President had about two and a half sentences. He mentioned junk lawsuits, we've got to stop junk lawsuits, and then he mentioned two of the particular proposals that are around, actually three of them, class actions, malpractice—medical malpractice and asbestos.

The striking thing, for all the rhetoric from the administration about stopping junk lawsuits is how limited their proposals are. There's nothing on products liability, for example, which has been a major source of problems in the tort system. There's no proposal out there. The President doesn't have anything. And the proposal on class actions, malpractice and asbestos really aren't the President's proposals. He's basically following the lead of the business community and Republicans in Congress, and to my mind, these proposals—the class action bill will pass. The Senate Judiciary Committee adopted it today. It has seven Democratic co-sponsors. There will be efforts to amend it by Senator Kennedy and others. They won't be successful, and it will go through, and the main effect will be to transfer a lot of national class actions that are now in state court to federal court. This is probably a good proposal in my opinion because some of the state courts have basically been owned by the plaintiffs lawyers and who have allowed some very abusive class action lawsuits to go forward to results that are good for the lawyers who bring them and the lawyers who defend them, and nobody else, do no good for any of the plaintiffs, or hardly any good.

On malpractice, the President I think the proposal he's pushing would cap pain and suffering damages in medical malpractice suits at \$250,000. It has very little chance of passing. The Democrats are pretty united against it, and the biggest reason is that it's not a very good proposal. It takes something away from plaintiffs in pain and suffering. There's a case for capping them, but it doesn't give them anything in return. The problems with the malpractice suit, it's not only

bad for doctors, it's bad for victims of malpractice. The relationship between who wins a lawsuit and who's victim of malpractice is random, studies establish, and all the President's proposal would do about that, it wouldn't change the randomness at all. It would just make it a little harder for plaintiffs to win a lot of money, and therefore, harder for them to get lawyers to bring suits. And it probably, in my view, deserves to be defeated, and whether or not it deserves to be defeated, it will be defeated.

Asbestos, there's a very complicated negotiation going on to try and establish \$140 billion trust fund to take asbestos lawsuits out of the courts and put them in an administrative proposal. It's a fairly bipartisan idea. It's a good idea. The details, the devil's in the details on whether they'll succeed, whether Senator Specter will succeed in putting something together that unites business and labor and can go through is very much up for grabs.

It is clear that the existing malpractice litigation system is enormously costly and enormously abusive. Very credible studies, in my view, show that some 90 percent of the asbestos plaintiffs who are coming into the courts or at least filing claims these days, are not sick and probably never will be sick, and have no real medical evidence of harm. They've been rounded up by plaintiffs lawyers, and they have these massive suits that business settles because they can't afford to fight hundreds of thousands of lawsuits, and especially—this intersects with the class action thing—especially if they're dragged into a hostile jurisdiction.

The PATRIOT Act lastly. The President didn't mention it, probably in part because it's become controversial, been stigmatized. I have in my hand a fund-raising letter from Anthony Romero, ACLU Director, who's a very fine fellow. It begins: When the Bush administration says it wants to make permanent the freedom-stealing provisions of the PATRIOT Act, they're telling those of us who believe in privacy, due process and the right to dissent that it's time to surrender our freedom.

I don't think even the ACLU believes that. The PATRIOT Act for them is a useful rallying device, a fund raising device. Most serious civil libertarians I know, including those in the ACLU when they're speaking privately, will acknowledge that most of the hundreds of provisions in the PATRIOT Act are not particularly problematic, that there's two or three that arguably go too far or they would say definitely go too far, I would say arguably go too far. You could amend them, tweak them a little bit, and I think fix the problems to the satisfaction of those people. I neglected to mention that these provisions, or a lot of them, are going to expire at the end of 2005, which is why it's on the table as far as Congress goes. The burden of inertia is on the people who want to perpetuate the PATRIOT Act so the President will have to push for something, and I think they'll probably do some minor but healthy amendments and it will probably go through.

The thing that doesn't succeed very well as a fund raising device for civil liberties groups is the real problem, which is the detention of both domestically in a couple of cases, Hamdi and Padilla, and internationally in thousands of cases including the 500 odd people at Guantanamo. The administration's basically taken a very grudging position in terms of due process rights since day one with these people. It's not a big issue with the American voter. John Kerry I don't think mentioned it during the campaign.

But in the international community the United States has been trashed quite thoroughly and to some extent deservedly I think, for policies that don't take any care to make sure that the people we are holding, as enemy combatants, in fact are enemy combatants as opposed to somebody rounded up by mistake in Afghanistan. The administration's lost a couple of—well, of course they lost a couple of Supreme Court decisions in June. They've lost some District Court decisions on follow up.

I think they'll keep losing court decisions unless they finally do what they should have done a long time ago, which is go to Congress and say, "We have a new kind of war, a new kind of problem. We need to detain some people for a long time that we can't charge with crimes. Let's figure out a system, a legal regime of burden of proof, a period of detention, rules on interrogation" that make sense to both the Executive and Congress and pass it, and hope the courts will defer to it. They haven't done that, and my guess is that the administration—

Congress is happy to abdicate its responsibility to legislate in this area. So far the administration's been happy for Congress to abdicate. I think eventually the courts will force them in the arms of congress.

MS. SAWHILL: Thanks, Stuart.

Jon.

MR. RAUCH: Well, thank you. I don't have any issues today or anything of substance to say. I'm here to talk about politics in the broad sense.

[Laughter.]

MR. RAUCH: I'll pick up on another of Ivo's words, and that's the word "audacious." The President gave an interview to the Washington Post in January. This President is often accused of being inarticulate, but that's not true. He's not particularly articulate if you're looking for a Lincolnian statement, but he's extremely articulate at telling people what he believes and what he thinks. You know where you stand with this guy.

And one of the things he said to the Washington Post reporters is, "I like confronting problems. I like it when hotshot political reporters"—read, knuckleheads like you—"sit around the coffee table saying, "Can you believe what old Bush is taking on now?""

I thought the state of the union last night demonstrated and raised the man's reputation for audacity. He has overturned the traditional formula for returning Presidents in the post-war era.

The standard formula has been long mandate, short agenda. That was, for example, Reagan in 1984, who won 49 states and came back with bipartisan tax reform as the only thing he could think of to do, which he picked up from the Democrats for lack of anything better. You had Bill Clinton. It's very hard to remember anything of substance that Bill Clinton campaigned on in 1996. He won decisively, didn't have enough to do, and arguably wound up with too much spare time on his hands.

[Laughter.]

MR. RAUCH: You could say the same thing of Eisenhower and Nixon. Bush, you've got to say the opposite, a short mandate and a very long agenda, something I've never seen before. Short mandate. Well, of course the administration said, "We've got a very big mandate. We won the election after all. We got a majority of 51 percent." Sorry, but that's a very close election.

By the standards of returning incumbents 51 percent is extremely low. That's a skin of your teeth election. Moreover, President Bush's approval ratings are in the low 50s, 51 and 52 percent. That is also exceptionally low for a returning President. According to Gallup, the only post-war returning President to be in the low 50s was Nixon, who did not make out all that well. Even Harry Truman, who barely won reelection and left office an unpopular President, was at 69 percent approval when he came back. So was Bill Clinton and Ronald Reagan. The others were all in the 70s. Bush is on thin ice in terms of where he is with the public. They sent him back, but they sent him back with much less than a warm embrace.

It is also a divided country. Contrary to what you hear a lot of, this is not a deeply divided country, Americans still agree on much more than we disagree, but it is a closely divided country. The number of people who say they are Republicans and Democrats is approximately equal. In fact, in the exit polls in November it was exactly 37, 37. There is no majority popular party. For either party to win elections it needs to hold its base and make enough coalition votes

in the center to hold the government, but neither party has the loyalty of its base plus the center, which is what you need to be a popular majority party.

The Republicans do have a parliamentary majority. That is to say they have control of the whole government, and that is a very important thing which they are going to try to use, which gets to the second point. Short mandate, but long agenda.

What the President is trying to do in a second term with the mandate he got is nothing short of breathtaking. His emphasis was clear in the state of the union speech. Last year's wandered around. It sounded like a Clintonesque laundry list. He included, you know, steroids abuse among athletes, for example. This time the President kept a clear focus. It was absolutely clear in the speech that although he was going to touch all the bases from tort reform to gay marriage, to trade adjustment assistance, that he cared about Social Security reform at home and freedom abroad. The antiterror agenda has become an anti-tyranny agenda, and that has become a worldwide freedom agenda.

I will let others here comment on the substantive practicality of those things, whether they are the right thing or wrong thing to do from a political point of view. What's worth noting about what the President is doing is that most Presidents attempt some landscaping. A few attempt only gardening. You could even argue that after health care reform Bill Clinton was in that category. Most try landscaping. This guy is trying terraforming.

[Laughter.]

MR. RAUCH: He is attempting to change the political landscape on the broadest possible scale for good. On Social Security he aims to overthrow the program that is at the heart of the New Deal covenant, which basically says the government will tax your money, invest it for you, and give it back to you. That's all you have to do. You pay taxes, you get a retirement check. Everything in between is a black box for which you're dependent on the government.

President Bush believes that first of all, that that reduces the individual as a moral agent, so it is morally wrong. It's the wrong kind of relationship. But he also believes that by changing that program to one in which people have a choice, he will fundamentally change people's relationship to the government. He will create millions and millions of people who will have savings accounts and stock portfolios, and those people, he believes, will vote Republican. He believes he is taking away potentially from the Democrats the central pillar of their domestic model.

Foreign policy, in some ways politically even more audacious. Contrary to some, perhaps even some on this panel, I don't see the President's foreign policy agenda as a radical discontinuity of any kind. It goes right back to Woodrow Wilson. It follows through Franklin Roosevelt, Harry Truman, John F. Kennedy, Lyndon Baines Johnson. It was these people who talked about making the world safe for democracy. Note, all of the aforementioned people were Democrats. American foreign policy in most of the 20th century has been idealistic and it has been largely Democrats and liberals who said, "Look, you cannot separate realism from idealism. It is not realistic to depend on dictatorships to carry your water for you. It will blow up in your face."

It used to be that Republicans were the realists and the isolationists and the stay-at-home people and the it's-too-expensive people and the who-are-you-kidding-it's-impossible people, and Democrats said, "Let's go out and change the world. Let's look at human rights. Let's look at tyranny."

President Bush has turned the tables. He is seizing for the Republicans the idealistic thread of foreign policy. He has goaded the Democrats because they feel in many cases so inclined to contradict every single thing he says including that the sky is blue. Many of them have found themselves in the awkward position of denying that American foreign policy is fundamentally about the spread of democracy to every corner in the world. That is, as the Republicans very

well know, a very difficult corner for Democrats to be in. He's got them cornered on foreign policy to the extent that he continues along those lines.

What's going against him is that the public is unconvinced on both Iraq and Social Security. On Social Security whether they support it depends almost entirely on how you ask the question. If you ask the question in a way that includes the word "privatize," they're against it. If you ask the question in a way that includes the word "choice" more prominently, they're for it. They have not made up their minds. The President has not closed the sale, which is of course why his party is nervous.

On the war in Iraq public opinion has been floating 50/50 for months now, up or down depending on events. I have not seen the post-election polls out of Iraq, but my guess is that there to we do not see a conclusive consensus forming in favor of the President or against him. People are still quite concerned about whether this Iraq thing is going to work out.

Given the short mandate, given that he has not closed the sale with the public, what the President is doing here is really remarkable. It is, as it were, a second first term agenda that he's proposing here, in many ways more audacious and more risk-taking than his first term agenda.

MS. SAWHILL: Thank you. These are provocative and very insightful remarks I think. Let me go back to you, Ivo. Yesterday several of your colleagues had an op-ed in the Washington Post that argued in favor of a publicly announced gradual withdrawal from Iraq. Would you like to comment on that, and maybe a little more on what you would do if you were in power?

MR. DAALDER: I'm not going to comment on my colleagues' ideas. I'll let them comment for themselves. In fact, they had to comment so much they had to write a letter to the Washington Post to explain what they meant the day before. So I'll leave it to them.

I mean I think Jonathan's point about Bush's audacity on foreign policy as well as the domestic policy is well taken, and Democrats would make an extraordinary mistake to fall in the trap that

he's setting for them. And on foreign policy in particular it would be a major mistake, one that I believe John Kerry already made, to walk away from the democracy agenda.

The issue is not whether the United States should be in favor and should put democracy up front, be it in Iraq or indeed anywhere else. The issue is how you do it. The issue is a means debate, not an ends debate, and it is about the means that the President is woefully vague. He just doesn't talk about it. He basically says just because democracy is a good idea, anything I do in the name of promoting democracy should be supported. That's how you get detainees without recourse to legal instruments, be they international or domestic.

The end justifies the means argument is an extraordinarily dangerous one. It leads you down the road of inciting rebellion in Iran without really considering what it is that you would do if a rebellion in fact took place. Now, I think it will be a wonderful idea for Iran to be democratic. I'm just asking the questions: if the Iranian people respond to the President's desires, what are we going to do? Are we going to do anything different than his dad did when the Shi'as and the Kurds responded to his request to overthrow the dictator? The fact that we did not respond cost tens if not hundreds of thousands of people their lives, and in fact, has seriously complicated our apparent effort inside Iraq. Talk is easy, but it has consequences, particularly when it comes from the President of the United States.

With regard to Iraq just on that issue, I am a deep skeptic that just because we saw a remarkable degree of courageousness by individuals in Iraq, we've solved the problems in Iraq. I think the problems that existed on Saturday are exactly the same on Monday, and they haven't changed by the fact that 45 or 55 or 65 percent—God knows we don't know the numbers—of Iraqis went out and voted. The fundamental question of what do you do with the political power you gain through election? How do you relate to other communities that do not have that power? How you divide rule and spoils in a country that is ethnically divided, that is geographically

divided, that has oil in different places, these are big issues under the best of circumstances. They're extraordinarily difficult when you're dealing with a massive insurgency, an insurgency that is growing in size, not becoming less, that shows no sign of abating.

So under those circumstances a bit of humility, particularly from a President who has miscalculated on the question of Iraq from day one, miscalculated on WMD, he miscalculated on what would happen the day after we got rid of Saddam Hussein, and frankly, I think he's miscalculating now on the elections.

Last point. This is the fifth turning point in Iraq, and the previous four didn't work out that well. April 9, 2003, when Saddam Hussein was gone was the turning point. May 1st, the end of major combat operations was a turning point. Capturing Saddam Hussein in December 2003 was a turning point. Handing over sovereignty to the Iraqis in June 2004 was a turning point. The only thing that happened after every turning point is that the violence increased, the number of people who were killed went up, and the number of soldiers we had to send there went up. So a little humility by the President would have been a good thing, perhaps too much to ask when it comes to the state of the union after having been reelected, but nevertheless one that I think one can ask for when the President comes before the nation.

MS. SAWHILL: Bill, follow up for you. You talked about those four or five words about extending the tax cuts and how little attention that got, and how incredibly important it is from a fiscal perspective. Should we just assume that's going to happen and that money is down the drain, and will the Democrats be able to put up any kind of a fight about that? You want to say a little more about that? I mean it strikes me, for example, that because Social Security has become such a hot topic, that even the press is totally focused now on the Social Security debate and the transition cost associated with it, and this whole issue of the very large cost of extending those tax cuts have sort of fallen off the radar screen.

MR. GALE: Yes. I think that the last statement especially is right, and one way to interpret the whole push for tax reform and the tax commission, and blah, blah, blah, is an effort to draw attention away from the question of whether you should make the tax cuts permanent or not.

Despite the fact that the Republicans have majorities in both houses of Congress, it may not be a slam dunk that the tax cuts get made permanent for a couple of reasons. First, if the administration goes with a five-year budget, or rather if the Congress goes with a five-year budget, which they might do, then anything beyond the fifth year, which would be 2010, would be subject to the Byrd rule and would require 60 votes.

Second, it might be hard in a deficit environment like this to pass a huge tax cut. There are—and I guess that leads to point three, which is it's not going to be the Democrats that make the difference, it's going to be the same Republicans that were mentioned just a few minutes ago in Snowe and Collins, McCain and the other short list of moderates in the Senate who will really hold the balance.

MS. SAWHILL: Thanks

Well, given the time, I could throw some more questions up here, but I think we want to get the rest of you in. Anybody out there in the audience want to come in? Mort? Introduce yourself, and we have a microphone coming here, right here.

QUESTIONER: I'm Mort Kondracke from Roll Call. Bill, if the—I just wanted to get some numbers and some percents of GDP on all this. As I understand it from reading the papers, the new Bush proposal on the private savings accounts would be \$745 billion over a 10-year period. What do you project the cost out as you read that stuff in the paper today, and what percentage of GDP is that? And then what are the numbers on the tax cut, and what does that do to the total deficit picture for the long-term future?

MR. GALE: I can give you a couple off the top of my head. I can get you all the rest of them any time. The cost of borrowing—the administration's private accounts proposal, as laid out on the White House website, would start in 2009. It would be phased in slowly in the next couple years with older workers I think being able to contribute first. So over the next 10 years the borrowing involved would be about three-quarters of a trillion dollars. That's a little misleading though because it doesn't start for three or four years and then it phases in.

Over the first decade that the program is actually going, it would require more than a trillion dollars in borrowing, and in the second decade, if you just project forward, it looks like about 3, 3-1/2 trillion dollars of borrowing in the second decade.

It's important to kind of get all these numbers on the same scale, and I can't give you the exact same numbers for the tax cuts, but the tax cuts would—in 2015, the tax cut's on the order of 300 to 400 billion dollars in that year if they're made permanent. So we're talking about very big cuts into revenues, and a fairly massive increase in federal borrowing.

MS. SAWHILL: Yes, back here.

QUESTIONER: Thank you very much. [Inaudible] Belarus, and I have a question to Mr. Gale, and this question is very naive because I am a layman in the matter. All the evaluations concerning this Social Security squeeze generally agree that this squeeze might be felt as late as 2040s, might be 2050s, not [inaudible] in 2020s. So my question is what is the urgency then to address the question now? Is it because to solve the question demands really such a great span of time, or is it because this is some cover action to solve some more urgent and pressing things now, for example, budget deficit, something like this? Thank you very much.

MR. GALE: I don't think that's a naive question at all. It's such a tough question that I don't even think that I know the answer.

[Tape change.]

MR. GALE: [Continuing.] One is what Jonathan Rauch mentioned, which is that there's a political side to this that the President would like to achieve. There's a political component.

A second issue though going back to the economics of it is that reforming Social Security is sort of like steering a super tanker. You know, you can start turning for a long time before the thing actually turns. And so for Social Security, for example, everyone's already agreed that current retirees' benefits won't be touched, and benefits for people that are currently 55 and over won't be touched. Well, that's an enormous commitment to the existing benefit structure. That means if we want to cut benefits 20 years from now, we need to start now coming up with some sort of legislative agenda. The longer you wait, of course, the more difficult—the bigger the changes have to be.

So I want to depart from my usual role and actually applaud the President for bringing up Social Security as an issue. As Ivo—I'll come back to Ivo now—the end is a good one. The proposed means are a disaster, but we do need to think about reforming the system now.

Let me just give you one example. If we wait till 2042 when the trust fund is exhausted, we would have to cut benefits by 22 percent at that point and the system could continue. But if we waited till 2042 and we did not cut benefits for retirees at that point or for people who are 55 and older at that point, we would have to cut benefits for everyone else by 9/10ths. So the transition issue, the issue that you can't affect current retirees makes the situation more urgent than just the overall system balance makes it look.

MS. SAWHILL: I might just add as a footnote to that, that if you are Republican, you don't want to solve this problem by raising taxes, you want to solve it by reducing benefits, or at least have a greater emphasis on that, and the longer you wait, the more the political system will work to protect people who are already retired or about to retire, and the more likely it is that we'll do what we did in 1983 when we faced a very immediate crisis and had to raise taxes.

QUESTIONER: Gary Mitchell from the Mitchell Report. I want to come back to the thrust of what Jonathan has been talking about and try it in a slightly different context, which is that on the one hand—I'm thinking specifically about the short mandate, long agenda, audacious agenda, juxtaposed with low public opinion rating numbers, thin margins, et cetera. As I listen to this and observe it I say to myself apparently it doesn't make any difference. It sometimes reminds me of taking—you know, when you get your driver's license test, it doesn't matter whether you get 100, it matters whether you get the license, and what he got on November 2nd was the license.

And in addition to that—this is a question really I think for the whole panel—what I'm interested in is whether or not we live in different times when those numbers don't make the difference that they either once did or we perceive they did, particularly for a President who arguably owns all three sections of the government. There's sort of no one standing in the other corner. It's interesting but is it relevant that he only won by 51/48? It's interesting, but is it relevant that his popularity ratings are as low as anybody in a second term? The question is, you know, we're in Iraq, he keeps turning around and asking for money. He gets it. What's happened to this political system? And I'll just leave it at that.

MS. SAWHILL: If I could piggyback on that, Jonathan, with a question about united government and whether or not we can expect, because of the unity, there to be a more productive legislative session than there might have been under a divided government? What's the history on that?

MR. RAUCH: Those are both great questions.

To Mr. Mitchell, I don't know the answer to that question because we're in a very unusual situation right now. The standard American model for the past 20 or 30 years has been that if you have a divided country, you have divided control of government. Alternatively, if one party

controls the whole government, it's also the clear majority party in the country, as was true for the most part in the '50s and '60s. The Eisenhower era would be the exception to that.

Eisenhower of course was a centrist.

We don't really know what happens these days when a party without a popular majority, a lasting popular majority, has a parliamentary majority and tries to behave as if it had a popular majority. Margaret Thatcher tried that in Britain, got some very good reforms done, but never managed to get to the center and hold the center, with the result that when Labor came along and stole the Tory agenda, they were able to steal a march on the Tories and decimate them. So the answer is we don't know.

What's so fascinating to me about the second term of President Bush is the audacity of the experiment he's trying. Most people I think would look at this calculation and say, you know, I've got to be a little bit careful here. This guy's saying, I've got a once in a lifetime opportunity here. I think it could all collapse very quickly if public opinion's not with him. He could have a repeat of what happened in Clinton and health care. But on the other hand, if he manages to close this deal with the public, which the Democrats are very nervous about, the pieces could come together.

The question Belle asked is also extremely interesting. A lot of the dynamic of the Bush administration I think is because of the fact that we have not had divided government. In many ways controlling the whole government is a handicap for Bush. Its advantages are too clear and too obvious to dwell on here. But if the Democrats had at least one house of Congress they would be forced to negotiate with President Bush on Social Security and on tax reform. President Bush would be forced to talk to them. Whichever party was not negotiating would be accountable to the voters for using its share of the government as obstructionism. As it is, the Democrats have virtually no stake. It looks like at least on Social Security they're inclined to just

sit it out and give the Republicans as hard a time as possible. It's dubious whether the Republicans can do Social Security reform on a one-party basis.

So in some ways President Bush is cursed as well as blessed with having one-party control. We will see though. You have asked the key question. I think the only honest answer is what's happening now will be in the political science textbooks a generation from now.

MR. : I'd add one thing to it. If you focus on the Senate, they had a huge gain, 55 Republican Senators, but four or five or six of them are kind of moderate, not really with the program, weren't applauding everything yesterday, as the Post reported. There are some conservative Democrats, but I'm not sure he's got a single conservative Democrat lined up for Social Security. And in the Senate you need 60 votes unless they succeed in destroying the filibuster, and so far I think nobody's talking about destroying the filibuster for anything other than nominations. I don't see how anything's going to get through the Senate on Social Security, for example, without considerable bipartisan support. It will need 60 votes. It's not going to get 60 votes unless there's a lot more Democratic support than there is now.

MR. : Just to clarify, the 60 votes is a Byrd rule issue, not a filibuster issue. Even if the filibuster was taken care of, if they're going to make changes outside the budget window, they need 60 votes.

MR. : I confess, when you mentioned the Byrd rule, I wasn't sure which rule that was.

MR. : The B-y-r-d, Byrd.

MR. : I know. I know which Byrd, but I'm not sure which rule.

MR. : Anything that worsens deficits outside of the budget window requires—or is subject to a point of order, and therefore requires 60 votes.

MR. : And even if you didn't have the Byrd rule you'd need 60 votes to get past the filibuster. And that would true of the whole agenda. Permanent tax cuts, you need 60 votes.

MS. SAWHILL: Unless you can do it through reconciliation.

Yes, go ahead, Ivo.

MR. DAALDER: One comment on Gary's question, because I do think not only are these unusual times, I do think Bush is an unusual leader. He's a political leader who is supremely self-confident in what he stands for, and just moves ahead. This is a guy who moves, you know, puts his shoulder against a door and will go through as long as there is nobody standing on the other side. These guys like to bump chests, and they win. Of course, when they lose, they walk away and start bumping chests somewhere else.

So we don't see leaders that often who are that confident, that certain of being right, and that willing to take real political risk in the way that Jonathan talked about. In fact, that leader didn't exist in the first nine months in 2001. That leader was a very—wasn't very clear what he wanted, where he wanted to go. It took September 11th in many ways. I remember David Frum writing in his memoirs that on September 10, 2001, George Bush's presidency had all the makings of a failed presidency. It did. And it took the combination of September 11th and his response to it to make this guy a confident leader who is willing to challenge the status quo. And one of the phrases that he actually uses in his campaign memoir, and he came back to, on November 2nd is this notion of political capital. You don't hoard it, you spend it. The only way you can keep political capital is to spend it. It's an extraordinarily important insight, and he spends political capital like no—he spends even stuff he doesn't have, just like his fiscal policy.

[Laughter.]

MR. DAALDER: But the result is he gets things done that most people, most mortals like people like us sitting up here think he can't do.

MS. SAWHILL: Great phraseology today. Yes, back here.

QUESTIONER: [Inaudible] Korea. This question is for Ivo Daalder, Mr. Ivo Daalder. I know you are an European expert, but because I am international reporter I cannot but ask this question. In last night's union address, President Bush mentioned North Korea just one time, and compared with President Bush's previous remarks over North Korea and the leader Kim Jong Il, like tyranny, [inaudible], something like that, this is a big change in my view. So what brought this kind of change of President Bush's remarks, and what kind of implication these remarks will have in the future resolution for nuclear matters of North Korea, and is it because he's putting an emphasis on the Middle East as he did in the first government?

MR. DAALDER: That's a very good question. Some people didn't even notice that he did in fact mention North Korea. I think it was in the sub-clause of a long paragraph.

A number of points. One, there is the so-called "Australia Rule", which is that any document that is produced and goes to the State Department that talks about the world, immediately comes back and says, "You didn't mention Australia and they're a good ally." So one thing you get when you get State of the Unions is, "My country isn't mentioned. Oh, my God, I'm not important any more," or the threat has changed.

The fact that North Korea only gets a sub-clause in a speech that after all was only 40 minutes long, should not be taken to mean that the United States doesn't care about what happens in North Korea any more. It just meant that within the confines of the speech and the number of words that you have, there's only so much you can shove in there.

You know, Europe was mentioned once also as a sub-clause. I'm sure that there are lots of Europeans extremely upset about this.

[Laughter.]

MR. DAALDER: I wouldn't read a lot into it, that's point one.

Point two is I do think that the President was shifting towards the Middle East as the fundamental focus of not only his first term, but now his second term foreign policy. That's where it's at, that's where we're concentrating. North Korea, I've long thought, is put in the "too hard" box, can't do it, don't know how to deal with it, we don't have the troops. We'd love to see the regime fail. We don't know how to do it, so let's just ignore it." It's the "do nothing" foreign policy, you know, don't talk about it. It will disappear and besides it will be somebody else's problem afterwards.

Combine that with the notion that really what is really important is the Middle East. What happens there, that will determine the war on terror. That is where the future now lies. We now have a war, not on terror, but Middle East tyrants, it's the war on tyrants, as people are starting to call it, particularly if they happen to live in Damascus or Tehran. If they happen to live in Cairo or Riyadh it's okay because they're our friends, they're different tyrannies.

So I do think you're seeing a narrowing of the foreign policy agenda that is focused in particular on the Middle East, in part because North Korea's too hard. You know, Africa wasn't mentioned. Latin America hasn't been mentioned by this President in four and a half years. And if I were a Latin American I'd be pretty worried about that too. But on the other hand, when Americans care about Latin America it usually isn't a very good thing for them.

[Laughter.]

MS. SAWHILL: I don't see any questions out there at the moment, so let me ask one of Stuart. Stuart you said that as contentious as the judicial appointment process might be, that you seemed to me to be saying that you weren't sure it was as consequential as most people seem to believe it is. Did I hear that right? And if it's okay, could you elaborate a little bit?

MR. TAYLOR: Sure. Well, on the lower courts it's 204—the Democrats confirmed 204 of Bush's judges, as they're fond of saying, and they stopped 10. I spoke with somebody in the

Democratic establishment today who acknowledged that several of the 10 they didn't think were so bad. The reason they stopped them was because Senators were unhappy that Clinton nominees had been stopped and they wanted to make a deal. So that's almost completely inconsequential whether they get confirmed.

The Supreme Court you could obviously see more change. But I think people tend to overestimate how far the President can even know what any particular nominee would do. Take Roe v. Wade. It now has six votes behind it. In order to overrule it if that was the President's objective—and I'll add in a minute I think it's not—you'd not only need to replace Rehnquist with a vote to overrule it, you'd need two of the six who support it to retire on Bush's watch, let's say Stevens and O'Connor, and you'd need to replace both of them with someone who's going to overrule Roe v. Wade.

Now it's fairly safe to bet that anyone President Bush nominates thinks Roe v. Wade was wrongly decided. This was almost a consensus position at the time, including people like Archibald Cox. But overruling it is another kettle of fish. None of the potential nominees are on record saying, "I would overrule it." None of them are on record saying, "I won't overrule it." And the President can't ask them, and his people can't ask them because if they say, "By the way, if you put you on the Supreme Court will you vote to overrule Roe v. Wade," they know that the Senate is going to ask them once they're nominated, "Did the President ask you if you were going to overrule Roe v. Wade and what did you answer?" And the answer to that better be "No," or it's a scandal.

So they can't talk about it, and they can only guess, and frankly, I don't think they're in a lot better position than I am to guess what most of these people would do, and it's not that easy because overruling a 32-year-old precedent that's been reaffirmed several times by the Supreme Court is not a thing to be done lightly. John Ashcroft and Alberto Gonzales testified it's settled

law. And so just taking that one case, it's a long road to overrule it. I don't think the President wants to overrule it probably because at least not suddenly, because that would I think put the Republican Party on the defensive in elections all over the country for a long time. Suddenly they would be having to choose between pleasing their base, which would want them to pass a bunch of anti-abortion laws now that it was okay to do that legally, and the majority, which by and large doesn't want a bunch of anti-abortion laws in most states. So there's one issue.

I think if you go across the other range of issues, you could imagine a change here or a change there, but I don't think a dramatic one. I think in the long haul the Supreme Court's a pretty stable institution and they don't usually go strong in the teeth of public opinion, and I don't think Bush appointees would either.

MS. SAWHILL: Thanks. One more question and then maybe we should call this to an end.

QUESTIONER: Thank you. My name's Olan Thompson. I just arrived here a few weeks ago from Europe, not unduly concerned about the President's lack of a mention last night.

There as something he mentioned during the speech that hasn't come up here, and this is maybe another naive question but I can get away with it for the moment. He mentioned about energy policy and about making America less dependent on overseas energy sources. This sounded again like a very big visionary thing but not really backed up with anything very substantial by the way of policy, apart from building new power stations and investing in ethanol. Given the extent to which America's dependence on energy impinges on other areas like foreign policy and environmental policy, and given the extent to which those areas have complicated America's relationship with Europe, I'm just curious about what the opinion on the panel is about the realism of his commitment to address America's need for overseas energy sources.

MS. SAWHILL: Anybody want to take that?

MR. DAALDER: I'll just take a stab at it. I think he is highly committed to it in theory but not in practice, as tends to be a pattern in his foreign policy. Why not in practice? Because the solution he is offering is a non-solution, which is drill more, particularly in the Arctic wildlife preserve up in Alaska, and that's going to solve our problem. Oh, and by the way, more ethanol. When I saw that, I was thinking of the latest episodes of the White House or whatever it's called.

MS. SAWHILL: West Wing?

MR. DAALDER: West Wing, right, that program. Where everybody is pandering to the Iowa corn farmers, and then just wondering, the President last I looked is not up for reelection anymore, but there he went again, ethanol. It's just not going to reduce our dependence on, it seems to me, on foreign energy, and frankly, we don't import a lot of energy other than gas from Canada. It's foreign oil that you're worried about.

I would argue that—and John Kerry did have a big program on this issue. I think this is one of the big issues for the 21st century, to think about seriously how do you reduce your dependence on foreign oil, which has extraordinary foreign policy implications. Why is it that we're not standing up to Riyadh? Very simple. Because we're dependent on them. They have us around the neck. That's why we allow them to do what they want. I mean I was shocked to once again see Saudi Arabia and Egypt mentioned sort of in a throwaway line and Syria and Iran were taken by the throat. Last I looked, when these 19 guys took these airplanes, there wasn't a Syrian on board, wasn't an Iranian on board, and there wasn't an Iraqi on board.

So, you know, the disconnect here between the way in which the President talks about the world and the way the real world just seems to be yawning. As Ron Brownstein, I think, in a very different way put it with regard to Social Security, he said he's building a 50-foot bridge for over a 100-foot gorge.

MR. GALE: I certainly again agree with what Ivo said, that the approach the administration is taking to energy is not going to be a solution. Let's just talk for a second about what it means to reduce dependence on foreign oil. The concern is that if the world oil price goes up, that we have to pay more for oil on the world market. Well, we could produce lots more oil ourselves, and if the world oil price went up, we would still have to pay more for oil because unless we tell domestic companies that you can drill in the U.S. and you have to sell in the U.S. only, right, then they're going to be selling in the world market. And if the price is higher overseas, they're going to sell overseas.

So the notion that we can immunize ourselves from the world oil market by producing more oil is just fundamentally wrong unless you're thinking of shutting down the borders of the United States and having a separate economy here.

So the whole—well, the whole notion that we're going to do that is misguided at the outset, and then, wow, the solution is more subsidies for the oil drilling industry. You know, it invites a cynical response, but I will resist the temptation.

[Laughter.]

MR. GALE: And just say that there are better options for reducing demand for energy, which would do a lot more for reducing the amount that we have to spend on energy in promoting alternative sources which solar can't be shipped overseas, whatever else [inaudible].

MR. : You did hear the President talk about hydrogen, and that's a bipartisan initiative. That's something Clinton started, and the future probably belongs to hydrogen. But I'll outdo you all in cynicism and say this isn't Bush being cynical, this is politics being cynical. The reality is energy dependence is something we're stuck with for at least 20 or 30 years. There is no short term or medium solution. John Kerry didn't have one. George W. Bush doesn't have one. These promises are the political equivalent of chicken soup. Even if you do reduce

dependency on foreign oil, we are worried about dependency on Saudi oil and Saudi oil is the cheapest on the market, so that is the last marginal barrel of oil you cut out if you reduce demand. And we don't really care if we reduce the demand for North Sea oil.

So until we get off of oil, and that's going to be, what, a 20-, 30-, 40-year process, we're stuck with this geopolitical situation, and that means we're stuck with the kinds of dilemmas that Ivo's outlined.

MS. SAWHILL: Okay. I think some of you may be running out of energy yourselves at this point, and I do see a lot of snow out there.

So I want to thank all the panelists and thank all of you for coming.

[Applause.]

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