

suggest to all of my colleagues that it is important we move forward in the collaborative, cooperative approach that was taken in the nomination and in the confirmation of Judge Crotty to be a Federal district judge for the State of New York.

I yield the floor and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, would you inform me how much time is remaining in morning business on the Democratic side?

The ACTING PRESIDENT pro tempore. There remains 17 minutes 24 seconds.

CONSIDERATION OF TIMELY ISSUES

Mr. DURBIN. Mr. President, I rise in morning business to speak to several issues which I believe are timely in the consideration of the business of the Senate.

We are still in this national debate relative to Social Security. President Bush has proposed a plan to privatize and change Social Security, creating the possibility of so-called personal accounts. The President has taken this message on the road, saying that he would visit 60 cities in 60 days to talk about this issue. What we found is a reaction across America opposed to the President's proposal.

What we find is when the people of this country hear the details of President Bush's privatization plan, they are very skeptical. The reason is obvious. Even the President concedes that his privatization plan for Social Security will not strengthen Social Security. Today, left untouched, the Social Security Program would, for the next 36 or 37 years at a minimum, make every payment to every retiree every year with a cost-of-living increase.

If the President had his way and privatized Social Security, we have asked how much longer would the Social Security plan last. The answer is it would not only not extend the life of Social Security, it would shorten the life of Social Security because the President's plan is to reach into the Social Security trust fund to take out money that could be invested in the stock market. As you take money out of the trust fund, there is less money, obviously, to pay retirees. So the President's approach is going to weaken Social Security, not strengthen it.

Second, the President's approach involves dramatic cuts in benefits for senior citizens. If you take the money out of the Social Security trust fund, there is less to pay. The President's

White House memo that was leaked a few weeks ago discloses that they would change the index by which people are paid Social Security benefits. That index decides what increase will come each year in Social Security. The President would reduce that index, so you would find in 10 or 20 years that retirees in America would get 40 percent less when it comes to their Social Security benefits. That would drive many seniors, who have paid into Social Security for a lifetime, into a position where they would be below the poverty line. So the second aspect of President Bush's privatization plan is not only that it does not strengthen Social Security, but there are dramatic benefit cuts to those who have paid a lifetime into Social Security, driving more seniors into poverty, making them vulnerable to a life that is much different than they had anticipated as they went to work every day and paid into Social Security.

The final point is one of the more important ones as well. President Bush's privatization of Social Security is going to add dramatically to America's national debt. In fact, the estimates from the President's own agencies say that this plan of his to privatize will add \$2 trillion to \$5 trillion to the national debt. That is a dramatic increase in the mortgage of America that our children will have to pay off. Who will hold the mortgage of America? Right now, the people holding the mortgage happen to be Japan, China, Taiwan, Korea, OPEC. So we will find ourselves more in debt to those who are financing America's national deficit, and our children will have to pay them off. We will have to dance to their tune. If they lose confidence in the American dollar, we will have to raise interest rates in order to entice them to buy our debt. Raising interest rates to lure China and Japan onto our side means raising interest rates at home.

So President Bush's privatization plan on Social Security has run into a firestorm of criticism. It is a plan which does not strengthen Social Security; it threatens massive benefit cuts and adds dramatically to our national debt.

I see my colleague from Delaware is on the floor, so I will speak very briefly.

I ask unanimous consent to have printed in the RECORD an article from the Washington Post of April 9.

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

[From the Washington Post, Apr. 9, 2005]

AND THE VERDICT ON JUSTICE KENNEDY IS:
GUILTY

(By Dana Milbank)

Supreme Court Justice Anthony M. Kennedy is a fairly accomplished jurist, but he might want to get himself a good lawyer—and perhaps a few more bodyguards.

Conservative leaders meeting in Washington yesterday for a discussion of "Remedies to Judicial Tyranny" decided that Ken-

nedy, a Ronald Reagan appointee, should be impeached, or worse.

Phyllis Schlafly, doyenne of American conservatism, said Kennedy's opinion forbidding capital punishment for juveniles "is a good ground of impeachment." To cheers and applause from those gathered at a downtown Marriott for a conference on "Confronting the Judicial War on Faith," Schlafly said that Kennedy had not met the "good behavior" requirement for office and that "Congress ought to talk about impeachment."

Next, Michael P. Farris, chairman of the Home School Legal Defense Association, said Kennedy "should be the poster boy for impeachment" for citing international norms in his opinions. "If our congressmen and senators do not have the courage to impeach and remove from office Justice Kennedy, they ought to be impeached as well."

Not to be outdone, lawyer-author Edwin Vieira told the gathering that Kennedy should be impeached because his philosophy, evidenced in his opinion striking down an anti-sodomy statute, "upholds Marxist, Leninist, satanic principles drawn from foreign law."

Ominously, Vieira continued by saying his "bottom line" for dealing with the Supreme Court comes from Joseph Stalin. "He had a slogan, and it worked very well for him, whenever he ran into difficulty: 'no man, no problem,'" Vieira said.

The full Stalin quote, for those who don't recognize it, is "Death solves all problems: no man, no problem." Presumably, Vieira had in mind something less extreme than Stalin did and was not actually advocating violence. But then, these are scary times for the judiciary. An anti-judge furor may help confirm President Bush's judicial nominees, but it also has the potential to turn ugly.

A judge in Atlanta and the husband and mother of a judge in Chicago were murdered in recent weeks. After federal courts spurned a request from Congress to revisit the Terri Schiavo case, House Majority leader Tom DeLay (R-Tex.) said that "the time will come for the men responsible for this to answer for their behavior." Sen. John Cornyn (R-Tex.) mused about how a perception that judges are making political decisions could lead people to "engage in violence."

"The people who have been speaking out on this, like Tom DeLay and Senator Cornyn, need to be backed up," Schlafly said to applause yesterday. One worker at the event wore a sticker declaring "Hooray for DeLay."

The conference was organized during the height of the Schiavo controversy by a new group, the Judeo-Christian Council for Constitutional Restoration. This was no collection of fringe characters. The two-day program listed two House members; aides to two senators; representatives from the Family Research Council and Concerned Women for America; conservative activists Alan Keyes and Morton C. Blackwell; the lawyer for Terri Schiavo's parents; Alabama's "Ten Commandments" judge, Roy Moore; and DeLay, who canceled to attend the pope's funeral.

The Schlafly session's moderator, Richard Lessner of the American Conservative Union, opened the discussion by decrying a "radical secularist relativist judiciary." It turned more harsh from there.

Schlafly called for passage of a quartet of bills in Congress that would remove courts' power to review religious displays, the Pledge of Allegiance, same-sex marriage and the Boy Scouts. Her speech brought a subtle change in the argument against the courts from emphasizing "activist" judges—it was, after all, inaction by federal judges that doomed Schiavo—to "supremacist" judges. "The Constitution is not what the Supreme Court says it is," Schlafly asserted.

Former representative William Danne-meyer (R-Calif.) followed Schlafly, saying the country's "principal problem" is not Iraq or the federal budget but whether "we as a people acknowledge that God exists."

Farris then told the crowd he is "sick and tired of having to lobby people I helped get elected." A better-educated citizenry, he said, would know that "Medicare is a bad idea" and that "Social Security is a horrible idea when run by the government." Farris said he would block judicial power by abolishing the concept of binding judicial precedents, by allowing Congress to vacate court decisions, and by impeaching judges such as Kennedy, who seems to have replaced Justice David H. Souter as the target of conservative ire. "If about 40 of them get impeached, suddenly a lot of these guys would be retiring," he said.

Vieira, a constitutional lawyer who wrote "How to Dethrone the Imperial Judiciary," escalated the charges, saying a Politburo of "five people on the Supreme Court" has a "revolutionary agenda" rooted in foreign law and situational ethics. Vieira, his eyeglasses strapped to his head with black elastic, decried the "primordial illogic" of the courts.

Invoking Stalin, Vieira delivered the "no man, no problem" line twice for emphasis. "This is not a structural problem we have; this is a problem of personnel," he said. "We are in this mess because we have the wrong people as judges."

A court spokeswoman declined to comment.

Mr. DURBIN. Mr. President, if you want to know the extremes which are being reached in the debate on the role of judges in America, read this article. There was a meeting in Washington, DC, of some of the more conservative groups on the Republican side. These conservative leaders met to discuss "Remedies to Judicial Tyranny."

They decided that Supreme Court Justice Anthony Kennedy—a Ronald Reagan appointee, I might add—should be impeached.

Phyllis Schlafly [originally from my home State of Illinois] said [that Justice] Kennedy's opinion forbidding capital punishment for juveniles "is a good ground of impeachment." To cheers and applause from those gathered at a downtown Marriott for a conference on "Confronting the Judicial War on Faith," Schlafly said that Kennedy had not met the "good behavior" requirement for office and that "Congress ought to talk about impeachment."

Unfortunately, hers was not the most incendiary quote. A gentleman by the name of Edwin Vieira, a lawyer-author, the article goes on to say:

... not to be outdone ... told the gathering that Justice Kennedy should be impeached because his philosophy, evidenced in his opinion striking down an anti-sodomy statute, "upholds Marxist, Leninist, satanic principles drawn from foreign law."

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I am quoting Mr. Vieira:

He [Stalin] had a slogan, and it worked very well for him, whenever he ran into difficulty: 'no man, no problem,'" Vieira said.

The Washing Post goes on to say:

The full Stalin quote [this is what Stalin really said] ... is "Death solves all problems: no man, no problem."

This type of outrageous statement from the so-called conservative Repub-

lican right is clear evidence that what we have heard from Congressman TOM DELAY in the House of Representatives, and from even Members in our own Chamber, represents a departure from the line of civility which we have refused to assault or cross when it comes to dealing with the separate branches of Government.

There is no doubt that decisions are handed down by Federal courts across America on a daily basis with which I personally disagree and find abhorrent. But to suggest retribution against judges—first from Schlafly that it should involve impeachment and then from Mr. Vieira that it should go further—suggests an assault on the independence of the judiciary about which every American should be concerned. When the men and women who don these robes for lifetime appointments have the courage to rule in cases, even in controversial cases, they should not feel they are going to be threatened on a regular basis by Members of Congress or by those in political parties who happen to see things differently.

We know how this can reach an extreme. We have seen it happen. In my home State of Illinois, the family of one of our outstanding Federal jurists was assaulted, and two of them were murdered. This type of reaction shows that when you give comfort to this crazed mindset, it can have disastrous results. The people who sponsored this conference should be embarrassed that they came together and suggested this kind of action against Federal judges.

It is time to put an end to this. We need to have an independent judiciary in touch with the ordinary lives of American citizens, in touch with the value of our families. But we always should stand and defend the independence of our judiciary and the integrity of the men and women who serve in that branch.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Delaware is recognized.

THE JUDICIARY

Mr. CARPER. Mr. President, yesterday I was in my State capital, Dover, DE, before I came down here. I was a short distance from a place called the Golden Fleece Tavern. It no longer exists, but it was the site of the place where Delaware became the first State to ratify the Constitution. They did that on December 7, 1787. That action took place a couple of months after a Constitutional Convention about 75 miles up the road in Philadelphia.

Some of my colleagues may recall that one of the last issues resolved at the time of the Constitutional Convention was the question of how they were going to select these judges, the third branch of our Government. How do we select these judges? There were some at that time who were fearful of creating a Presidency that would be too strong, having had a bite of the apple

of putting up with a king of England for a number of years. They did not want to create a king or someone of royalty in this country to be our leader. Our Founding Fathers worked diligently in any number of ways to create checks and balances to ensure that we didn't end up with a king but ended up with a President. Among the checks and balances they incorporated into our Constitution is one that deals with the selection of our judges. We all know how Presidents nominate and the Senate confirms or does not confirm nominees to lifetime appointments to the Federal bench.

Twice in our Nation's history we have seen instances where a President sought to stack the courts. Both were Democrats. One was Thomas Jefferson at the beginning of his second term as President, and a second was FDR at the beginning of his second term as President. Both times, both Presidents, both Democrats, were rebuffed. Today, Democrats no longer reside in the White House. Today, the Republicans are in the majority here in the Senate and in the House of Representatives.

With the election of last November, President Bush is in a position to see much—not all, but a good deal—of his legislative agenda approved; perhaps modified but ultimately approved. He is also in a position to leave an even more enduring legacy through his nomination of hundreds of judges in the Federal courts of almost every State. In President Bush's first term, he nominated over 200 men and women to the Federal bench, and 215 nominees were actually debated here on the Senate floor, and 205 were approved. That is an approval rate of about 95 percent. Of the 10 who were not approved, our side would say they were simply out of the mainstream.

As the 108th Congress concluded last year, the vacancy rate stood at the lowest, I believe, since the Reagan era. How did that compare with the Clinton era? In President Clinton's time as President for 8 years, 81 percent of his Federal nominees were approved, as compared to 95 percent of President Bush's in the last 4 years. It is kind of an irony, at least to me, that 81 percent for President Clinton was enough, it was OK, but 95 percent for President Bush is unacceptable.

While our Republican friends are prepared to change the rules of the Senate in an effort to make it a lot easier to confirm Federal judges, and are poised, I am told, to turn some 200 years of precedent on its head because 95 percent may not be enough, I think to do so would be a mistake.

We have a chance to pass not only class action legislation, but we have a chance to pass bankruptcy legislation, asbestos litigation reform, a comprehensive energy policy, restructuring of the postal system for the 21st century, and on and on. This could be the most fruitful legislative session in recent memory. I would hate to see us destroy that potential.