

shopping center into a parking lot about 5 in the afternoon, she apparently was abducted by a formerly convicted sex offender who has now been charged with this crime.

Dru Sjodin was a wonderful young woman. She was, as has been the case with these other circumstances, the innocent victim of a sex offender. Alfonso Rodriguez has been charged in her case. Alfonso Rodriguez served 23 years in prison as a violent sexual predator. He was deemed by prison officials to be a high-risk offender who would reoffend when released. He was nonetheless released from prison, and within 6 months he allegedly murdered Dru Sjodin.

I have introduced a law called "Dru's Law." It is supported by Mr. Lunsford, Mr. Klaas, and so many other families who have been visited by these tragedies.

Dru's Law does three things. First, it says there should be a national registry of convicted sex offenders. There is not one now. There are State registries but not a national registry. Many Americans live near a State border. If they check their State registry of who the violent sex offenders are in their region, they will find out who is in their State but not who is 5 or 20 miles away across the border. There should be a national registry of convicted sex offenders, No. 1.

No. 2, if a high-risk sex offender is about to be released from prison and if that person is deemed to be at high risk for committing another violent offense, the local State's attorneys must be notified that this high-risk sex offender is about to be released so they can seek further civil commitment if they believe it appropriate.

No. 3, if, in fact, a high-risk sex offender is released from prison and there is no further civil commitment, there must be monitoring of that sex offender upon release. There cannot be at the prison door a wave and say: So long, you served your 23 years, have a good life. There must be high-level monitoring.

It is unbelievable to me that we know the names of these people who are committing these murders because they have been behind bars and they are released despite the fact that psychiatrists, psychologists, and others judge them to be at high risk for reoffending. I don't want to see the list of victims, which includes Dru Sjodin, Polly Klaas, Jessica Lunsford, and Sarah Lunde, get longer. We can do something about this. We can pass this legislation.

Incidentally, this legislation which I reintroduced now with ARLEN SPECTER was passed by unanimous consent last year. We did not get it through the House, but I have now reintroduced it. I am going to try again, and I hope this time that this legislation gets to the President's desk for signature. It is long past the time that we do what is necessary to save lives. We ought not any longer accept the status quo. Vio-

lent sexual predators need to be identified, need to be on a national registry, and need to be either recommitting, if they are at high risk for reoffending, or there needs to be high-level monitoring when they are released. That is simply the case.

How much time have I consumed?

The ACTING PRESIDENT pro tempore. The Senator from North Dakota has consumed 6 minutes.

#### NUCLEAR OPTION

Mr. DORGAN. Mr. President, on another subject, this morning I read some very troubling comments by a member of the House leadership, on the subject of judges. I normally would not comment about remarks made by a member of the House, but we face in the Senate the prospect of what some are calling the nuclear option. This relates to an attempt by an arrogant majority to violate the rules of the Senate, in order to change the rules with respect to the confirmation of judicial nominations. Because of the real possibility that this so-called nuclear option will be exercised, I wish to react to some of these things that have been said about judges.

Judges serve for a lifetime. There are two steps to put a judge on the bench for a lifetime. One, the President must nominate. Second, the Senate advises and consents. In other words, the Senate decides whether it agrees a judge is fit for service for a lifetime.

It is not unusual for the Senate to decide that a judicial nominee by a President should not go forward. In fact, that happened to America's first President, George Washington. He lost one of his judicial nominations.

The Senate has approved 205 out of 215 Federal judicial nominations sent to us by President Bush. Because we have only approved 205 out of 215, which is 95 percent-plus, because there are a few who we have selected who we would not want to confirm, there are those who speak of changing the Senate rules, and to do so by violating the Senate rules. That is called the nuclear option.

What is the origin of all of this? Some of it has been described in stark terms by colleagues in the Congress. It is that they would like to define what good behavior means for judges. They do not agree with some judicial rulings, so they want to impeach Supreme Court Justices.

They must have missed that course in high school and college that talked about checks and balances, as well as the course that talked about separation of powers. Some in the Congress believe the judiciary ought to report to them and believe America's judiciary ought to conform to their interests, to their notions, of how to read our Constitution.

It reminds me again that there is a very big difference between an open mind and an empty head when I hear people talking about how we must find

ways to get the Federal judiciary to bend to the will of the Congress. That is exactly what our Framers did not intend to have happen.

Let me say again, we have confirmed 205 of 215 requested lifetime appointments to the Federal bench offered to us by this President. That is an incredibly good record. But because 10 have not been confirmed—because this Congress has decided not to be a rubberstamp for lifetime appointments on the Federal bench—we have some who have decided they want to break the Senate rules in order to change the Senate rules. I read in today's papers we have others who are deciding they would like to take a crack at impeaching Federal judges and bend the Federal judiciary to the will of the majority here in the Congress.

I think it is arrogant and I think it is dangerous and I think most of the American people would believe the same.

I hope, as we proceed in the coming days, there will be some sober reflection among those who understand the roles of those in this institution and the judiciary, who understand the separation of powers, and who understand checks and balances. If that is the case, those who now talk about the so-called nuclear option will rethink their position.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

#### THE ENERGY BILL

Mr. KERRY. Mr. President, once again, today, President Bush is going to talk about the rising cost of gas and how it is hurting Americans at the pump. He is going to talk again about our dangerous dependence on foreign oil.

Last weekend, President Bush used his radio address to urge Americans to support his energy legislation. He said, and I quote him:

American families and small businesses across the country are feeling the pinch from rising gas prices.

President Bush is right. The fact is American families are struggling. But unfortunately he is wrong about his support of the energy bill and his approach. The issue is not that the President doesn't understand the problem; it is that he does not have a real solution. He has not proposed the kinds of steps that are staring us in the face, available to us to be able to put together a real energy policy for the country. The energy plan he continues to campaign for will, in fact, make the United States more dependent on foreign oil, it will keep gas prices at record highs instead of making them affordable for consumers, and it will make our air and our water more polluted instead of investing in a cleaner future. These are pretty stark choices. Each and every one of them, on examination, is proven in the ways in which this administration has moved backwards on enforcement, backwards with respect to its

commitment to a major independent energy policy for the Nation.

What we need to do is provide the Nation with sound solutions that are going to create jobs, instill a greater confidence in our relationships with other countries, and begin to move away from that dependency and to excite the economy through the creation of those kinds of jobs and the commitment to new technologies and to the research and development to create them.

The crisis, as it is currently unfolding, affects our economy. It is a drag on the economy, a drag on growth, a drag on our security, and it is obviously harming our environment.

The status quo energy policies the President is promoting are also hurting consumers at the pump, and no amount of taxpayer-funded, campaign-style events are going to cover up this reality because the evidence is plain for everybody to see at gas stations all across the country. People are now paying an average of \$2.28 a gallon at the pump. That is up 6 cents in the last week and over 50 cents in the last year.

All of this has been predictable. The rise of demand in China and the rise of demand in less-developed nations has been there for every economist to lay out over the course of the last years. Notwithstanding the rise in demand and the competition for available oil resources, the United States continues down the same old road. All of the hype about the Arctic Wildlife Refuge or other sources is never going to make up for the reality of how much of the oil reserves are actually available to the United States versus that increasing demand curve.

For the fourth week in a row, gas prices are at an all-time high. They have now increased a staggering 56 percent since 2001. A recent Gallup survey revealed that 44 percent of Americans believe it is extremely important for Congress and the President to address gas prices. But you only need to look at the legislation that is promoted by the President, and set to be voted on in the House this week, to see that, yet again, Washington is turning its back on common sense and turning its back on the best interests of the American people.

Under this administration, higher gas prices cost American consumers an extra \$34 billion. If the House passes this bill, the Senate passes it, and the President signs it, it will cost the American consumer \$34 billion. Airlines, truckers, and farmers spent an extra \$20 billion last year alone. That is a regressive energy tax on the backs of working Americans.

But the administration's friends got off a lot easier than the average American. This energy bill is going to make their load even lighter. While American workers and families were struggling, oil companies earned record profits in the fourth quarter of 2004: ExxonMobil, up 218 percent, ConocoPhillips, up 145 percent; Shell,

up 51 percent; ChevronTexaco, up 39 percent; and BP, up 35 percent.

Show me the American worker whose income has gone up by several percentage points, let alone double digits. Show me the American worker whose income has risen so they can keep up with the higher cost of fuel.

What is the President proposing to do about this? Well, 95 percent of the tax benefits included in the President's bill, the bill he supports, more than \$8 billion, goes directly into the pockets of big oil and gas companies. At a time when oil prices are at historic highs, our energy policy ought to be aimed at investing in new and renewable sources of energy, not providing another big giveaway to special interests, particularly to the big oil and gas companies that have had these remarkable increases in their profits over the course of the last year.

Simply put, what is good for the administration's contributors has not been good for our economy. Federal Reserve Chairman Alan Greenspan has said:

Markets for oil and natural gas have been subject to a degree of strain over the past year not experienced for a generation.

The Chairman of the President's own Council of Economic Advisors has admitted:

High energy prices are now a drag on our economy.

But the problem goes even deeper. The administration's failure to propose a real energy policy also threatens our national security. We are more dependent on foreign oil than ever before, forcing us into risky and even compromising political entanglements with nations that we rely on for the fuel oil. America will never be fully secure until we free ourselves from the noose of foreign oil.

Unfortunately, the so-called energy plan of the administration does nothing, nothing to reduce our dependency on foreign oil. Don't take my word for it. The President's own economists found that oil imports will actually increase 85 percent by 2025 under a proposal such as we see at this point. The President's economists also found that "changes to production, consumption, imports, and prices are negligible."

You don't have to be an expert on oil or on energy policy to understand the basics of where we find ourselves. All you have to do is be able to count. The United States of America only has 3 percent of the world's oil reserves. That is all God gave us, 3 percent. Saudi Arabia has 65 percent of the world's oil reserves. There is no possible way, with the current population growth, the current increase in demand for oil, the current increases in other countries, no possible way for the United States to drill its way to energy independence. We have to invent our way to it.

But the President's energy policy is completely lacking in the major commitment necessary. There are token commitments, yes, but not the major

commitment you need in order to spur the investment strategies, in order to spur the research and development and the fast transition in the marketplace we need to provide for the alternative energy sources the country ought to demand.

The President's energy bill is not even a real Band-Aid on the energy crisis that threatens our economy and challenges our national security. What it does do for sure is fatten the coffers of big energy companies.

There is a reason Senator MCCAIN called the energy bill the No Lobbyist Left Behind Act.

What kind of message do these policies send? If your profits go up, your subsidies go up. If the policy makes us more dependent on foreign oil, it makes the status quo even worse.

What we ought to be doing is something profoundly better than this, and we know we could. Energy policy gives us a rare opportunity to address a whole series of challenges at the same time. If we end our dependence on foreign oil and move in that direction, then we begin to strengthen our national security, and we become more independent and more capable of making choices that are less founded in that dependency. If we lead the world in inventing new energy technologies, we create thousands of high-paying jobs in the United States, and we create products we can export and an expertise we can also export at the same time. If we learn to tap clean sources of energy, then we preserve a clean environment, and we reduce the level of environment-induced cancers and other problems we face. If we remove the burden of high gas prices, then American consumers will have more cash in their pockets, more ability to spend elsewhere, and we give our economy the boost it needs.

Unfortunately, the energy bill before the Congress achieves none of these fundamental goals in the way we could and in the way we need to, given the crisis we face. It is laden with handouts to corporate interests. Over the period of the next days, I will lay out further the specifics of those particular linkages and what they mean to us.

We have an opportunity to change the direction of our country, to change our economy and make ourselves more secure and to create jobs. The solutions to our energy crises, all of them, are staring us in the face. The fact is, a number of years ago, back in 1973, when the first oil crisis hit, and then in the latter part of the 1970s, this country did move to try to create a real policy of alternative energy. The result was thousands of small companies started up around solar or wind or alternatives. But then, unfortunately, in the 1980s, the Government pulled back from that commitment and many of those companies were lost and much of that technology shifted and was lost to Japan or to Germany or to other countries. The record of jobs lost versus jobs created and of opportunities lost

versus opportunities seized is a clear one. It is long past time we get the politics out of this and put practical, real and, in some cases, visionary solutions on the table so we can strengthen our own economy, strengthen our country, and provide ourselves with alternatives that will make our Nation both healthier and safer at the same time.

I believe we owe the Nation more than staged political events and rhetoric in the effort to move to that future, and I hope we will do so.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. VITTER). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### JUDICIAL NOMINATIONS

Mr. DURBIN. Mr. President, the saga of the judiciary continues on Capitol Hill. The Constitution of the United States, which we all keep close at hand, makes it clear that there are three independent branches of Government. Each has an important role in the governance of this democracy. And certainly the independence of the judiciary is something we have valued from the beginning of this Nation, for all the time that we have enjoyed this great country. But it is under attack today from the right wing of the Republican Party in a way that we have not seen in quite some time.

It was reported in this morning's paper that House Majority Leader TOM DELAY, Republican of Texas, was interviewed by Tony Snow on Fox NEWS radio. Mr. DELAY said of the judges whom he has been critical of in the past, when asked if he would include any Supreme Court Justices among those he considered activist and isolated, he said Anthony M. Kennedy, who was named to the Court by President Ronald Reagan.

Mr. DELAY said:

Absolutely. We've got Justice Kennedy writing decisions based upon international law, not the Constitution of the United States. That's just outrageous.

Mr. DELAY went on to say:

And not only that, but he—

Justice Kennedy—

said in session that he does his own research on the Internet. That is just incredibly outrageous.

That is a direct quote from TOM DELAY—that a Justice of the Supreme Court who does research on the Internet is one who is a judicial activist.

Has the Internet become the devil's workshop? Is it some infernal machine now that needs to be avoided by all right-thinking Americans? What is Mr. DELAY trying to say as he is stretching to lash out at judges who happen to disagree with his political point of view?

This coming Sunday, this saga will continue at a church in Kentucky with the so-called "Judge or Justice Sunday" sponsored by the Family Research Council. They are arguing that any time we question a nominee from the Bush White House we are attacking people of faith.

I can tell you, of the 205 judicial nominees we have approved of this President—and only 10 have not been approved—many of them were undoubtedly people of faith. I have to say "undoubtedly" because I can't say for certain. Do you know why? Because this Constitution prohibits anyone from asking a person seeking a job with the Federal Government or a position in the Federal Government what their religious faith happens to be. We cannot under the terms of article VI of the Constitution establish any religious test for office.

So now those who support the rejected nominees are saying they were rejected because of their faith.

You see what they are trying to do. They are trying to draw us into a position where we are going to use religion as some sort of weapon in this debate. That is a mistake.

The Constitution, which has carefully separated church and state throughout our history, says to every American that they have a right of conscience to decide what they want to believe. When we start imposing religious tests, as some in the right would have us do, it is a serious mistake.

As Mr. DELAY lashes out at Supreme Court Justices and others for their outrageous conduct in "doing research on the Internet," and we see these rallies that are attacking those who are upholding Senate rules and traditions of over 200 years based on some flawed interpretation of our Constitution, we understand it is time for Americans who really want to see moderate and balanced and fair judges to speak out.

We have to have the process where the rules are respected, where we have checks and balances in our Government, and where people seeking lifetime appointments must demonstrate not only honesty and competency but the fact that they are in tune with the values and the needs of the American people. Unfortunately, in the case of 10 judges, many of us believe the nominees sent by the White House do not meet that test.

Mr. President, 95 percent of President Bush's nominees have been approved. That is not enough for some, but I think it reflects the fact that the Senate has a constitutional responsibility to look closely at each nominee and decide whether they are worthy of this lifetime appointment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

#### CONSTITUTIONAL CONFLICT

Mr. CRAIG. Mr. President, is it a religious test? Is it an environmental

test? Is it a right-to-life test? Is it a racial test? No. Now we say it is TOM DELAY's test.

If it weren't so deadly serious, it would be laughably humorous.

But the other side has reduced what is a tremendously important constitutional responsibility of this Senate into a political game.

From the very outset, when the Bush administration came to town, telegraphed across the Nation was a very clear message by our colleagues from the other side. Inside their internal party politics and beyond, it was all about politics and who they would reject, or who they would disallow the right to have a vote on the floor of the Senate when nominated by this President—if that nominee made it through the Judiciary Committee—whether they would be allowed to become a sitting judge in one of the courts of the United States for which the President, the Congress, and the Senate are responsible.

Religious test, environmental test, a right-to-life test, a racial test, now a TOM DELAY test. Doesn't the other side have anything to talk about nowadays? Don't they have a policy they can take to the American people that will grasp the majority of the American people's minds or is it simply targeting around the edges?

It is deadly serious, and it is not humorous at all.

I rise today to discuss what is a most important constitutional conflict that has developed here in the Senate, and the response that I believe the Senate must act clearly and profoundly on this issue.

In the time that I have been in public office, I have watched the Congress and participated in the Congress in conflicts that some would call historic by nature—an impeachment, a contested election, a midsession shift of party control of the Senate, just to name a few.

But no issue, in my opinion, has threatened to alter the fundamental architecture of Government in the way that it is now being threatened today by the conflict over judicial nominees.

Some of our colleagues have attempted to downplay the importance of the issue. I think that is what you heard this morning—a reduction of the issue to a debate about TOM DELAY's wisdom or a quote about the Internet. This is a lot more important than any one individual, including TOM DELAY.

This is really about the Constitution of the United States. They have attempted to call it, Well, it is "just business as usual" to oppose nominees. They have tried to portray it as insignificant in terms of the number of judges. You just heard that a few moments ago about their selective filibuster. They say that is fair and full in the process.

They have characterized it as a simple political struggle between the parties. Well, it is political, but it is constitutional.