

Right-wing US senators target federal judges

Patrick Martin
7 April 2005

Continuing their campaign to incite political hysteria and violence over the Terri Schiavo case, Republican senators and congressmen are calling for retaliation against federal judges who resist the dictates of the Christian fundamentalist right.

In a speech on the US Senate floor Monday, Republican Senator John Cornyn cited the Schiavo case and the March 1 Supreme Court decision outlawing the death penalty for juveniles as examples of “judicial activism.” He suggested that such rulings had provoked the recent series of violent physical attacks on judges.

“It causes a lot of people, including me, great distress to see judges use the authority that they have been given to make raw political or ideological decisions,” Cornyn said. In some cases, he claimed, “the Supreme Court has taken on this role as a policymaker rather than an enforcer of political decisions made by elected representatives of the people.

“I don’t know if there is a cause-and-effect connection, but we have seen some recent episodes of courthouse violence in this country,” he continued. “And I wonder whether there may be some connection between the perception in some quarters, on some occasions, where judges are making political decisions yet are unaccountable to the public, that it builds up and builds up and builds up to the point where some people engage in violence. Certainly without any justification, but a concern that I have.”

Cornyn’s comments were incoherent and, even from the standpoint of the ideology of the ultra-right, made no sense. Neither attacker in the two recent fatal assaults on judges fits Cornyn’s suggested motivation of frustration over political activism by “liberal” judges.

In the first incident, the husband and mother of a federal judge were murdered in Chicago by a man who had filed an unsuccessful medical malpractice suit in her court. (Under the “reform” of malpractice laws proposed by the Bush administration, and backed by Cornyn, such suits will be even more difficult to pursue). In Atlanta, Georgia, a prisoner facing trial on rape charges

overpowered a sheriff’s deputy, seized her gun, and killed four people, including the judge who was to hear his case.

If Cornyn’s argument is illogical, his political intentions are quite clear: he seeks to send a message of sympathy to those who are, in fact, contemplating violent attacks on federal judges because of decisions such as those in the Terri Schiavo case. If such an event transpires—Michael Schiavo, the husband and legal guardian of Terri, and his attorney George Felos have also received death threats—Cornyn must be counted among the moral authors, along with House Majority Leader Tom DeLay, who declared last week, “The time will come for the men responsible for this to answer for their behavior.”

It is worth noting that Cornyn never protested the most indisputable case of Supreme Court intervention to usurp the political process—the 5-4 ruling in *Bush v. Gore* that awarded the White House to the Republicans in 2000. The howls about “judicial activism” only begin when the courts restrain in some way the implementation of the unconstitutional, anti-democratic program of the Christian fundamentalists, not when they hijack a presidential election.

Cornyn was compelled to retreat from his remarks the following day, after Senate Majority Leader Bill Frist rebuffed his position and that of DeLay, refusing to endorse a general purge of the federal judiciary. “I believe we have a fair and independent judiciary today,” he said, noting that the vast majority of federal judges had been appointed by Republican presidents. Vice President Dick Cheney, in a weekend television interview, also cautioned against using the Schiavo case to launch a frontal assault on the courts.

Such reservations notwithstanding, Cornyn’s remarks reveal the anti-democratic and fascistic trajectory of a significant section of the congressional Republicans. On April 7-8, hundreds of Christian fundamentalists are meeting in Washington under the auspices of the Judeo-Christian Council for Constitutional Restoration, a group whose very name suggests its goal of outright theocracy in America.

The gathering, under the title “Confronting the Judicial War on Faith,” is called to promote legislative and constitutional changes to strengthen the position of religion in American public life. Featured speakers included DeLay—until he canceled to attend the funeral of Pope John Paul II—Senator Sam Brownback of Kansas, former Alabama Chief Justice Roy Moore, and David C. Gibbs of the Christian Law Association, principal attorney for the parents of Terri Schiavo.

Roy Moore was removed as Alabama’s top jurist after he defied a federal court order to remove a massive stone monument to the Ten Commandments from his courthouse. His ouster became a *cause celebre* of the Christian right, and the basis for legislation, drafted by his attorney Herb Titus, that was introduced into Congress last year as the Constitution Restoration Act of 2004.

The bill was reintroduced March 1 by Senator Richard Shelby of Alabama as S520, Constitution Restoration Act of 2005. Its provisions give a striking indication of the ambitions of the Christian fundamentalists, who comprise only a small percentage of the American people, but aim to impose their religious dogma on the vast majority of the population.

The bill would remove from the jurisdiction of the Supreme Court or any other federal court any legal challenge to actions by local, state or federal governments concerning “acknowledgement of God as the sovereign source of law, liberty, or government.” It would outlaw lawsuits in federal court against prayer in the public schools or at legislative sessions and other public functions, as well as lawsuits against the Pledge of Allegiance (which declares the United States to be a nation “under God”), the display of the Ten Commandments, and similar government affirmations of religion.

A second provision of the bill would bar the federal courts from taking cognizance of any decision of a judicial body, state or institution outside the borders of the United States, except for English common law in the period before the American Revolution. This is aimed specifically at the Supreme Court decision on the juvenile death penalty, which cited the international consensus against the practice as barbaric.

But this aspect of the bill has even more sweeping implications. It amounts to a declaration—completely in tune with the policies of the Bush administration—that the United States is beyond the reach of international law and accepts no international restraints on its conduct.

A third section of the measure declares that any judicial

ruling or decision that contradicts the bill constitutes grounds for impeachment and removal from office. In effect, the bill would criminalize any effort to enforce the constitutional separation of church and state, and provide for the ouster of any judge who adhered to the traditional interpretation of the Bill of Rights.

The impeachment of federal judges is a major focus of the discussion at the Christian fundamentalist conference. Conference organizer Ray Scarborough declared, “Our upcoming conference on combating judicial tyranny could not be more timely or more necessary. It was an activist Florida judge who, in effect, passed a death sentence on Terri Schiavo.”

Pennsylvania Republican Senator Rick Santorum said there has been active discussion of impeachment efforts against the federal judges, at both the district and appeals court level, who rejected the legal appeals from Terri Schiavo’s parents, Robert and Mary Schindler. Congress passed an unprecedented emergency bill giving the Schindlers legal standing to sue in federal court after they had been repeatedly unsuccessful in Florida state courts in their efforts to oust Michael Schiavo as Terri’s guardian and compel the severely brain-damaged woman to remain on life support indefinitely, against her expressed will.

In a conference call to reporters, Santorum denounced what he called “the kind of judicial tyranny we are seeing by many on the bench.” He added, “I can tell you the frustration level is getting higher and higher.” He said he would prepare legislation to sharply restrict the withdrawal of feeding tubes and other life support from brain-dead patients.



To contact the WSWWS and the
Socialist Equality Party visit:

wsws.org/contact