

Unfortunately, the Republican leadership has once again chosen to skip over the nomination of Margaret Morrow and that of Christina Snyder who have been nominated to be district court judges in the Central District of California. As I detailed again yesterday, Ms. Morrow has been the victim of a mysterious hold for months.

Marjorie Rendell has been a fine district court judge since 1994. President Clinton nominated her to a seat on the Court of Appeals for the Third Circuit on the first day of this session. At the time, I could not have imagined that it would take nine months for the Judiciary Committee to accord her a hearing and report her nomination to the Senate. Senator SPECTER and Senator BIDEN are both to be commended for pressing their efforts to have this nomination considered. Indeed, Senator SPECTER ultimately chaired her confirmation hearing.

Judge Rendell received the ABA's highest rating of well qualified for appointment to the third circuit. She has been active in the Visiting Nurse Association of Greater Philadelphia and the Philadelphia Bar Foundation and active in the community. Senator KENNEDY described her career as "one of great distinction and insight." Even Senator SESSIONS concurred that Judge Rendell "was a very impressive witness."

The good news is that her confirmation fills a vacancy on the third circuit, the bad news is that it creates a vacancy on the district court at a time when it is taking far too long to confirm good nominees.

I congratulate Judge Rendell and her family and look forward to her service on the third circuit.

I am delighted to see the Senate moving forward with the nomination of Richard Lazzara to be a Federal judge in the Middle District of Florida. The Senate first received this nomination in early May 1996, over 16 months ago. It should not have taken us this long to get to this point.

I know that the chief judge in that district, Elizabeth Kovachevich, has been speaking out about the workload, backlogs and vacancies in her court. Judge Kovachevich has noted that serious crimes are up 28 percent in her district and civil filings are up 25 percent for the second straight year leading to a growing backlog of over 3,200 cases. Both Senator GRAHAM and Senator MACK were strong supporters of this nominee at his hearing in early September. I was struck that Senator MACK called the situation one of "crisis proportions" and pointed out that the district is having to take unprecedented steps to deal with a backlog growing "at an alarming proportion."

I have introduced legislation recommended by the Judicial Conference of the United States to add three additional judges for that district, but their needs remain unaddressed because that bill has not received the attention that it deserves.

Filling this vacancy without further delay is a start. The people of Orlando, Jacksonville, and Tampa have had to wait a long time for judge Lazzara. This nominee received the highest rating possible from the American Bar Association. He is an experienced Judge, having served as a Florida County judge, a Florida circuit judge and a Florida appellate judge over the last 10 years.

I congratulate Judge Lazzara and his family and look forward to his service on the Federal Court.

With Senate confirmation of these two judges, the Senate continues to lag well behind the pace established by Majority Leader Dole and Chairman HATCH in the 104th Congress. By this time 2 years ago, the Senate had confirmed 36 Federal judges. With today's actions, the Senate will have confirmed one-half that number, only 18 judges. We still face almost 100 vacancies and have over 50 pending nominees to consider with more arriving each week.

For purposes of perspective, let us also recall that by the end of September 1992, during the last year of President Bush's term, a Democratic majority in the Senate had confirmed 59 of the 72 nominees sent to us by a Republican President. This Senate is on pace to confirm less than one-third of a comparable number of nominations.

We still have more than 47 nominees among the 69 nominations sent to the Senate by the President pending before the Judiciary Committee who have yet to be accorded even a hearing during this Congress. Many of these nominations have been pending since the very first day of this session, having been re-nominated by the President. Several of those pending before the committee had hearings or were reported favorably last Congress but have been passed over so far this year, while the vacancies for which they were nominated over 2 years ago persist. The Committee has 10 nominees who have been pending for more than a year, including 5 who have been pending since 1995.

While I am encouraged that the Senate is today proceeding with the confirmations of Judge Rendell and Mr. Lazzara, there remains no excuse for the Committee's delay in considering the nominations of such outstanding individuals as Prof. William A. Fletcher, Judge James A. Beaty, Jr., Judge Richard A. Paez, Ms. M. Margaret McKeown, Ms. Ann L. Aiken, and Ms. Susan Oki Mollway, to name just a few of the outstanding nominees who have all been pending all year without so much as a hearing. Professor Fletcher and Ms. Mollway had both been favorably reported last year. Judge Paez and Ms. Aiken had hearings last year but have been passed over so far this year. Nor is there any explanation or excuse for the Senate not immediately proceeding to consider the other five judicial nominations pending on the Senate calendar.

Those who delay or prevent the filling of these vacancies must understand that they are delaying or preventing the administration of justice. We can pass all the crime bills we want, but you cannot try the cases and incarcerate the guilty if you do not have judges. The mounting backlogs of civil and criminal cases in the dozens of emergency districts, in particular, are growing taller by the day. National Public Radio has been running a series of reports all this week on the judicial crises and quoted the chief judge and U.S. attorney from San Diego earlier this week to the effect that criminal matters are being affected.

I have spoken about the crisis being created by the vacancies that are being perpetuated on the Federal courts around the country. At the rate that we are going, we are not keeping up with attrition. When we adjourned last Congress there were 64 vacancies on the Federal bench. After the confirmation of 18 judges in 9 months, there has been a net increase of 30 vacancies, an increase of almost 50 percent in the number of Federal judicial vacancies.

The Chief Justice of the Supreme Court has called the rising number of vacancies "the most immediate problem we face in the federal judiciary." Senator HATCH has said that we can do better. I agree with them and add that we must do better. I have urged those who have been stalling the consideration of these fine women and men to reconsider their action and work with us to have the Senate fulfill its constitutional responsibility.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

MORNING BUSINESS

(During today's session of the Senate, the following morning business was transacted.)

TRIBUTE TO THE LATE GEN. ROBERT E. HUYSER

Mr. THURMOND. Mr. President, in the year that the Nation celebrates the 50th anniversary of the founding of the U.S. Air Force, we must pause today to mourn the passing of an individual who was one of the key figures in the history of that service, Gen. Robert E. "Dutch" Huyser.

For almost 40 years, Dutch Huyser helped to protect America through airpower. Drafted into the Army during World War II, he became a B-29 pilot and flew numerous missions in the Pacific in support of Allied efforts to defeat Imperialism. Following the war, when the Air Force was established as a separate military service, he became a bright and promising young officer who would help to shape cold war policy and become known as the father of

the program which eventually yielded the C-17 Globemaster aircraft. Before he would reach the highest echelons of the Air Force though, Dutch Huyser still had a lot of flying to do, and he found himself in the cockpits of B-29's over Korea and B-52's in Vietnam when the United States became embroiled in conflicts in those nations.

Throughout his career, Dutch Huyser established an impressive record of awards, citations, and medals that is far too extensive to cite here. Suffice it to say, he set an excellent example for devotion, patriotism, and professionalism for all Air Force officers to follow, and I am confident that he served as an important role model for many of his subordinates throughout his career.

An obvious competent and talented officer, pilot, and manager, the career of Dutch Huyser progressed quickly. Following his service in Vietnam, he specialized in airlift matters and later became the Commander of the Military Airlift Command. In that position, he was an advocate for increased lift capabilities for the Air Force, and he fought hard for the modernization and expansion of the transport fleet. As mentioned above, he is universally credited as being the father credited as being the father of the C-17 program, an aircraft that proves its capabilities and worth on a daily basis as it transports troops and equipment to spots around the world.

After three major wars, almost 10,000 flying hours, and 38-years in the Air Force, General Huyser finally hung his uniform up for the last time in 1981. Though he left the military, he continued to make many contributions to aviation and the security of the United States.

Sadly, Gen. Robert "Dutch" Huyser passed away earlier this week, but perhaps fitting for a man who dedicated his life to the Air Force, he was on an Air Force base when he died. I am certain that the entire Senate would join me in saluting the many contributions that General Huyser made to the Air Force and the defense of the United States, as well as extending our deepest sympathies to his wife, Wanda, and their two daughters. They can be proud of all that their husband and father did to make our Nation a safer, stronger, and better place to live.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Thursday, September 25, 1997, the Federal debt stood at \$5,387,703,781,934.24. (Five trillion, three hundred eighty-seven billion, seven hundred three million, seven hundred eighty-one thousand, nine hundred thirty-four dollars and twenty-four cents)

One year ago, September 25, 1996, the Federal debt stood at \$5,198,791,000,000. (Five trillion, one hundred ninety-eight billion, seven hundred ninety-one million)

Five years ago, September 25, 1992, the Federal debt stood at

\$4,045,041,000,000. (Four trillion, forty-five billion, forty-one million)

Ten years ago, September 25, 1987, the Federal debt stood at \$2,336,074,000,000. (Two trillion, three hundred thirty-six billion, seventy-four million)

Twenty-five years ago, September 25, 1972, the Federal debt stood at \$437,412,000,000 (Four hundred thirty-seven billion, four hundred twelve million) which reflects a debt increase of nearly \$5 trillion—\$4,950,291,781,934.24 (Four trillion, nine hundred fifty billion, two hundred ninety-one million, seven hundred eighty-one thousand, nine hundred thirty-four dollars and twenty-four cents) during the past 25 years.

NATIONAL LAWSUIT ABUSE AWARENESS WEEK

Mr. ASHCROFT. Mr. President. This week, the American Tort Reform Association is holding a series of events to mark the National Lawsuit Awareness Week. Since it was founded in 1986, ATRA has played a valuable role in the effort to restore fairness, balance, and predictability to the civil justice system.

To commemorate this week, ATRA is hosting a 5k "Tort Trot" to benefit the Hydrocephalus Research Foundation. Patients who suffer from hydrocephalus—excess fluid on the brain—particularly have been impacted by lawsuit abuse. Such patients require brain shunts to drain the excess fluid from the brain. While these shunts have saved the nearly 75,000 hydrocephalus patient's lives, they are made out of silicone which is becoming scarce. The silicone supply used by implant manufacturers is threatened by deep pocket liability lawsuits. Rather than take a risk over a product which they did not design or manufacture, some suppliers are exiting the medical device market. Congress can fix this problem. We can pass meaningful tort reform to make sure that our system no longer lines the pockets of special interests at the expense of those in need of life-saving medical devices.

Americans deserve a system of justice, not justice delayed. Those wrongfully injured should have access to a timely remedy from the responsible party. A recent study found cases take about 2½ to 3 years to be resolved, and even longer in appealed cases. In our present—overburdened—system, 50-70 cents of every jury-awarded dollar goes to lawyers and legal costs.

I want to focus my remarks on reforming the product liability system; however, I also want to mention a case which illustrates the need for overall civil justice reform. This case, coined the "Great New Orleans Train Robbery" by the national media, resulted in a \$2.5 billion punitive damages award against a company found to be only 15 percent at fault in an accident that did not result in loss of life, serious injuries, or major property damage.

On September 9, 1987, a railroad tank car containing butadiene, a volatile

compound used in making synthetic rubber, was located in a rail yard in New Orleans on tracks that belong to CSX Corp. Since the fire involved hazardous materials, the officials involved made a determination that the best approach was to let the fire burn itself out. In order to avoid any possible harm to nearby residents, an evacuation of those living near the yard was undertaken. The fire lasted 36 hours. By all accounts, fire officials, and corporate representatives undertook heroic efforts to protect life and property. As a result, and as I said earlier, no deaths or significant injuries were involved, and there was only minimal property damage.

One year later, the National Transportation Safety Board—the Federal agency charged with investigating transportation accidents—determined that CSX had not caused this accident. In fact, other than providing the track over which the tank car was operated, CSX had no connection to the car.

The very day of the fire, a group of law firms brought a class action suit against CSX and other companies alleging various kinds of physical and mental anguish. A jury has now decided that the 8,000 plaintiffs should be awarded \$3.5 billion in punitive damages. Although CSX was only found to be 15 percent responsible—presumably because they owned the track—its portion of the punitive damage award is \$2.5 billion.

How can it be that a Federal agency determines that a company has no responsibility for an accident, another agency declines to assess any safety violation against that company, and yet, this enormous verdict is awarded?

The case in New Orleans is but the latest example of why we need to reform the entire civil justice system. We need to place some limits on verdicts. We need to modify the laws regarding joint liability. Finally, we need to provide disincentives for lawyers to sue the deep pocket every time they can.

Before I begin talking about product liability reform, Mr. President I ask unanimous consent that articles appearing recently in the Wall Street Journal and the Washington Post relating to this almost unbelievable case, appear in the RECORD at this point.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Sept. 18, 1997]

LOUISIANA JACKPOT

The tort wheel of fortune turns round and round. By all accounts, the legal freak show is about to descend on the "fen-phen" diet-pill manufacturers. There will be "thousands of lawsuits scattered all around the country," one tort lawyer roared in the Journal yesterday. But before this circus hits town, attention should be drawn to the one now playing in Louisiana.

In a case that has already been dubbed the Great New Orleans Train Robbery, 8,047 residents of the Big Easy hit the jackpot, winning \$3.4 billion in punitive damages in a