

are not enough judges to have a speedy trial, so they end up having to plea bargain. We do know that in many, many jurisdictions it is clearly impossible to have a civil case heard. If you are a business person with a just claim against somebody and you want to bring a suit, bring the suit, but they can just wait you out. If you are a litigant who has been damaged by somebody, you want to bring a suit, they can just wait you out because the judges are not there to try the cases.

I think it is irresponsible for the leadership in this body to continue to block Federal judges. This is something that I have never seen in 22 years here. During times when the Democrats were in control of the Senate when there was a Republican President, we have never done it to them. During times when Republicans have been in control of the Senate, they have not done this. But this time it is being done. It shows a lack of responsibility on the part of the Senate. It shows a lack of responsibility on the part of individual Senators that they allow this to continue. It also shows a demeaning of the Senate. It violates the traditions of the Senate.

There are some who do not care for traditions in this body. Sometimes it is in things that the public does not see, like confining the reporters of debates to something that looks like a subterranean, medieval torture chamber because we want to expand the perks and privileges of some of the officers of the Senate.

I would hate to think that the Senate is willing to toss aside decades, generations of tradition for momentary perks and privileges. I hope Senators will start thinking that none of us owns the seat in the U.S. Senate. None of us owns a piece of the U.S. Senate. We are merely 1 of 100 who serve here and we serve here for all Americans, not just for our partisan interests, not just for our political party's interests, not just for our own personal aggrandizement. We serve here for the whole country. We are not serving the country well on the question of judges.

This is something where judges, both Republican and Democrat appointed, are united in saying it is not responsible the way we have maintained this. Mr. President, I will continue to speak out on this, but I hope we will wake up to the fact that the country needs to have these Federal judges. We should be ready to move forward. We have about 25 in the pipeline. Let us start having hearings and start going forward on them. Let us stop playing political games. We have a woman, one of the most qualified members of the California bar, who has found her appointment blocked. Contrary to the normal tradition of hearing nominees for the circuit court first, she was made to wait behind everybody else here recently. As did not escape notice, she was also the only woman nominee and was treated like a second-class citizen on the hearing schedule. She has

now been asked by a Member of the Senate, basically, to tell how she voted on over 100 items in California.

Are we stooping so low as a body that we are asking people how they voted? If they are up for confirmation, how they cast a secret ballot? Would you, Mr. President, want to have somebody go back for the last 20 years and ask how you voted every time you went to the voting booth in Kansas? I certainly would not want anybody to be able to ask that. I am very proud of all the votes I cast, but it is my business. It is not anybody else's business. One of the great hallmarks of this democracy is the secret ballot, and we should not start asking people that, when actually it appears the real reason is just to keep the stall in.

We have followed, in the past, the so-called Thurmond rule of stalling a President's appointments to the judiciary in about the last few months of their term in office. I have never seen the stall start in the first few hours of a President's 4-year term.

#### EARTH DAY 1997: THERE IS NO STATUS QUO IN PROTECTING THE ENVIRONMENT

Mr. LEAHY. On another issue, Mr. President, since the first Earth Day in 1970, Americans have gathered to celebrate the steps we have taken to clean up our environment and to call attention to what still needs to be done. The early Earth Day events helped create the modern environmental movement. They led directly to enactment of the first major environmental legislation, the Clean Air Act. I remember with pride serving here with Senator Gaylord Nelson of Wisconsin, knowing what he had done to help spark that movement.

But I ask Senators and the administration to look back at the debate that took place when we drafted this remarkable piece of legislation. At the time of that first Earth Day, the laws to limit air pollution were disjointed, they were limited in scope. But since passage of the Clean Air Act, we have made considerable strides in reducing some pollutants. The level of lead pollution we and our children breathe today is one-tenth what it was a decade ago—one-tenth. We have healthier children as a result. In fact, just using that figure itself is a tribute to the success of the original Clean Air Act.

One thing we do know is Americans do not want to stop the progress we made and say, look what we did back then, 10 years ago; it is what we do today to keep moving forward in cleaning up our environment. I have heard some of the debate here in the Congress now, on the Clean Air Act, that it is not to strengthen it, not to make it better based on what we learned, but rather to weaken it. It is almost like saying we took care of those children, but tomorrow's children we are unwilling to help.

We also learned the ecosystem is not static and that environmental progress

should not be either. There is no status quo and never should be a status quo when it comes to a healthy environment. New pollution sources appear, and none of us can predict today what the new pollution sources might be a decade from now. We know populations grow and they shift and pollutants accumulate. So, if you are not always moving toward a safer and cleaner environment, then you are slipping backwards.

The EPA conducted a 5-year review of existing standards and compared these with new scientific research about the tiny particulates and ozone that we breathe. When EPA issued new goals to lower the level of these particulates coming into our lungs and the ozone levels, the backlash was remarkable. Opponents instantly attacked the goals rather than sitting down to work with the Congress and administration to achieve these goals in a reasonable and cost-effective timeframe. Instead of saying, "What do we do to make air and water safer for our children?" it was, rather, "We cannot possibly do this." These are the same people who would do anything to save a child, but not to save the Nation's children.

We ought to listen to the voices of more than 130 million Americans in 170 major cities who continue to breathe unhealthy air, including the city we are in today. When the Clean Air Act was drafted, we were unwilling to accept the argument that the present cost of environment regulation should define the future of our environment. Our late colleague, Senator Edmund Muskie of Maine said, "The first responsibility of Congress is not the making of technological or economic judgments. Our responsibility is to establish what the public interest requires to protect the health of persons."

So, on this Earth Day I ask Senators to go back to the original premise of the Clean Air Act and ask ourselves what do we do to carry forward the torch of environmental progress, not only for ourselves but for the next generations of Americans? I hope we might look at the biggest loophole in the Clean Air Act, allowing the dirtiest powerplants to continue to operate with vastly inadequate pollution controls. We ought to go back and close this loophole now, in this session of Congress.

One of the reasons it is so urgent is because of the deregulation of the electric utility industry. We have the benefits of competition in the utility industry. Some say it is going to be as much as \$50 billion. Surely, with this we ought to be able to offset the environmental costs of utility deregulation and have some ability to have cleaner air.

We ought to look at some of the coal-fired production plants that were grandfathered under the Clean Air Act. One study says an annual increase of emissions of 349,000 tons of nitrogen oxide, a component of ozone pollution, comes from them.

Let us look at what happens here. We have plants that have been grandfathered in. That means they are allowed to spew whatever they want. These plants are out here. You see the pictures of them. But where do the pollutants go from these 25 grandfathered plants? They move, of course, east. Many of the plants are in the Midwest or toward the West, but the pollutants move east.

If we are going to talk about what we do with the Clean Air Act, let us think of our children. My children are going to live most of their lives in the next century. But if we allow this to go on with no changes, those who live in this part of our country are going to be severely damaged and those children who are going to live most of their lives in the next century are going to feel the results of it.

I have talked about the high environmental standards we have in Vermont. Each State and community should take responsibility for controlling pollution within their borders. We have done this in Vermont, implementing some of the toughest environmental laws in the Nation. But, even though we have imposed high environmental standards on ourselves, we Vermonters are faced with an uphill battle when the pollution we are striving to control silently creeps into our State each night with the wind. We Vermonters are deeply concerned about what is being transported by air currents.

We Vermonters are deeply concerned about what comes with the wind at night when we are sleeping from other parts of this country. Acid rain taught us that our tough environmental standards were not enough to protect us. We saw some of our healthiest forests die off from pollution borne from outside our region. This is an experience from which everybody can learn. Increased power generation at these 25 dirtiest plants is going to affect air quality across the country. We learned from the acid rain debate that emissions from these plants could be transported more than 500 miles.

Let us look here. Here are the 25 top polluters. This is where the pollution is going. If you look at this, you can see from the 25 top polluters, our part of the country is being hit especially hard. My own State of Vermont, with the toughest environmental laws you are going to find anywhere, cannot protect ourselves by our own laws because these pollutants come across by every wind that comes over Vermont from the west, carrying those pollutants.

There is no fence, there is no law that we Vermonters can set up to protect us, but we in the Congress can protect all the people in this region.

I will also say, Mr. President, if we do not look at these grandfathered plans, it is not only the Northeast that is going to be affected, all parts of the country are going to see their air quality diminished.

In the case of acid rain, some areas are more vulnerable to damage than

others because of their geology. The rocky soils of Canada and much of the Northeast means that we have less ability to buffer the acids, so our lakes will die sooner. But in the case of ozone, we are dealing with children, not lakes or forests. As I said, my children will live most of their lives in the next century, and I think about that all the time. I also think children are the same, whether they are Canadians, Vermonters, or Ohioans. Children in Ohio, Missouri, West Virginia, and other States are just as vulnerable as those in Canada and Vermont.

I called on the administration a year ago to develop a mitigation program to address increased air pollution associated with utility restructuring. To date, nothing has been proposed. I do not think we can wait any longer. This train is leaving the station and, unfortunately, it is a polluting train.

More than 10 States are already developing restructuring legislation. Two States are implementing open competition. With more than \$50 billion in expected benefits from competition, we should be able to afford the costs of ensuring clean air for our children. A number of proposals have been addressed in the House, but none addresses this problem. The administration has not proposed a solution to it. I hope that proposal will come. I will see what provisions it makes.

Earth Day reminds us that we share the air, the water and our planet. There can be no greater legacy that we leave behind for our children and our grandchildren than a society that is secure in its commitment to a healthy and environmentally sound future.

On this Earth Day, I want all of us in Congress to stop thinking only in regional terms of the Clean Air Act and the potential benefits and costs from utility restructuring. We all share in the responsibility to leave behind for the next generations a healthy environment. The only way we are going to be successful is to look at the quality of our air, water, and ecosystems in wider terms. We have to address the loopholes that allow these dirty plants to churn out tons of pollutants for the last 20 years. We cannot afford them a free ride into the next century.

Let me point out once more, we are not in this alone. The plants are here, but the pollutants go across our country. I say this today because the President is going to North Dakota, actually a place where two of these plants are. He will go representing our whole country and grant aid to the people who have been badly hurt. Any one of us, from whatever State we come from, when we look at the pictures on television and read the news accounts of what those people in North Dakota have gone through, our hearts have to ache for them.

When a town is hit with both flood and fire, it is almost like a Biblical reference to devastation. We will, as a great nation, as we always do in matters of major disasters, come together

and we will help. Vermonters will help the people in North Dakota, as will Kansans and Californians and everybody else. But it is one thing when you see a disaster that happens all at once. Unfortunately, there is a disaster in air pollution that happens drip by drip, day by day, and if we allow these pollutants to continue to drift across our Nation, those of us who are in the East and Northeast also face a disaster, a disaster not of our making but a disaster of our Nation's making, a disaster that may not have a great effect on me, as I stand here in my fifties, but it will on the children of Vermont and it will on their children's children.

This country can be justifiably proud of the steps it has taken in environmental quality. When I look at the newly democratic nations of Eastern Europe and I see how they struggle with health costs and development costs based on their own ignoring of the environment for the last several generations, I think how fortunate we are that we have been way ahead of that in this country, but also know that we have a long, long way to go.

Let us look at this, not for those in my generation, necessarily, but those in my children's generation. Let us look for those who are going to live most of their lives in the next century. That is something this Congress can do. Democrats and Republicans alike should join together and that is a legacy we can leave.

Mr. President, I yield the floor.

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#### RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

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#### MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business, with Senators permitted to speak therein for up to 5 minutes each.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. I thank the Chair.

(The remarks of Mr. BUMPERS pertaining to the introduction of S. 624 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BUMPERS. Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. ENZI). Without objection, it is so ordered.