150. The failure of the Attorney General to apply for appointment of an independent counsel injures the plaintiffs, who have requested that she do so in accordance with their special authority under the Act and who have supplied her with information sufficient to trigger such an appointment under the Act.

WHEREFORE, the Plaintiffs respectfully pray that the Court exercise its power under the common law doctrine of promissory estoppel to issue an order appointing an independent counsel to investigate evidence that criminal violations may have occurred in the 1996 presidential campaign involving covered persons, including possibly the President and/or the Vice President.

Dated: December , 1998.

Respectfully submitted,

_____,

Attorney for Plaintiffs.

Mr. SPECTER. I thank the Chair for the extra time, and I yield the floor.

RECESS

The PRESIDING OFFICER. All time having expired, under the previous order, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:38 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. INHOFE).

ORDER OF PROCEDURE

The PRESIDING OFFICER. Under the previous order, the time until 3:15 shall be under the control of the Democratic leader.

The Senator from Vermont.

Mr. LEAHY. Mr. President, I yield such time as I may need under the time allotted to the distinguished Senator from South Dakota.

PATIENTS' BILL OF RIGHTS

Mr. LEAHY. Mr. President, it is interesting when you think of the debate we are in. Here we are as Americans in the richest and most powerful country the world has ever known. There is really no comparison to it. We have the most highly trained and capable health professionals of any nation. Our technology leads the way on the frontiers of medical science. People come from all over the world to train and to be educated in medical science. But at that same time, millions of American families in our Nation with its first-class medical expertise are subject to second-class treatment because of the policies and practices of our health insurance system.

I have to ask, is it really beyond the ability of this great Nation to ensure access and accountability to help these families? Of course it is not. Is this an important enough problem that solving it should be a high priority for this body, the Senate? Of course it is.

Although the President and many of the Senators have done their utmost for years to encourage the Congress to act, I am afraid that the Republican leadership long ago decided that protection for those Americans insured through private managed care plans was just not a priority for us—this despite the fact that we have had calls from nonpartisan groups from every corner of the Nation. The Republican leadership has refused to schedule a full and reasonable debate to consider the vote on the Patients' Bill of Rights.

Certainly from my experience in the Senate it is clear that the only step left is, of course, to bring the Patients' Bill of Rights directly to the floor. I believe we should keep it there until the Republicans, who are in the majority, agree that it merits the priority consideration that we—and I believe most of the American people, Republican and Democrat—strongly believe it does.

I applaud Senator KENNEDY, Senator DURBIN, and many others for leading this vigilance to save the Patients' Bill of Rights. I commend the distinguished Senate Democratic leader, Mr. DASCHLE, for continuing to insist on a reasonable time agreement as he attempts to negotiate with our friends on the other side of the aisle.

I urge our friends in the Republican Party to make the Patients' Bill of Rights a high priority. Let's get on with the debate, vote it up or vote it down, and then go on to the other matters, things such as the agriculture appropriations bill and other business before us.

The Patients' Bill of Rights that we Democrats have presented reflects a fundamental expectation that Americans have about their health care. That expectation is that doctors—not insurance companies—should practice medicine.

To really sum up our Patients' Bill of Rights, we are saying that doctors—not insurance companies—should be the first decisionmakers in your health care. The rights that we believe Americans should have in dealing with health insurers are not vague theories; they are practical, sensible safeguards. You can hear it if you talk to anybody who has sought health care. You can hear it if you talk to anybody who provides health care. I hear it from my wife, who is a registered nurse. I hear it from her experiences on the medical-surgical floors in the hospitals she has worked in. If you want to see how some of them would work in practice, come with me to Vermont. My state has already implemented a number of these protections for the Vermonters who are insured by managed care plans. I am proud Vermont has been recognized nationally for its innovation and achievements in protecting patients' rights.

I consistently hear from Vermonters who are thankful for the actions that the Vermont legislature has taken to ensure patients are protected. But I also hear from those who do not yet fall under these protections.

This Congress should waste not more time and instead make a commitment to the American people that we will fully debate the Patients' Bill of Rights. We must protect those Vermonters who are not covered under current state law. And we must act now to cover every other American who expects fair treatment from their managed care plan.

I am one of many in this body who firmly believe in the importance of this bill. I hope the leadership is listening and I hope they hear what we are saying. It is what Americans are saying.

As I stated at the beginning of this message, millions of American families in this Nation of first-class medical expertise are subject to second-class treatment because of the policies and practices of our health insurance system.

We have heard a lot of ''our bill has this,'' and ''their bill doesn't have that.'' Here are some of the facts. Our Patients' Bill of Rights will protect every patient covered by private managed care plans. And it offers protections that make sense, such as ensuring a patient has access to emergency room services in any situation that a ''prudent layperson'' would regard as an emergency, guaranteeing access to specialists for patients with special conditions, and making sure that children's special needs are met, including access to pediatric specialists when they need it.

Our Patients' Bill of Rights provides strong protections for women. It will provide women with direct access to their ob/gyn for preventive care. Through successful research, we have learned that regular screening can prevent breast cancer and cervical cancer in women of all ages.

We stress the importance of regular visits to ob/gyns to the women in our lives: our mothers, our wives, our daughters, and our sisters. But we make it difficult for these women to receive care by requiring referrals and putting other obstacles in the way of their care. Let us make sure women have the direct access they need and deserve.

Our bill also will give women time to recover when they have undergone surgery. We should let doctors and patients determine if a lengthier hospital stay is necessary, and our bill would let them decide.

Health plans must be held accountable for their actions, just as doctors and hospitals are today. Out Patients Bill of Rights provides a variety of ways to achieve this goal.

First, patients must be able to appeal decisions made by their health plans. In our bill, any decision to deny, delay or otherwise overrule doctor-prescribed treatments could be appealed. And our bill says these appeals must be addressed in a timely manner, especially when the life of a patient is threatened. Patients must have the opportunity to question managed care decisions and insurance companies must be held accountable, especially when they decide to overrule the decisions of a trained health care providers.

Our bill would require an external appeals process through an independent body with the ability and the authority to resolve disputes in a variety of instances. We know this is often a successful way of mediating labor disputes. Why can't it work for our patients, too?

Finally, the Patients' Bill of Rights would allow patients to hold health plans liable for their decisions. This is essential. How can we justify holding our physicians responsible for decisions that they are not really making? Doctors must account for the decisions they make. Why shouldn't health insurers be responsible for theirs?

Differences between patients and their managed care plans can readily be resolved without going to court. But that will not and should not always be the case. We must extend this consumer protection to patients.

Mr. President, let us make the Patients' Bill of Rights the high priority that our families want it to be on our agenda.

DELAYS IN CONSIDERATION OF THE NOMINATION OF RONNIE L. WHITE

Mr. LEAHY. Mr. President, I rise to speak on the question of nominations. We are approaching another Senate recess. We ought to act on judicial nominations, the longstanding vacancies in the Federal courts around this country. This is the fourth extended Senate recess this year. So far this year, the Senate has confirmed only two judicial nominees for the longstanding vacancies that plague the Federal courts. That is one judge per calendar quarter; it is one half a judge per Senate vacation. We should do better.

Let me focus on one: Justice Ronnie White. This past weekend marked the 2-year anniversary of the nomination of this outstanding jurist to what is now a judicial emergency vacancy on the U.S. District Court in the Eastern District of Missouri. He is currently a member of the Missouri Supreme Court.

He was nominated by President Clinton in June of 1997, 2 years ago. It took 11 months before the Senate would even allow him to have a confirmation hearing. His nomination was then reported favorably on a 13–3 vote in the Senate Judiciary Committee on May 21, 1998. Senators HATCH, THURMOND, GRASSLEY, SPECTER, KYL and DEWINE were the Republican members of the committee who voted for him along with the Democratic members. Senators ASHCROFT, ABRAHAM, and SESSIONS voted against him.

Even though he had been voted out overwhelmingly, he sat on the calendar, and the nomination was returned to the President after 16 months with no action.

The President has again renominated him. I call again upon the Senate Judiciary Committee to act on this qualified nomination. Justice White deserves better than benign neglect. The people in Missouri deserve a fully qualified and fully staffed Federal bench.

Justice White has one of the finest records—and the experience and standing—of any lawyer that has come before the Judiciary Committee. He has served in the Missouri legislature, the office of the city counselor for the City of St. Louis, and he was a judge in the Missouri Court of Appeals for the Eastern District of Missouri before his current service as the first African American ever to serve on the Missouri Supreme Court.

Having been voted out of Committee by a 4–1 margin, having waited for 2 years, this distinguished African American at least deserves the respect of this Senate, and he should be allowed a vote, up or down. Senators can stand up and say they will vote for or against him, but let this man have his vote.

The Chief Justice of the United States Supreme Court wrote in his Year-End Report in 1997: ''Some current nominees have been waiting a considerable time for a Senate Judiciary Committee vote or a final floor vote. The Senate confirmed only 17 judges in 1996 and 36 in 1997, well under the 101 judges it confirmed in 1994.'' He went on to note: ''The Senate is surely under no obligation to confirm any particular nominee, but after the necessary time for inquiry it should vote him up or vote him down.''

For the last several years I have been urging the Judiciary Committee and the Senate to proceed to consider and confirm judicial nominees more promptly and without the years of delay that now accompany so many nominations. I hope the committee will not delay any longer in reporting the nomination of Justice Ronnie L. White to the United States District Court for the Eastern District of Missouri and that the Senate will finally act on the nomination of this fine African-American jurist.

I have been concerned for the last several years that it seems women and minority nominees are being delayed and not considered. I spoke to the Senate about this situation on May 22, June 22 and, again, on October 8 last year. Over the last couple of years the Senate has failed to act on the nominations of Judge James A. Beaty, Jr. to be the first African-American judge on the Fourth Circuit; Jorge C. Rangel to the Fifth Circuit; Clarence J. Sundram to the District Court for the Northern District of New York; Anabelle Rodriguez to the District Court in Puerto Rico; and many others. In explaining why he chose to withdraw from consideration after waiting 15 months for Senate consideration, Jorge Rangel wrote to the President and explained:

> Our judicial system depends on men and women of good will who agree to serve when asked to do so. But public service asks too much when those of us who answer the call to service are subjected to a confirmation process dominated by interminable delays and inaction. Patience has its virtues, but it also has its limits.

Last year, Senator KENNEDY observed that women nominated to federal judgeships ''are being subjected to greater delays by Senate Republicans than men. So far in this Republican Congress, women nominated to our federal courts are four times—four times—more likely than men to be held up by the Republican Senate for more than a year.''

Justice White remains one of the 10 longest-pending judicial nominations before the Senate, along with Judge Richard Paez and Marsha Berzon.

I have noted that Justice White's nomination has already been pending for over two years. By contrast, I note that in the entire four years of the Bush Administration, when there was a Democratic majority in the Senate, only three nominations took as long as nine months from initial nomination to confirmation—that is three nominations taking as long as 270 days in four years.

Last year the average for all nominees confirmed was over 230 days and 11 nominees confirmed last year alone took longer than nine months: Judge William Fletcher's confirmation took 41 months—the longest-pending judicial nomination in the history of the United States; Judge Hilda Tagle's confirmation took 32 months, Judge Susan Oki Mollway's confirmation took 30 months, Judge Ann Aiken's confirmation took 26 months, Judge Margaret McKeown's confirmation took 24 months, Judge Margaret Morrow's confirmation took 21 months, Judge Sonia Sotomayor's confirmation took 15 months, Judge Rebecca Pallmeyer's confirmation took 14 months, Judge Dan Polster's confirmation took 12 months, and Judge Victoria Roberts' confirmation took 11 months. Of these 11, eight are women or minority nominees. Another was Professor Fletcher, held up, in large measure because of opposition to his mother, Judge Betty Fletcher.

In 1997, of the 36 nominations eventually confirmed, 10 took more than 9 months before a final favorably Senate vote and 9 of those 10 extended over a year to a year and one-half. Indeed, in the four years that the Republican majority has controlled the Senate, the nominees that are taking more than 9 months has grown almost tenfold from 3 nominations to almost 30 over the last four years.

In 1996, the Republican Senate shattered the record for the average number of days from nomination to confirmation for judicial confirmation. The average rose to a record 183 days. In 1997, the average number of days from nomination to confirmation rose dramatically yet again, and that was during the first year of a presidential term. From initial nomination to confirmation, the average time it took for Senate action on the 36 judges confirmed in 1997 broke the 200-day barrier