

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 de-

serves 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

for the first time in our history. It was 212 days.

Unfortunately, that time is still growing and the average is still rising to the detriment of the administration of justice. Last year the Senate broke its dismal record. The average time from nomination to confirmation for the 65 judges confirmed in 1998 was over 230 days.

Acting to fill judicial vacancies is a constitutional duty that the Senate—and all of its members—are obligated to fulfill. In its unprecedented slowdown in the handling of nominees since the 104th Congress, the Senate is shirking its duty. That is wrong and should end.

As the Senate recesses for the Independence Day holiday, I hope Senators will reflect on this record and the need to maintain the independence of the judiciary by acting more promptly on the nominations of the many fine men and women pending before us. We have 45 nominations still pending, the Senate having only acted on only two all year. The courts are faced with 72 vacancies, many of extensive duration. The Senate recesses with a sorry record of inaction on judicial nominations.

The PRESIDING OFFICER. The Senator from North Dakota.

AGRICULTURE APPROPRIATIONS

Mr. DORGAN. Mr. President, I understand yesterday there was a press conference on the Capitol lawn. They brought in some big, shiny farm tractors and a group of folks held a press conference, with the tractors as a background, wheezing and moaning about the agriculture appropriations bill, saying somehow that bill is getting held up and it will hurt family farmers.

I advise my colleagues, if we had invoked cloture as the majority leader and others wanted with respect to that bill, we would have been prevented the opportunity to offer an amendment on the floor dealing with the farm crisis, an amendment that provides some basic income support to family farmers during this urgent farm crisis. We would not have been able to do that.

Voting yes on cloture, on a bill that the majority leader pulled off the floor and then brought back on a cloture motion, would mean there is no opportunity to vote for some kind of income support package for family farms while there are collapsed prices. We have tried to get that before this Congress.

I sat downstairs at midnight in the emergency conference on appropriations between the House and the Senate. Senator HARKIN and I offered an amendment that would have provided about \$5.5 billion in emergency help for family farmers during this collapse of farm prices. We lost on a 14-14 tie vote. Then we tried in the appropriations subcommittee and lost there on a partisan vote.

We intend to offer the amendment on behalf of family farmers on the floor,

saying when prices collapse, if this country cares about family farmers, if this Senate is indeed profamily and cares about family farmers and wants to have some family farmers in its future, then it will pass an emergency package to respond to family farmers' needs during this price collapse. We wouldn't have been able to do that if we voted to invoke cloture. We would not have been able to offer the amendment. Now we have people saying somehow those who voted against cloture have disserved the interests of farmers.

The agricultural appropriations bill that came to the floor is a piece of legislation that funds USDA; it funds the research programs and the other programs at USDA. It takes effect October 1. It does not take effect for months.

The delay of the bill is not going to injure, in any way, family farmers. The bill will get passed on time. It will be sent to the President and be signed. Contrary to those standing in front of a tractor yesterday, wheezing and blowing about farm issues—some of whom I bet wouldn't know a bale of hay from a bale of twine—I guarantee before that bill leaves the Senate, we intend to offer an emergency package to say to family farmers: You matter; we are going to help you; when prices collapse, we will help you over the price "valley."

What happens to a company on Wall Street, Long-Term Capital Management, that threatens to lose billions of dollars? What happens is they get bailed out by the Federal Reserve Board.

What would happen if we were talking about big corporations? They would get bailed out, but they are family farmers.

Somehow in the minds of some, it does not matter what happens to family farmers. It matters to me. It does to many of my colleagues on this side of the aisle.

I know why they held the press conference with tractors. It is because they are upset that folks on this side of the aisle offered a Patients' Bill of Rights. The reason the Patients' Bill of Rights was offered in the Senate on agriculture, and it would not have mattered on which bill it was offered, is we said it was going to be offered to the first bill that came up if we were not given the opportunity to have a Patients' Bill of Rights on the floor of the Senate.

It was offered because we have pushed and pushed and pushed and we have been denied the opportunity to debate and offer amendments on a Patients' Bill of Rights. That is not the way the Senate is supposed to work. You are supposed to be able to offer legislation, offer amendments, have debates, and then have a vote. But some do not want the Senate to operate that way. They want to shut the place down, close the blinds, pull the windows shut, and then say: This is our agenda. Here is all we are going to

allow you to do. You can offer these three amendments. They have to be worded this way. If we don't agree with them, we will not give you the privilege of speaking on the floor. That is not the way the Senate is supposed to operate and we will not let it operate that way. We have rights.

The American people have rights. In my judgment, patients in this country have the right to know all of their medical options for their treatment, not just the cheapest. Patients have the right to get emergency room treatment when they have an emergency. Patients have a right to keep their own doctors during cancer treatment even if their employers change HMOs. All of those issues are issues we intend to fight for on behalf of patients in this country. But we are denied that right by a majority who says you can only talk about the things we want to talk about.

Then when the agriculture appropriations bill or any other bill comes to the floor and we offer the Patients' Bill of Rights, we are told by the same folks who say they care about farmers that we have delayed the agriculture appropriations bill. This bill will not take effect until October 1 and is to fund the U.S. Department of Agriculture and had we voted for cloture, it would have prevented Senator HARKIN and myself from offering the specific amendment to deal with income support for family farmers during this farm crisis.

I just have to say it takes some imagination to hold a conference and suggest we are the problem.

Mr. DURBIN. Will the Senator yield for a question?

Mr. DORGAN. I am happy to yield.

Mr. DURBIN. Is it not true the course of the debate we have literally taken is to debate measures such as the Y2K liability bill with dozens of amendments, and there was not a complaint made that we were slowing down the process on appropriations?

Mr. DORGAN. That is exactly the case. It is the case that we are in the circumstance which now exists because there are some here in the Senate who simply do not want to have to vote on the issues we are talking about with respect to the Patients' Bill of Rights. They want to have a slogan so they can vote for something titled the Patients' Bill of Rights but one that will not have any strength; one that will really not have any provisions to provide people with the basic rights they ought to be provided with respect to this health care issue.

We have talked at great length about the too many instances in this country where health care decisions are not made by a doctor in a patient's room in the hospital or by a doctor in a doctor's office at a clinic, but where the answer to what kind of patient care will be allowed is to often, in too many circumstances, made by an accountant making medical judgments somewhere in an insurance company office 1,000 miles away. That is what is wrong with the system.