

percent. So what is happening is a lot of the impact is being concealed or disguised. People have dropped out of the workforce. The workforce participation rate now is at a 16 year low, despite having previously risen almost every year in this postwar period. That is the situation we confront.

The Senator is absolutely right to put his finger on these gross inequities in the workings of the economy because more and more of its benefits are being pushed to the very top of the income and wealth scale. As a consequence, they do not get recirculated back through the economy to create jobs and meet the tremendous challenge that working people in this country are facing, which the Senator has very thoroughly outlined in the course of his statement. I commend my colleague from New Jersey for his very strong and powerful statement in underscoring this shift in economic benefits.

There is one strata up at the top that is reaping the benefits, and all the rest of us are feeling the economic burdens, stress and strain of this economy.

Mr. CORZINE. Will the Senator yield?

Mr. SARBANES. Yes.

Mr. CORZINE. I think the Senator from Maryland probably realizes—and correct me if I am wrong—I think there are 1.4 million or 1.6 million Americans that have even dropped out of looking for work.

Mr. SARBANES. That is right.

Mr. CORZINE. The Senator most appropriately talked about the pain that is being inflicted on the unemployed because they are unemployed for a much longer period of time. But what is just as serious is that there are a lot of people who have said the heck with it; there is no chance of actually getting a job.

Mr. SARBANES. I thank the Senator for his very strong presentation.

I yield the floor.

The PRESIDING OFFICER (Mr. ENZI). There will now be 30 minutes for the majority.

The Senator from Wyoming is recognized.

THE ECONOMY

Mr. THOMAS. Mr. President, before I talk on the subject I came to talk about, I want to react a little to what has been said in terms of the economy. It is surprising, because the economy has grown substantially, that we find some complaining about it over there. It is not a surprise that the person who pays the most taxes gets a tax cut. That should not be a surprise. The idea is that encouraging business is how you create jobs. But I guess we have a different view of what it is.

I think we have a political aspect to what is going on here. This place has become almost like a political rally, when what we ought to be doing is talking about issues. I hope we can do that.

COURT JURISDICTION

Mr. THOMAS. Mr. President, this has little to do with the idea of establishing a venue search for various court actions.

I would like to address an issue that is very important to all of us, particularly the Western States that have a good amount of public lands. First, there are many suits being filed. People are trying through suits, or the threat of suits, but even worse, if there is a suit, to be able to pick a venue they think is more sympathetic to their point of view than going to the venue in which the issue occurs. That is what I am talking about.

That has particularly been the case with environmentalists who have sought to manage public lands and public facilities largely through suits rather than the issues.

In recent years, we have been steamrolled quite a bit by Federal issues that go to judges completely out of the area rather than dealing with them in the circuit in which the issue occurs. Specifically, we have had some experience with suits involving issues with Yellowstone Park or Teton Park.

We have a circuit court system. We are in the Tenth Circuit. I need to review what I am talking about. The Federal judiciary is set up on a system of circuit courts. It is set up with a number of circuits throughout the country and based on geography. The reason for that, of course, is so everyone has access to the legal system and it is fairly available to them.

If you go to a circuit court and you appeal that decision, it goes to the appeals court and then to the Supreme Court. The fact is, the circuit court in Cheyenne, WY, is a Federal court, just as the circuit court in Washington, DC. It certainly is more appropriate to go to them. That is why those circuit courts are there.

Our Constitution includes many checks and balances, and the authority for Congress to limit judicial jurisdiction is clearly needed.

I have introduced a bill that would provide original jurisdiction to the appropriate court venue in the impacted area for matters involving Federal lands. I cannot continue to watch issues that happen in particular parts of the country—in this case in Wyoming and Montana—to be taken to a Federal court in Washington, DC, when, in fact, there are Federal courts in our area. That is why they are there.

My intent is nondiscriminatory. It simply underscores my strong belief that Federal judges in the area should have the first crack at cases that have a direct impact on that particular area. Certainly that is something on which we need to continue to work. It is a matter, of course, that affects a lot of Federal lands.

Half of the State of Wyoming belongs to the Federal Government. It is similar in Arizona and other States in the West. The circuits we are in are the ones that should, in fact, deal with

those Federal land issues when the issue is in that particular State. Of course, the appeals go on the same as anywhere else.

When I introduced the bill, some folks were shocked and said it was a waste of time. I think it is more shocking to skirt the jurisdiction of judicial courts and venue shop and go somewhere they think will give a better result to the lawsuit that has been filed.

The justices need to be fair. Everyone deserves their day in court. Certainly we have an issue now where the local court has been involved at one time, and they went around the local court and went to Washington, DC. We have two courts on the same level with two different points of view on the same issue. It has caused us a great deal of problems.

I ask unanimous consent that an article written by Judge Robert Ranck, a retired judge, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Jackson Hole News & Guide, Mar. 24, 2004]

FEDERAL JUSTICE AND YOUR DAY IN COURT (By Robert Ranck)

No one should be shocked. And particularly no one should be confused by the editorial that ran in this paper last week.

Apparently, what is needed is a review of our civics.

The federal judiciary is set upon a system of circuits based on geography. Each action that leads to a case in a particular geography area must generally be filed in that circuit. If there is an appeal of a case within that circuit from federal district court, it is directed to the federal appeals court of that circuit. If appealed from that federal circuit's appeals court, it then goes to the U.S. Supreme Court in Washington.

Why are the federal circuits based on geographic lines? Our judicial system is founded on the premise that everyone deserves their day in court. To have your day in court, you need to be able to get to the court and not be required to travel thousands of miles to do so. That's why the jurisdiction of our federal circuit courts are such—it's called access to justice. And no one—least of all our litigious community—should be shocked or upset by access to justice.

Loopholes in the rules of federal venue are being currently exploited by those who want to pick the federal judge who best suits their politics. They do that by twisting the allegations describing the nature of the case. If there is an issue involving snow machining in Yellowstone, for example, some groups think the action arises not in Wyoming or Montana, but in D.C. Why? Because the Park Service is headquartered in D.C. But that's not how the federal system was designed. That is not the intent of the system. That takes justice further from the people most impacted by the matter in question. And that is wrong.

In many ways, a federal judge is a federal judge. Brimmer or Sullivan, they are of the same federal rank, with the same federal powers. Here's the difference: one was born, raised, and spent his entire professional career in the jurisdiction where the snowmobiling controversy arose. The other was born, raised and practiced his entire career in Washington, D.C.—a heck of a long way from the Tetons. I am disappointed that this paper, and other usually thoughtful people, are advocating venue concepts that result in justice being less accessible to people

most impacted by controversies. I wonder if these people think a Wyoming federal judge should have the power to decide a federal challenge to marriage licenses issued to gay couples in San Francisco? I doubt it.

Senator Thomas is seeking to close the venue loopholes that currently allow district judges in Washington, D.C. to decide issues that should be heard and decided where they arose. In doing so, he is a populist—bringing the opportunity for access and justice closer to people. That some are uncomfortable with this idea is disturbing. But for some litigants, the ends always justify the means. In this case, the anti-snowmachining lobby will continue to try to have their case heard as far from Wyoming as possible in front of the most sympathetic judge they can find, even if their tactics are unfair to the people who live and work in the West.

Two thousand miles is a long way for voices to carry—particularly for people who are too busy earning a living and raising a family to file or defend litigation in Washington, D.C. Federal venue loopholes should be closed in the interest of fairness. Don't be confused by those who are more interested in their desired political outcome than the fairness and integrity of the judicial process.

Mr. THOMAS. Mr. President, I hope we can take a look at the idea of directing these various court activities to the circuit court in which it arises. It seems a reasonable approach. I have introduced a bill to do that, and I look forward to pursuing it.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I ask unanimous consent to proceed in morning business for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

FINGERPRINT COMPATIBILITY

Mr. GREGG. Mr. President, I rise today to address an issue which I have been working on for many years, regrettably, about how we control our borders. The issue is how we deal with terrorists or people with criminal intent or who have a history of criminal activity who threaten our Nation by coming into our country. Either way, these are individuals who really should not be coming into our country.

Back in the nineties, as chairman and ranking member of the Commerce-Justice-State Appropriations Subcommittee, we began funding a major effort by the Federal Bureau of Investigation to organize its fingerprint database, called IAFIS. At the same time, the Immigration and Naturalization Service, now part of the Department of Homeland Security, was beginning to set up a fingerprint database for people coming into the country, called IDENT.

The problem has arisen that these two fingerprint databases do not communicate with each other. This, of course, was a function of history. In the nineties when the FBI was setting up IAFIS, which has now grown to 44 million identifying fingerprint records, their purpose was to create a national repository of criminal fingerprint records to identify a person who com-

mitted a crime by their fingerprint match with the system and to assist local law enforcement efforts to do the same. It was a law enforcement tool.

The INS, when it began its system in the nineties, was basically trying to find people who were illegally coming into the country or who had been deported and had criminal backgrounds. The purpose was also for law enforcement but a different type of law enforcement. They were not looking for people who actually committed a crime. They were looking for people coming into the country who should not be coming into the country because of their background.

These two protocols were set up independent of each other. We noticed this in our committee in the late nineties and directed the two organizations to integrate their fingerprint identification systems. This was done by the Commerce-Justice-State Subcommittee, which I and Senator HOLLINGS chaired off and on during that period. We exchanged chairmanships, depending on the control of the Senate, but our policies were exactly the same.

We directed in the late nineties that these two agencies begin to integrate their fingerprint databases. It was pretty obvious to me and Senator HOLLINGS at that time that this was important not from a law enforcement standpoint, but from an antiterrorism standpoint, and that is what drew us in this direction.

Regrettably, that was not accomplished. Today we are in a situation which is extraordinarily inappropriate and, to some degree, ironic if it were not so sad and unfortunate. And that is that the FBI is sitting over here with 44 million fingerprints of people we know have a background that required them to be fingerprinted and, therefore, maybe we have some issues with them. We know within that 44-million-person database there are at least 12,000 individuals who are identified as terrorists. We know the FBI has this IAFIS database which we have spent \$1.1 billion—billion dollars—to put in place. Our committee has funded this over the years.

It had some fits and starts. It took the FBI a while to get it going right but now they have it set up. Then we know Homeland Security, which has now taken over INS, has the IDENT Program, which is the baseline for something called the US VISIT Program, which is a fingerprint program, the purpose of which is to fingerprint people coming into the United States for identification and have a database of those people.

What we also know is these two major fingerprint databases do not talk to each other. So if someone is coming into our country who is a terrorist with fingerprint records in the FBI's IAFIS database, and they are fingerprinted as they would be required to be to get a visa to come into this country, that fingerprint they had for the visa would not show up in the FBI

database as a terrorist because the systems cannot communicate. The databases of IDENT and US VISIT, which is being set up, are not structured to communicate with the FBI database.

In the late 1990s, as I mentioned, our committee directed these two databases start to be integrated and figure out some way to communicate. There was minor progress made in this effort, and a lot of money put into it, over \$41 million. Yet the reorganization of the Homeland Security Department, which took INS out of the Justice Department, created an atmosphere which was not maybe so convivial to the two groups communicating with each other. Also, the INS has a different goal, which is to move people quickly through the fingerprinting process. Therefore, they only use as their fingerprinting system the fingerprints of two flat digital fingerprints of the index fingers. By using the 2-fingerprint system, they can move people through their identification process very quickly, and that is important at a border entry from the standpoint of making the border entries tolerable to individuals to go through. The INS therefore was not willing to go to a roll process of all 10 fingerprints, which would require a great deal more time. The FBI, however, because it is interested in a more intensive capacity to review the fingerprints, has something called rolled fingerprints of all 10 fingerprints.

So today we still have 44 million fingerprints which have no relevance, for all intents and purposes, to who is coming in and who is leaving our country because DHS is only fingerprinting individuals in a manner which is not compatible with the 10-fingerprint procedure of the 44-million-person database.

Now some folks in the administration appear to be aware of this problem and are talking about it. There are a number of things that have been done, and I want to acknowledge them for having done some things. Every 2 weeks they are extracting certain fingerprint records from IAFIS to IDENT, including certain wanted individuals and potential terrorists. Those 12,000 terrorists I mentioned in IAFIS is now supposedly in the IDENT system and accessible to the US VISIT Program. There is an attempt to get NIST, which is the organization which has the capacity to technologically address this issue, to take a look at this issue to see if there is not some way to cross-reference these records. Even under the most optimistic game plan, however, it is now the position of the administration it will not be until 2008 that they are able to integrate IDENT and IAFIS, assuming they are able to integrate them at all. To make them compatible, most likely it will mean DHS will have to go from a 2-fingerprint system to an 8-fingerprint system, digital flat fingerprints.

We need to focus on this as a government. This is one of those situations