

they become a burden. I, for one, and I am confident the vast majority of Americans, would much rather spend money on Social Security and Medicare than have millions of our fellow citizens die a slow, a painful, and a premature death.

Along with being a ghoulish and despicable argument, the industry's twisted logic that it has imposed no net cost on the American taxpayer has also been properly rejected on public policy grounds.

In January of 1998, the trial court in the Minnesota State suit against the tobacco industry upheld the motion of the State of Minnesota for summary judgment, effectively stating that the State of Minnesota had established its case with no further evidence required.

In granting this motion, Judge Fitzpatrick ruled the tobacco industry defendants could not use the fact that they killed people prematurely to their advantage in defending against the suit.

Predictably, the friends of tobacco also make another slippery slope argument. If the Justice Department can sue tobacco companies, they say, what other industries will not be safe? Will fast food or beef or dairy industries be the next in line?

This argument is truly offensive. It is an affront to me personally and should be an affront to all legitimate owners of businesses, large and small, who contribute to this Nation, instead of destroying its health. My family happens to have been in the dairy business for almost 70 years. I take great offense at the comparison between the tobacco industry and the dairy industry. Neither the dairy industry, the beef industry, fast food industry, nor any other is comparable to tobacco. The tobacco industry is unique. Only the tobacco industry has stonewalled and lied to the American public and the American Government for half a century about the known addictive nature of its products. If anyone in this body wants to argue that the dairy or beef industries are analogous to big tobacco, then I invite them to come down to the Senate floor and let's have that debate. Better yet, go to Florida or Wisconsin and tell cattle and dairy farmers they should be treated like big tobacco, an industry which depends on destroying the health of our children in order to succeed.

Let's spend a moment talking about those children. When all the legal arguments and all the political rhetoric fall away, our children remain. They, not lawsuits, not politicians, are our most important concern. It is our children who have been the targets of a predatory effort by the tobacco industry to entice them into an addiction which will eventually kill them.

We also know that early cigarette habits are directly related to other drug use. A 1994 Surgeon General report showed that cigarettes are a gateway drug, a significant risk factor to increased incidents of alcohol and illicit drug use.

This report highlighted the relationship of teenage smoking as a precursor to the use of alcohol and drugs, including recent data from the National Institute on Drug and Alcohol Abuse's "Monitoring the Future" project which showed that 33 percent of those surveyed admitted to starting drinking at the same time they started the use of tobacco. This same survey also indicated that 23 percent of the respondents began using both cigarettes and marijuana in the same year.

Importantly, 65 percent of the respondents smoked cigarettes before they used marijuana. This relationship was more pronounced for cocaine: 98 percent of individuals who used cocaine first smoked cigarettes. Putting an end to the tobacco company's illegal marketing efforts toward our Nation's youth will reduce children's smoking. This, in turn, will go a long way to helping combat the use of other illegal drugs.

I know the Justice Department's suit is not a panacea. It will take a combination of litigation and legislation to solve this problem.

A court, for instance, cannot grant enhanced Food and Drug Administration authority to classify nicotine as a drug and cigarettes as a drug-delivery device, a powerful tool to prevent the tobacco industry from manipulating the product to addict even more people. Only Congress can give the Food and Drug Administration that authority.

Should Congress find the tobacco industry responsible for the high rate of youth smoking, Congress may have to impose penalties on big tobacco based on the industry's failure to meet statutorily defined youth smoking reduction targets. A court cannot bind future entrants into the tobacco market to marketing and advertising restrictions which were entered into by the previous participants in the tobacco industry through a consent decree. That may also require congressional involvement.

I stand ready to work with my colleagues on all of these and other necessary legislative issues, but this suit is, however, an important, a useful step in enforcing the rule of law. It is important in protecting our children and our grandchildren.

I am proud to call Janet Reno a friend. As an American, I applaud her for her hard work, for her tenacity, and courage in the face of fierce partisan opposition. I say thank you, Madam Attorney General, on behalf of all of America's citizens.

I thank the Chair. I yield the floor.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I believe the combined leadership has come to the floor and we should give them our undivided attention at this time because I am sure they have something very important to advise the Senate. I will refrain from recognition and defer to my senior colleagues.

The PRESIDING OFFICER. The Senate majority leader.

Mr. LOTT. Mr. President, I thank the distinguished Senator from Alaska for allowing us to enter into some unanimous consent agreements and some colloquy that we have been working on for quite some time. I understand the Senator from Alaska may want to continue after we complete this.

Mr. MURKOWSKI. I thank the majority leader, but I understand Senator AKAKA has been waiting longer than I, so I will defer to Senator AKAKA following the leadership pronouncements.

#### UNANIMOUS CONSENT AGREEMENTS—EXECUTIVE CALENDAR

Mr. LOTT. As in executive session, I ask unanimous consent that on Monday, October 4, at a time determined by the majority leader, after consultation with the Democratic leader, the Senate proceed to executive session to consider the following nomination, and it be considered under the following limitations: Executive Calendar No. 172, Ronnie White to be District Judge for the Eastern District of Missouri, under a 1-hour time limitation divided as follows: 45 minutes equally divided between the chairman and ranking member; 15 minutes under the control of Senator ASHCROFT.

I further ask consent that following that debate, the Senate then begin debate en bloc on the nominations of Calendar No. 215, Ted Stewart, and Calendar No. 209, Raymond Fisher.

I further ask consent that following the granting of this consent, the nominations of Calendar Nos. 213 and 214 be immediately confirmed, the motion to reconsider be laid upon the table, the President be immediately notified, and the Senate resume legislative session.

I further ask consent that following the debate on Monday on the three nominations, the Senate resume legislative session.

I finally ask consent that at 2:15 p.m. on Tuesday, October 5, the Senate resume executive session and proceed to consecutive votes, first on the nomination of Ronnie White, to be followed by a vote on the nomination of Ted Stewart, to be followed by a vote on the nomination of Raymond Fisher. I also ask consent that following the votes, again the President be notified of the Senate's action and the Senate then resume legislative session.

Before the Chair rules, I yield to the Democratic leader for his comments and an appropriate response from me.

The PRESIDING OFFICER. The Senate minority leader.

Mr. DASCHLE. I appreciate the majority leader's effort to try to move these nominations along. Before I make some comment, let me ask the majority leader what his intentions are with regard to Marsha Berzon, the nominee to be the United States Circuit Judge for the Ninth Circuit, as

well as Richard Paez, a similar nominee for the Ninth Circuit. Can the majority leader give me his current intentions with regard to those two nominations?

Mr. LOTT. Mr. President, if the Senator would yield under his reservation to respond, let me say again, I appreciate the cooperation of Senators on both sides of the aisle, from the Judiciary Committee, and other Senators who have interest in these nominations. It has been a very delicate balance to work through a process where we could get these nominations confirmed.

The nominations of Mr. Marrero from, I believe, New York, and Mr. Lorenz from California have not been controversial. They have been cleared for quite some time. We had the unfortunate situation with regard to the nomination of Ted Stewart where we had a cloture vote, which I think both sides would prefer not to have happened. There are reasons for it. But I think it is important we not start down that trail. Both sides have indicated we do not want to start having cloture votes to determine the confirmation of judges. Then also there is the nomination of Mr. Fisher for the Ninth Circuit.

So we have here a process where we can have a voice vote on two of them and some debate and votes on the other three: White, Stewart, and Fisher. That is a significant undertaking. That will get us into the process where judges—certainly judges who are not controversial—will not be held up because of controversial judges in other areas. So I just wanted to kind of go through that whole process.

With regard to the other two nominations Senator DASCHLE asks about, I will continue to work with the Democratic leader as well as other Members on his side of the aisle and on my side of the aisle in scheduling executive nominations. I have to go through a process where I have to notify Members that a judicial nomination may be called up and see if there are problems with it, see if that can be worked out, see if we are going to need an extended period of time of debate, see if there is a threatened filibuster.

So I will work, as I have in the past, to see if we can get these nominations cleared so we can move forward. I will continue to do that. I will do that on specifically the two that have been mentioned. I will try to find a way to have them considered. I cannot confirm at this point when or how that will be done, but I will continue to work on it.

That is one of the reasons that moving these other judges is important. Because it takes time to get the nominations cleared. When you have five that you are close to getting cleared, once you get those out of the way, then you can focus your attention on the remaining judges on the calendar.

By the way, I understand there are other basically noncontroversial judges on whom the Judiciary Committee will

be meeting, maybe in the next week or two, and there will be more judges on the calendar. So we want to keep moving the ones that can be cleared because there are districts and circuits around the country that do need these judges to be confirmed. I think we can get this request agreed to. It will be positive, and we will be able to continue to work together.

I hope that is helpful in responding to Senator DASCHLE's question.

Mr. DASCHLE. That is helpful. With that assurance, I will certainly not object to the request propounded by the majority leader. He has made it to me privately. It is my hope we will continue to work. These are important matters. As the majority leader has heard me say, and others say, now for some time, in some cases they have been pending not for months but for years. For anyone to be held that long is just an extraordinary unfairness, not only to the nominees but to the system itself.

The majority leader has also noted that a cloture vote is an unfortunate matter. Actually, a cloture vote is a recognition of the difficulty to move judges. A cloture vote is probably no more unfortunate than a hold. We have people who are maintaining holds on judges, which is also very unfortunate. A hold is nothing more than an intent to filibuster.

So I hope our colleagues will drop their holds and will recognize that taking hostages in this form is not the right way to proceed and does not live up to the traditions of the Senate when it comes to the expeditious consideration of individuals who want to serve in public life.

The majority leader also mentioned—I will mention this just briefly because it is another important factor in our decision to want to cooperate with the majority—the decision and the commitment made by the chairman of the Judiciary Committee that he will hold hearings and he will move other nominees forward. It is important that all of the nominees who are pending before the Judiciary Committee be considered. He has indicated he will do his best to ensure they are considered.

Our ranking member, the Senator from Vermont, has been extremely persistent and dedicated to that effort. I appreciate his contributions as well.

So, Mr. President, I will not object.

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

#### EXECUTIVE CALENDAR

##### NOMINATIONS OF M. JAMES LORENZ AND VICTOR MARRERO

Under the previous order, the nominations were considered and confirmed, as follows:

##### THE JUDICIARY

M. James Lorenz, of California, to be United States District Judge for the Southern District of California.

Victor Marrero, of New York, to be United States District Judge for the Southern District of New York.

Mr. SCHUMER. Mr. President, I rise in strong support of the nomination of Victor Marrero to serve as a judge on the United States District Court for the Southern District of New York.

I express my appreciation to Chairman HATCH for moving this nomination expeditiously to the floor.

This is one of those moments where you cannot help but feel proud about this country and about how the American Dream is not a myth but a reality.

Where else in the world could a young child, with no knowledge of the native language, go to school, learn English, become valedictorian of his high school, and embark upon a distinguished and towering career in public service?

Only in America.

That is the abridged story of Victor Marrero. He came to this country with practically nothing. He studied and learned in school. He was inspired to public service by President John F. Kennedy.

And from that day on, he has never strayed from helping people, teaching them, from trying to make the world a better and more just place.

President Clinton nominated Ambassador Marrero to this judgeship upon my recommendation and on the basis of the Ambassador's extensive experiences and accomplishments as both a practitioner of law and a public servant.

Ambassador Marrero's legal career is extensive and distinguished. Between his two stints in public service, he spent twelve years as a partner at two prominent New York City law firms.

Ambassador Marrero's public service career is almost without equal in its breadth and degree of achievement. He has served as Executive Director of New York City's Department of City Planning, Chairman of the city's Planning Commission, Commissioner of New York State's Division of Housing and Community Renewal, and Under Secretary at the U.S. Department of Housing and Urban Development.

In 1993, President Clinton appointed him United States Ambassador to the Economic and Social Council of the United Nations. In 1998, he became United States Ambassador to the Organization of American States.

Ambassador Marrero, through charitable work, has helped to enhance New York City's public schools, libraries, museums and parks, and to help bring opportunity to other Puerto Ricans and Hispanics.

Perhaps the most telling testament to the esteem in which Ambassador Marrero is held is the fact that he has been confirmed by the United States Senate on three separate occasions over the past twenty years.

I am pleased today that Ambassador Marrero will be adding a fourth Senate confirmation to an already impressive resume.