

lawmaking to the people's elected representatives, including the President's nominees from Minority groups.

But I fear that nominees like Miguel Estrada, whom the President has nominated to be the first Hispanic to sit on the second most prestigious court in the land, are not getting a fair shake because out-of-the-mainstream liberal groups show increasing intolerance to Hispanics and African-Americans who don't subscribe to the left-of-mainstream ideology. The intolerance is not because of race, but because many liberals will not give the time of day to any minority or woman who have become accomplished in any field other than liberal activism. I fear that the Liberals are seriously thinking about shutting the door to our Courts of Appeal to any Hispanic, African-American or woman who does not toe the line of the radical, left-of-center special interest groups. That would be a great tragedy for our country. I would be an end to the very diversity that is the strength of America and its judicial system.

We cannot allow outside groups to impede progress. In fact, what we need is to approve more circuit judges at a faster pace to address the vacancy crisis in the federal appellate courts. The Sixth Circuit is presently functioning at a 50 percent capacity. Eight of that court's 16 seats are vacant. President Bush has nominated 7 well qualified individuals to fill the vacancies on that court. Two of those nominees, Deborah Cook and Jeffrey Sutton, have been pending since May 9 of last year—344 days of inaction. They have languished in Committee without so much as a hearing while the Sixth Circuit functions at 50 percent capacity. Another appellate court that is in trouble is the D.C. Circuit, which is missing one-third of its judges: It has only 8 of its 12 seats filled. President Bush nominated two exceedingly well qualified individuals to fill seats on the D.C. Circuit on May 9 of last year. Those individuals, Miguel Estrada and John Roberts, are among the most well respected appellate lawyers in the country. Yet the Judiciary Committee has not granted them a hearing, much less a vote.

Part of the problem is a decision by the Committee not to consider more than one circuit judge per hearing. In fact, the Committee has not moved more than one circuit judge per hearing during the entire time the Democrats have had control of the Senate. When I was Chairman, I had 10 hearings with more than one circuit nominee on the agenda. If we are going to get serious about filling circuit vacancies, then I encourage my Democratic colleagues to move more than one circuit nominee per hearing.

The bottom line of all this is that America is facing a real crisis facing its federal judiciary, especially the circuit courts of appeals, due to the nearly 100 vacancies that plague it. The Judiciary Committee has decided not to make any progress toward remedying

this situation. Instead, it is pouring its energy into creative accounting and make believe. But the American people are sick of the charades and are disgusted by the personal destruction for partisan purposes. They want the Senate to help—not hinder—President Bush. I urge my friends across the aisle to focus on this situation, to step up the pace of hearings and votes, to resist the powerful leftists who are the enemies of the independent judiciary, and to do what's right for the country.

#### HOMESTEAD EXEMPTION TO THE BANKRUPTCY BILL

Mr. KOHL. Madam President, the bankruptcy conference will meet on Tuesday to discuss and attempt to resolve the remaining differences between the House and Senate versions of the bill.

One of those issues is the Senate provision that addresses the single most offensive abuse in the bankruptcy system, the homestead exemption. As we all know, the homestead exemption allows debtors in five privileged States to declare bankruptcy but still shield unlimited millions of dollars in their homes from their creditors.

With every year that passes, we learn of new cases where scoundrels have declared bankruptcy in States like Florida and Texas but have continued to live like kings in multi-million dollar mansions.

Just 2 weeks ago, the New York Times ran a story on former Enron executives like Ken Lay and Andrew Fastow who are doing some bankruptcy planning of their own. They are selling numerous properties around the country worth millions of dollars, but retaining—or in some cases even building—luxury homes in Texas or Florida. Using the homestead exemption, Lay will be able to retain his \$7.1 million condominium in the finest apartment building in Houston and Fastow will keep his multi-million dollar mansion currently under construction. They will be able to enjoy their mansions, even if they declare bankruptcy, as their former employees struggle to find a new paycheck or to cover the rent.

Last year, it was Paul Bilzerian—a convicted felon—who tried to wipe out \$140 million in debts and all the while held on to his 37,000 square foot Florida mansion worth over \$5 million—with its 10 bedrooms, two libraries, double gourmet kitchen, racquetball court, indoor basketball court, movie theater, full weight and exercise rooms, and swimming pool.

The Bankruptcy Conference has a real chance to put an end to this now. The Senate has repeatedly—year after year—voted overwhelmingly in favor of a provision that would put a hard cap on the amount of home equity that a debtor can retain even after bankruptcy. The Senate should insist on a real and meaningful solution to this problem.

But so far, the only compromises we have been offered are road maps that

show debtors how to circumvent the law. We have been told that we can only impose a residency requirement of two and a half years

This will not do. First, it does nothing to stop lifelong residents of Texas or Florida. Ken Lay has lived there most of his life. So has Andrew Fastow. They get away scot free under this proposal. Second, most bankruptcy attorneys will tell you that anyone rich enough can plan 2 to 3 years in advance.

In the spirit of compromise, we have agreed to raise the homestead cap to \$175,000—a figure that far exceeds the average amount of equity a Houston homeowner has in their house. So, the average homeowner will not be affected at all by this provision, only the extraordinarily wealthy debtor. And even now, we remain open to effective and practical proposals aimed at solving this inequity.

Yet, we may not have an opportunity to reach that compromise. Instead, those that want the bill so badly that they are willing to legislate unfairness into the bankruptcy code are trying to get their way.

We should remember that one of the central principles of the bankruptcy bill is that people who can pay part of their debts should be required to do so. But the call to reform rings hollow when the proposal creates an elaborate, taxpayer-funded system to squeeze an extra \$100 a month out of middle-class debtors but allows people like Burt Reynolds to declare bankruptcy, wipe out \$8 million in debt, and still hold on to a \$2.5 million Florida mansion.

To put it another way, political expediency may well trump fairness. The rich will be able to pour millions of dollars into the value of their Florida home, their Texas ranch, or their unimproved plot of land secure in the knowledge that their creditors will never be able to touch it. Yet, the average debtor will lose their house and most of their personal possessions as they try to repay their debts.

We have made historic changes to the bankruptcy code, but have chosen not to remedy the worst abuse of them all. We can only hope that between now and the conference committee's meeting on Tuesday, the parties to this deal will have a change of heart.

#### ADDITIONAL STATEMENTS

##### TRIBUTE TO JAMES GRIMMER

• Mr. SHELBY. Mr. President, today I pay tribute to James B. Grimmer, a business pioneer in Birmingham, AL, and a dedicated community leader and family man. He was responsible for developing over thirty shopping centers throughout the Southeast, which helped to spur business and economic development in the region. Mr. Grimmer died in Birmingham on March 12 at the age of 81. I would like to take a few moments to reflect on the life of