

nonmalignant cases each was growing by 25 percent annually, but now the rate of growth is down by 76 percent for mesothelioma, down by 96 percent for other cancers, and down by nearly half for nonmalignant cases.

Even the largest number of asbestos claimants in a single year, 2002—about 95,000—amounts to a little more than one-half of 1 percent of new annual State and Federal cases.

Our system of justice is unique. State courts have seen the problems and they have done something about them. I have talked to Republican Senators and Democratic Senators. Texas has a system we should take a look at here. Illinois has a great system. What they have established is what they call a pleural registry. What they do there, if you have been around asbestos and you think you might get sick—because some of these periods of dormancy can be for years and years—you give your name and the statute of limitations is tolled. If nothing happens to you, no problem. If 10, 20, 30 years later something comes up, you can go into court. It has worked great in Illinois, where a lot of cases were being filed. It protects the most serious cases, the mesothelioma and asbestosis.

There is no litigation crisis. These facts contradict any assertion there is some type of asbestos litigation crisis overwhelming the courts.

In addition, the pleural registry and the system they have in Texas and other States—take, for example, US Gypsum. My brother worked for US Gypsum his whole professional life. They had a lot of problems with asbestos. Why? Because that is what they manufacture stuff with. With US Gypsum, they set up a program and settled all their cases. Right now they have settled all their cases for about \$900 million. Other companies have done the same thing. They have gotten money together: "Let's get rid of this litigation." So anyone talking about a crisis with litigation—the crisis is these big companies are trying to escape responsibility.

I read here on the floor the day before yesterday an example of four companies, hundred-year-old companies, that pay nothing in asbestos now. But one company, even though they paid not a penny for asbestos litigation, under this proposal will pay \$19.5 million a year. They will go bankrupt and a 100-year-old American company is gone.

We do not need to pass this defective legislation. We should instead pass legislation to help the thousands of victims of asbestos exposure and the companies that have contributed to their injuries.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there is now a time for morning business not to exceed 30 minutes, with Senators permitted to speak therein, the first 15 minutes under the control of the Democratic leader or his designee, the second 15 minutes under the control of the majority leader or his designee.

Who seeks recognition?

Mr. BENNETT. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SESSIONS. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SUNUNU). Without objection, it is so ordered.

Mr. SESSIONS. I believe my colleagues on the other side are not going to use any of their morning business time that is remaining. A minute or less remains. I ask unanimous consent that I be able to commence my remarks at this time.

The PRESIDING OFFICER. Is there objection? Without objection, the Senator is recognized in morning business.

NSA TERRORIST SURVEILLANCE PROGRAM

Mr. SESSIONS. Mr. President, last night I was in my office in the Russell Senate Office Building and we were evacuated to the parking deck, and following the excellent leadership of the Capitol Police, people responded professionally and well without any undue alarm and showed good discipline and good spirits.

I point that out to ask, have we forgotten there is an enemy out there who desires to attack us, desires to attack our Nation's Capitol, or any other spot in our country, desires to cause us harm, and that we are spending billions of dollars, that some of the best people in this country are working night and day, like our Capitol Police, in localities all over this country to protect us? From local sheriffs, police officers, State police officers, the FBI, the CIA, the Customs Service, the Immigration Service, to all the agencies that are involved in protecting us, they are out there working their hearts out, and sometimes I think we in this body have gotten too comfortable about this. We have been the subject of a declaration of war by al-Qaida. Bin Laden has declared war on the United States. He has asserted it is his right and, indeed, the duty of his followers to attack Americans and even civilian targets, men, women and children.

We have authorized the U.S. Government, the President, and the executive branch to exercise certain rights because it is war. It is not a criminal matter. If we capture our enemies, they are not entitled to a trial in the

southern district of New York because they are prisoners of war. They are entitled to be held without trial as every prisoner of war since the beginning of the Republic and the rules of war have been instituted. They are held without trial. In the Hamdi case, the U.S. Supreme Court stated that even an American citizen engaged in the war against the United States can be held without trial as an enemy combatant against the United States because it is not a criminal matter. A state has one primary responsibility, and that is to maintain its existence against those forces that would destroy it.

I would ask if anyone thinks we would have any liberties at all if bin Laden ran this country. He would tell you what clothes to put on in the morning. We would have people not only not being free, they wouldn't be able to drive an automobile—women would not be—under his mentality.

This is a serious question, and we need to respond to the challenge to this country in an effective way consistent with our heritage of laws and liberties. There is no doubt about that.

Secretary Rumsfeld has pointed out recently something that is so obvious, but we should think about it. He said the military challenge today is to find, fix, and finish the enemy. He said there is no doubt if we target and develop a plan, we can finish them successfully. We have that military capability. There is no military in the world capable of destroying the military of this United States.

I ask you to remember what we heard after 9/11. What we heard was our intelligence is weak. What we heard was we did not have enough intelligence, that we did not have enough information to find the enemy; that they had sleeper cells in this country and those sleeper cells were activated by phone calls from Afghanistan and bin Ladin over here to encourage them to step forward to carry out the events that led to September 11. Isn't that what happened? And we had this spasm of self-flagellation about intelligence and how we operate our intelligence community. Our job unfortunately was based on the fact that there were failures and we could have done better, had we had interceptions of some of those 18 responsible for 9/11 prior to 9/11, that if we had been able to listen to those conversations, we could well possibly have taken steps to avoid that and 3,000 American citizens would have civil liberties today. Now they have none because they are no longer with us.

We have to ask those questions and go back and look at the history of our country and what is the legitimate power of the President and our forces in a time of war.

What do our intelligence leaders tell us about the capability of the National Security Agency as it has dealt with the ability to intercept international phone calls involving al-Qaida members? What do they tell us? What do all three of our top intelligence people

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, leadership time is reserved.