

And that will spur intimidation and the steady withering of dissent. An eagerness to win—win elections, win every judicial nomination, overpower enemies, real or imagined, with brute force—holds the poison seeds of destruction of free speech and the decimation of minority rights.

The ultimate perpetrator of tyranny in this world is the urge by the powerful to prevail at any cost. A free forum where the minority can rise to loudly call a halt to the ambitions of an overzealous majority must be maintained. We must never surrender that forum—this forum—the Senate, to the tyranny of any majority.

When Aaron Burr said farewell to the Senate, he urged the Senate to do away with the Senate rule that would close debate on the previous question. That previous question has seldom been used in the short time. And in 1806, the Senate carried out the will of Aaron Burr.

This house is a sanctuary; a citadel of law, of order and of liberty; and it is here—it is here, in this exalted refuge; here, if anywhere, will resistance be made to the storms of political phrensy and the silent arts of corruption; and if the Constitution—

This Constitution.

—and if the Constitution be destined ever to perish by the sacrilegious hands of demagogue or the usurper, which God avert, its expiring agonies will be witnessed on this floor.

On March 2, 1805, Aaron Burr stated that prophetic warning.

The so-called nuclear option, if successful, will begin the slow and agonizing death spiral of freedom, speech, and dissent, and it will be witnessed on this floor.

I yield the floor.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. ENSIGN). There is 9 minutes 40 seconds remaining in total to the minority.

Mr. BYRD. I thank the Chair. I believe Senator CARPER is on his way. He wishes to have 5 minutes under the order following my remarks.

The PRESIDING OFFICER. The Senator from Delaware.

JUDICIAL NOMINATIONS

Mr. CARPER. Mr. President, I came to the floor today to talk about bankruptcy reform and the need to enact legislation dealing with bankruptcy reform. Before I do that, given the comments of our esteemed leaders, Senator BYRD and Senator HATCH, I feel compelled to say something first with respect to judicial nominations.

This 109th Congress, in my view, has begun with much promise. We have taken steps to begin to restore a sense of balance in our legal systems—the system of civil justice to make sure that little people harmed by big companies have a chance to band together and be made whole, and at the same time make sure that companies defended in class action lawsuits have a fair trial in a court where the deck is not stacked against them.

We are on the verge of passing significant and needed bankruptcy reform legislation. A conference on energy policy is taking place that will reduce our dependence on foreign oil, which has the promise also of increasing our reliance on renewable forms of energy and cleaning up our air, reducing sulfur dioxide emissions, nitrogen dioxide, mercury, and even carbon dioxide.

We have just reported out of the Finance Committee legislation that will better ensure that work pays more than welfare to help people make that transition from welfare to work. We are close to consensus on overhauling our postal system and taking the 1970s model created under the leadership of Senator STEVENS—who has joined us on the floor—to bring that into the 21st century.

There is much promise. There is much that can be done and ought to be done.

I fear that we are approaching a precipice that we may fall off—both parties, Democrats and Republicans—which is going to render us unable to achieve what I think would be a very fruitful session in this Congress. Reason must prevail here. Democrats will not always be in the minority; the Republicans will not always be in the majority; Republicans will not always hold the White House. We have to figure out some way to work through our divisions on the nomination of judges.

It is sort of ironic in the first term of President Bush's administration that 95 percent of his nominees were approved, compared to President Clinton's success rate of about 80 percent over the 8 years he served.

We need to be able to establish a system of checks and balances. We don't want to be obstructionists; we don't want one party to basically call the shots in the executive and legislative branches, and stack the decks in our courts.

I encourage our leaders, as I have done privately, Senator REID and Senator FRIST, to sit down—if they have done it, to do so again—and have a heart to heart.

I urge colleagues on both sides of the aisle who want this place to work, who want us to do the people's business, to work and find a way out of this bind.

BANKRUPTCY REFORM

Mr. CARPER. Mr. President, I want to take a few minutes to talk about bankruptcy reform legislation.

Much has been said about the bill that is before us. Let me say a few things as well.

Two years ago, roughly 83 Senators voted in favor of an overhaul of our Nation's bankruptcy laws. As you may know, under current law, people who do not have the ability to pay their debts can go into chapter 7 and their debts are largely forgiven. They may have to turn over some of their assets. That is chapter 7. If the court of bankruptcy believes a family has the ability

to repay some of their debts, they go into chapter 13, if a payment schedule is worked out.

Concerns have been raised, justifiably, over the last decade or more that some people who have the ability to repay don't; they simply run up their debts and walk away from those obligations, and, frankly, leave the rest of us having to pay more interest on the consumer debt we acquire and to pay more for the goods and services we buy.

Bankruptcy laws exist for a good purpose. People do have disasters that come into their lives; marriages end, serious health problems occur, and people lose jobs. For those reasons, we have bankruptcy laws. Most people who file for bankruptcy are not trying to defraud anybody. They have a genuine emergency, or a huge problem in their life, and they need the protection of the bankruptcy court. That is why we have those laws.

There is a principle, whether you are for this bill or not, that I think we can all agree on. That principle is simply this: If a person or a family has the ability to repay a portion or all of their debts, if they have that financial wherewithal, they should repay a portion or all of their debts. If a family doesn't have that wherewithal to pay or begin repaying their debt, they should be accorded protection of the bankruptcy court. That is it; it is that simple.

The legislation we have before us is an effort to try to codify that principle, and to improve on the system today where too many people, frankly, have abused that system.

Much has been said about credit card banks and putting credit cards in the hands of people, encouraging them to use them. I have heard from my credit card banks. They would like to see this legislation adopted. I have heard more from my credit unions in Delaware than I have from the credit card banks, saying there is a problem and it is one that we need to address.

I want to consider for a moment what will happen, or continue to happen, if we don't enact this legislation.

No. 1, some people who ought to be repaying a portion of their debts do not.

No. 2, the folks who ought to be receiving childcare from parents who are not anxious to meet that obligation will not receive that childcare payment. Their biological parent will file for bankruptcy in an effort to avoid making that childcare payment, or to make an alimony payment. In fact, the way the current law is structured, when somebody is in a position to start paying their responsibilities or obligations, legal fees come ahead of childcare and come ahead of alimony. That is wrong.

Today, under current law, a wealthy individual in a State such as Florida or Texas can go out, if they are a millionaire, and take those millions of dollars and invest that money in real estate, a huge house, property, and land in the