The Senate met at 9:10 a.m. and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, Rev. Lloyd John Ogilvie, offered the following prayer:

Lord of history, together we accept the unique role You have given our Nation in the family of nations. We praise You for Your truth spelled out in the Bill of Rights and our Constitution. Help us not to take for granted the freedoms we enjoy. May a fresh burst of praise for Your providential care of our Nation give us renewed patriotism. Keep us close to You and open to each other as we perform the sacred tasks of our work in the Senate today.

Gracious God, thank You for this moment of prayer in which we can affirm our unity. Thank You for giving us all the same calling: to express our love for You by faithful service to our Nation. So much of our time is spent debating differences that we often forget the bond of unity that binds us together. We are one in our belief in You, the ultimate and only Sovereign of this Nation. You are the magnetic and majestic Lord of all who draws us out of pride and self-centeredness to worship You together. We find each other as we praise You with one heart and express our gratitude with one voice. In the unity of the Spirit and the bond of peace. Amen.

PLEDGE OF ALLEGIANCE

The Honorable GEORGE V. VOINOVICH, a Senator from the State of Ohio, led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

THE PRESIDING OFFICER (Mr. VOINOVICH). Under the previous order, the leadership time is reserved.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDING OFFICER. The able acting majority leader is recognized.

SCHEDULE

Mr. GRASSLEY. Mr. President, I have an announcement on behalf of the leader. Following my statement, the Senate will resume consideration of the Department of Defense authorization bill. Under the order, Senator DODD will be recognized to offer his amendment regarding the Cuba commission, with up to 2 hours of debate. At approximately 11:30 a.m., Senator MURRAY will be recognized to begin debate on her amendment regarding abortion.

As usual, the Senate will recess for the weekly party conferences from 12:30 p.m. to 2:15 p.m. today. At 3:15 p.m., there will be up to four stacked votes, beginning with the Murray amendment, to be followed by the Hatch and Kennedy hate crimes amendment and the Dodd amendment. I thank my colleagues for their attention.

MEASURE PLACED ON CALENDAR—S. 2732

Mr. GRASSLEY. Mr. President, on behalf of the leader, I ask for a second reading of the bill that I understand is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2732) to amend the North Korea Threat Reduction Act of 1999 to enhance congressional oversight of nuclear transfers to North Korea, and to prohibit the assumption of liability for nuclear accidents that may occur at nuclear reactors provided to North Korea.

Mr. GRASSLEY. Mr. President, I object to further proceedings on this bill at this time.

The PRESIDING OFFICER. Under the rule, the bill will be placed on the calendar.

Mr. GRASSLEY. I thank the Presiding Officer.

The PRESIDING OFFICER. Under the previous order, the Senator from Iowa is recognized to speak for up to 10 minutes.

BANKRUPTCY REFORM

Mr. GRASSLEY. Mr. President, I rise this morning to speak on the topic of bankruptcy reform. As many of my colleagues may know, Congress is on the verge of enacting fundamental bankruptcy reform. Earlier this year, the Senate passed bankruptcy reform by an overwhelming vote of 83-14. Almost all Republicans voted for the bill and about one-half of the Democrats voted for it as well. Despite this, a tiny minority of Senators are using undemocratic tactics to prevent us from going to conference with the House of Representatives.

As I’m speaking now, the House and Senate have informally agreed on 99 percent of all the issues and have drafted an agreement which has bicameral and bipartisan support. The remaining three issues are sort of side shows, and I’m confident we’ll be able to move forward on the one yard line to the end zone. My remarks this morning relate the agreement we’ve reached on the core bankruptcy issues and the continuing need for bankruptcy reform.

As I’ve stated before on the Senate floor, every bankruptcy filed in America creates upward pressure on interest rates and prices for goods and services. The more bankruptcies filed, the greater the upward pressure. I know that some of our more liberal colleagues are trying to stir up opposition to bankruptcies by trying to think of bankruptcy laws only helps lenders be more profitable. This just isn’t true. Even the Clinton administration’s own Treasury Secretary Larry Summers indicated that bankruptcies tend to drive up interest rates. Mr. President, if you believe Secretary Summers, bankruptcies are everyone’s problem. Regular hard-working Americans have to pay higher prices for goods and services as a result of bankruptcies. That’s a compelling reason for us to enact bankruptcy reform during this Congress.

Of course, any bankruptcy reform bill must preserve a fresh start for people who have been overwhelmed by medical debts or sudden, unforeseen emergencies. That’s why the bill that passed the Senate—as well as the final bicameral agreement—allows for the full, 100 percent deductibility of medical expenses. This is according to the nonpartisan, unbiased General Accounting Office. Bankruptcy reform must be fair, and the bicameral agreement on bankruptcy preserves fair access to bankruptcy for people truly in need.

These are good times in our Nation. Thanks to the fiscal discipline initiated by Congress, and the hard work of the American people, we have a balanced budget and budget surplus. Unemployment is low, we have a burgeoning stock market and most Americans are optimistic about the future.

But in the midst of this incredible prosperity, about 1½ million Americans declared bankruptcy in 1998 alone. And in 1999, there were just under 1.4 million bankruptcy filings. To put this in some historical context, since 1990, the rate of personal bankruptcy filings has increased almost 100 percent.

With large numbers of bankruptcies occurring at a time when Americans are earning more than ever, the only logical conclusion is that some people...
are using bankruptcy as an easy out. The basic policy question we have to answer is this: Should people with means who could walk into a bankruptcy court tomorrow and walk out with his debts erased. That wouldn’t be fair. But that’s exactly the system we have now. Fundamental bankruptcy reform is clearly in order.

Mr. President, I want my colleagues to know that the bicameral agreement preserves the Torricelli-Grassley amendment to require credit card companies to give consumers meaningful information about minimum payments on credit cards. Consumers will be warned against making only minimum payments, and there will be an example to drive this point home. As with the Senate-passed bill, the bicameral agreement will give consumers a toll-free phone number to call where they can get information about how long it will take to pay off their own credit card balances if they make only the minimum payments. This new information will truly educate consumers and improve the financial literacy of millions of American consumers.

The agreement also makes chapter 12 of the Bankruptcy Code permanent. This means that America’s family farms are guaranteed the ability to reorganize as our farm economy continues to be weak. As we all know from our recent debate on emergency farm aid, while prices have rebounded somewhat, farmers in my home State of Iowa and across the Nation are getting some of the lowest prices ever for pork, corn, and soybeans. And fuel prices have shot up through the roof, including the poor and the middle class? That’s not true. But that’s exactly the system we have now. Fundamental bankruptcy reform is clearly in order.

Mr. President, I want my colleagues to know that the bicameral agreement to require credit card companies to give consumers meaningful information about minimum payments on credit cards. Consumers will be warned against making only minimum payments, and there will be an example to drive this point home. As with the Senate-passed bill, the bicameral agreement will give consumers a toll-free phone number to call where they can get information about how long it will take to pay off their own credit card balances if they make only the minimum payments. This new information will truly educate consumers and improve the financial literacy of millions of American consumers.

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my sons, who are beginning their careers, and my daughter pay more on their credit card bill because someone else does. I am more inclined to let someone go than to hold them tightly. I admit that.

In recent days, a number of my colleagues have brought the Time magazine article to my attention and to the attention of the Senator from Iowa and others. If you took a look at the Time magazine article and read it thoroughly, you would think we were about to tread on the downtrodden, deserving Americans who are about to be, and I quote from the article, "soaked by the Congress." My colleagues have pointed this out to me. They find it a very disturbing article. It tells a tale of corruption and greed and heartlessness, claims that hard-working, honest, American families are about to be cut off from the fresh start promised by the bankruptcy code, and that the lenders who have driven these families into economic distress, are about to kick them when they are down.

Most shocking in the article, perhaps, from my perspective, is the claim that the U.S. Congress, by passing the bankruptcy reform legislation which passed out of here overwhelmingly, will make all this happen. As I said, it is a very disturbing article. It is hard to see how anyone, in my view, could vote for bankruptcy reform if, in fact, the essence of the article were true. But I remind my colleagues that bankruptcy reform legislation, not this imaginary legislation described in the article, passed the House by a vote of 313–108, and the Senate by 84–13. So this article claims a vast majority of both our parties in both Houses of Congress are conspirators in an alleged plot to hit those who are down on their luck.

The problem with this portrayal is the bankruptcy reform bill now in conference, a rehash of what they have said. Their article is simply dead wrong. I do not ever recall coming to the floor of the Senate in my 28 years and saying unequivocally: One of the most respected periodicals and magazines in the country, with a major article, is simply dead, flat, absolutely wrong. I don’t recall ever being compelled to do that or being inclined to do that.

I will make one admission at the outset. It is the intent of the bankruptcy reform to tighten the bankruptcy system; that is true, to assure that those who have the ability to pay do not walk away from their legal debts. The explosion of bankruptcy in the early and mid-1990s revealed a problem with our system and the reform legislation is a response to that by the strong bipartisan vote of both Houses.

I am more on that liberal side, as my friend from Iowa talks about. I admire his point that somebody should pay their debts. I think they should.

I am more inclined to let someone go than to hold them tightly. I admit that part. But I came here with this reform legislation because all these bankruptcies are causing debts to be driven up by other people. Interest rates go up and creditors as possible from the proceeds.

Chapter 13 allows the filer to keep a home, a car, and so on, but requires them to enter into a repayment plan. The irony is, chapter 13 was put in to help people from the rigors of chapter 7. I do not have time to go into that, but it is a basic premise that is missed by the article.

The bankruptcy reform legislation that is the cause for such alarm in this article asks a question that I think most Americans would be surprised to learn is never even asked under the present system. The question is: Do you have the ability to pay some of those debts that you want forgiven?

If the answer is yes, then you will have to file for bankruptcy under chapter 13 and have what they call a workout, a repayment plan. No one—I repeat, no one—who needs it would ever, as this article puts it, be denied bankruptcy assistance. That cannot happen now, and it will not happen under this legislation. So it is not the idea you are denied bankruptcy, it is how you file for bankruptcy—under chapter 7 or chapter 13.

Yes, bankruptcy reform is intended to require more repayment by those who can afford it, more complete and verified documentation, and to generally discourage unnecessary and unfurnished filings. When the bankruptcy system is manipulated by those who can afford to pay, we all pay.

This article suggests that bankruptcy reform legislation is driven solely by the greed of lenders, that abuse of the bankruptcy code is a myth created by those who want to wring more money out of those who do not have money. That is dead wrong. It is the position of the Justice Department.

I asked unanimous consent that a document entitled "U.S. Trustee Program," be printed in the Record at the end of my statement.

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

(See Exhibit 1.)

Mr. BIDEN. Mr. President, back to the Time article. One would think there was no reason to tighten up the current system, that those of us who support bankruptcy reform—a large bipartisan majority—had lost our hearts, our souls, and possibly our minds. Some folks might find that easy to believe, but if they simply compare the language of the legislation to the case studies in the article, they will find that in virtually every significant claim and detail, the charges leveled against this legislation are not true. They are simply false; they are flat wrong; and they are easily and conclusively refuted by a quick look at the facts.

First, a little primer on the bankruptcy code reform. Chapter 7 of the bankruptcy code requires a liquidation of any assets and a payout to as many creditors as possible from the proceeds. Chapter 13 allows the filer to keep a home, a car, and so on, but requires them to enter into a repayment plan. The irony is, chapter 13 was put in to help people from the rigors of chapter 7. I do not have time to go into that, but it is a basic premise that is missed by the article.

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If the answer is yes, then you will have to file for bankruptcy under chapter 13 and have what they call a workout, a repayment plan. No one—I repeat, no one—who needs it would ever, as this article puts it, be denied bankruptcy assistance. That cannot happen now, and it will not happen under this legislation. So it is not the idea you are denied bankruptcy, it is how you file for bankruptcy—under chapter 7 or chapter 13.

Only a few filers of bankruptcy, no more than 10 percent of those now filing under chapter 7—maybe even less—would see any change at all in their status. Those who have demonstrated an ability to pay would be told to file under chapter 13 and would follow the kind of repayment plan their resources would allow.

A key point must be stressed: Chapter 13 is not some kind of debtor’s prison, as this article suggests, virtually none of the low-to-moderate-income working families whose stories were so compellingly told in that article would be touched by the reforms affecting the availability of chapter 7.

Although this may seem like a quaint notion these days, it was intended to preserve some of the debtor’s dignity at a time when bankruptcy carried more of a stigma for some people than it does today.

A profoundly mistaken view of the difference between chapter 7 and chapter 13 is not the most serious flaw in this article. The real impact of this article comes from its stories of hard-working, honest, everyday American families who have fallen on hard times. These are the people who will, according to the article, find the door to a fresh start shut to them.

As disturbing as these stories are, they are all based on a demonstrably false premise. As the Senator from Iowa said, virtually none of the low-to-moderate-income working families whose stories were so compellingly told in that article would be touched by the reforms affecting the availability of chapter 7.

That is right. In each and every case, given their income and their circumstances as presented, those families and individuals who were talked about in the article would still be eligible for chapter 7 protection. The central premise of bankruptcy reform on the families described in this article are flat wrong.

I know a lot of my colleagues have been concerned about these charges,
and I urge them to take a simple test. Compare the financial circumstances of the individuals in the article and the stories we have told with the terms of our bankruptcy legislation. My colleagues will see the claims that these families will be cut off are not true.

They are wrong chiefly because the reform legislation contains what we call a safe harbor which preserves chapter 7, with no questions asked, for anyone earning the median income or less for the region in which they live. This is a protection I sought along with other supporters of bankruptcy reform. It was a key element of the Senate bill, and it has been accepted in conference.

There is even more protection: Those with up to 150 percent of the median income will be subject to only a cursory look and their family obligations, not a more detailed examination.

These provisions provide that the door to chapter 7 remains open for just the kind of family the article claims will be most hurt.

I will not chronicle all of them, but I ask you to listen to this one story. Of all the cases chronicled in the article, I read most carefully the story of Allen Smith of Wilmington, DE, my hometown. A World War II veteran, he had worked in our Newark, DE, Chrysler plant until the downsizing of the 1980s cost him his job.

Struck by cancer, my constituent from Wilmington, DE, was also hit with the tragedy and expense of his wife’s diabetes and then her death. Health care costs drove him deeper and deeper into debt, and he filed for bankruptcy under chapter 13. Further financial troubles led to the failure of his chapter 13 plan, and he was then switched to chapter 7 under which he will liquidate home to pay some of his obligations.

I searched in vain to find any relevance of this profound human tragedy to the bankruptcy reform legislation. To the extent it has anything at all to do with the supposed point of the story, Mr. Smith’s story is presented to show us someone who is going to lose his home in bankruptcy, because he is now in chapter 7, exactly what the authors previously argued should be the kind of family the legislation preserves, not a more detailed examination.

I know my colleagues who have expressed their worries about this article. I truly ask them, look at the language of the legislation, look at the articles that are written, and you will find that, although this is not a perfect bill, that none of the families chronicled in that article would be affected at all except their circumstances improved, if in fact anything was to happen.

I know that my colleagues who have expressed their worries about this article are sincere in their concern about the fairness of bankruptcy reform legislation. I urge them to apply the simple test of fairness to this article, to compare the situations of those families in the article to the actual provisions in the bankruptcy reform legislation. They will find those families’ access to the full protection of Chapter 7 unchanged by the bill.

I ask them to do it for themselves: they don’t have to take my word for it.

This is not a perfect bill. It is not the even bill that I would have written by myself. But it is a bill that can pass that test.

I thank the Chair and I thank my colleagues assembled on the floor for the additional 4 minutes. I realize it is a tight day and time is of the essence. I appreciate their courtesy.

I yield the floor.

EXHIBIT 1

[Bankruptcy Criminal Cases 1999]

U.S. TRUSTEE PROGRAM

(Criminal Cases: The United States Trustee Program’s duties include policing the bankruptcy system for criminal activity, referring suspected criminal cases to the appropriate law enforcement agencies, and assisting in investigating and prosecuting such cases. Some significant bankruptcy-related criminal cases are described here)

ALABAMA

Attorney John C. Coggins III of Birmingham, Ala., was sentenced July 26 to 36 months in prison for conspiracy consisting of bankruptcy fraud, money laundering, and false statements to a federal bankruptcy prepayer.

Judge John W. Sullivan of the Northern District of Alabama sentenced Coggins to 36 months in prison and ordered him to pay $328,000 in restitution and $75,000 in criminal fines. The attorney had loaned more than $20,000,000 that was due to creditors in his bankruptcy case, using a corporation set up for that purpose.

ARKANSAS

Bankruptcy petition preparer Richard S. Berry of Tempe, Ariz., was sentenced April 20 in the District of Arizona to six months in prison for criminal contempt of court, after being fined $1 million in 1998 for willfully violating Bankruptcy Court orders. Since January 1997, several court orders addressed Berry’s violations of the Bankruptcy Code’s prohibitions regulating bankruptcy petition preparers. The Bankruptcy Fraud Task Force for the District of Arizona sought criminal contempt charges against Berry based on his violation of a January 1997 Bankruptcy Court order limiting his fees.

Lawrence K. Costilow of Tucson pleaded guilty February 19 to two counts of bankruptcy fraud arising from his actions as a creditor in a Chapter 7 bankruptcy case. Costilow loaned $95,000 to a married couple, obtaining unsecured personal loans secured by a house and later testifying in bankruptcy court as to its validity.

CALIFORNIA

Sherwin Seyrafi of Encino, Calif., pleaded guilty December 28 in the District of Arizona to bankruptcy fraud, misuse of a Social Security number, and failure to file a corporate tax return. The counts for bankruptcy fraud and misuse of an SSN arose from Seyrafi’s filing of a bankruptcy petition with the knowledge that it contained a false spelling of his name and a false Social Security number.

Judy Scharnhorst Brown, a Spring Valley, Calif., real estate broker, was sentenced Nov. 9 in the Southern District of California to 15 months in custody followed by three years of supervised release and ordered to pay $75,000 in restitution and fines for a bankruptcy fraud and mail fraud scheme. On March 30, a jury convicted Brown on one count of conspiracy, three counts of bankruptcy fraud, and eight counts of mail fraud after a two-week jury trial.

On April 21 a federal jury in Los Angeles convicted Faramarz Taghilou of Castaic, Calif., on two counts of submitting a false claim for a private airplane in his Chapter 7 bankruptcy case. Taghilou failed to disclose in his bankruptcy documents that he owned a Cessna 310Q insured for $120,000 and was paying monthly leasing fees to have the airplane kept at Van Nuys airport. Additionally, Taghilou’s bankruptcy schedule omitted a creditor who had placed a mechanic’s lien on the airplane; the debtor paid that creditor two weeks after filing for bankruptcy.

Theresa Marie Thompson-Snow pleaded guilty March 17 in the Central District of California to false representation of a Social Security number and bankruptcy fraud. Through an error, Thompson-Snow obtained a creditor who had placed a mechanic’s lien on the airplane; the debtor paid that creditor two weeks after filing for bankruptcy.

Tricia Mendoza of Norwalk, Calif., was sentenced January 9 in the Southern District of California to 15 months in prison for conspiracy to bankruptcy fraud, money laundering, and false statements to a federal bankruptcy petition preparer.

More recently, the conference has agreed to eliminate precisely the kind of abuse criticized in this article. The article discusses at length a case that has nothing to do with reform but criticizes an abuse that is actually fixed by the legislation. There are other profound inconsistencies and factual errors in the article, including the assertion that medical expenses would not be considered in calculating a filer’s ability to pay or would not be dischargeable after bankruptcy or that family support payments, such as child support or alimony, would be a lower priority than a credit card debt. None of these assertions is true.

However, without those errors, there would be no article.

In many cases, in terms of the new, additional protections for family support payments and improved procedures for reaffirmations, filers in the kind of circumstances chronicled in the other stories in this article would be better off, not worse off, when this legislation passes.

I know my colleagues have expressed their worries about this article. I truly ask them, look at the language of the legislation, look at the articles that are written, and you will find that, although this is not a perfect bill, that none of the families chronicled in that article would be affected at all except their circumstances improved, if in fact anything was to happen.
and address of an accomplice, thereby diverting payments intended for creditors to an account controlled more than $10 million in assets in a publicly traded company. In addition, fraud, and money laundering. During a June 23 to 97 months imprisonment and ordered to "adequate protection" pending the outcome consequently withdrew funds from an account come tax liability exceeding $137,000. He sub- parent attempt to avoid an individual in- corporate officer of Commonweal Inc., trans- ter 11 debtor Commonweal Inc. and obstruc- zlement from the bankruptcy estate of Chap- Florida, certified public accountant Kenneth Warren D. Johnson Jr. was sentenced June 15 based on their earlier convictions for bankruptcy fraud and income tax evasion. In bankruptcy, he falsely stated that he had sold certain horses from his Colorado horse breed- ing operation for $10,000, while he had earlier valued the horses at $124,000. He also failed to disclose to the bankruptcy court that he had interests in two bank accounts in Missouri. Colorado James Francis Cavanaugh pleaded guilty Oct. 8 to bankruptcy fraud in the District of Colorado. When Cavanaugh filed for bank- ruptcy, he falsely stated that he had sold certain horses from his Colorado horse breed- ing operation for $10,000, while he had earlier valued the horses at $124,000. He also failed to disclose to the bankruptcy court that he had interests in two bank accounts in Missouri. Florida After a jury trial in the Middle District of Florida, certified public accountant Kenneth A. Stoecklin was convicted July 8 for embezzlement from the bankruptcy estate of Chap- ter 11 debtor Commonweal Inc. and obstruct- ion of the administration of the internal revenue laws. Stoecklin, the controlling corpo- rate officer of Commonweal Inc., trans- ferred substantially all of his assets to the real estate development company in an ap- parent attempt to avoid an individual in- come tax liability exceeding $137,000. He sub- sequently withdrew funds from an account established to provide the government with "adequate protection" pending the outcome of tax-related litigation. Warm). Joseph Senecal was sentenced June 23 to 97 months imprisonment and ordered to pay more than $5 million restitution after being convicted of bankruptcy fraud, bank fraud, mail fraud, and money laundering. During his 1998 bond hearing, Johnson testified that he had no interest in stocks or other assets in the Turks and Caicos Island, when he actu- ally held more than $4 million in a publicly traded company. In addition, Johnson claimed he was indigent and could not pay restitution despite the fact that the controls he had set up were large and placed in the names of family members and off-shore shell corporations. Johnson’s bank- ruptcy convictions resulted from a 1992 bankruptcy case in which he claimed over $7.2 million in debt and no assets, when he actually expected to receive at least $1.2 million in real estate sale profits. Johnson laundered approximately $250,000 of these funds into his wife’s account and then using them for living expenses. The bank fraud conviction resulted from John- son’s filing of financial statements to ob- tain a $600,000 loan that he did not repay. Georgia The District Court for the Northern Dis- trict of Georgia entered judgment on Decem- ber 13 against David Alvin Grossman of Al- tera Inc., for bankruptcy fraud and money laundering. Grossman was convicted of one count of filing a false income tax return and one count of bankruptcy fraud. Grossman set up a car leasing scheme under which he created a business in which he made false statements to the IRS, and making a false return, structuring cash transactions to evade currency reporting requirements, fail- ing to report the receipt of $15,000 cash in the operation of his law office, making false statements to the IRS, and making a false statement under penalty of perjury in a bankruptcy case. Butler, who formerly practiced medicine in Albany, Ga., used funds of his professional corporation to pay his personal expenses and those of his family while dis- rupting the payments as business-related ex- penditures. Hawaii On December 10 a federal jury in the Dis- trict of Hawaii found attorney Stacy Moniz of Kanoehe guilty of filing a false income tax return, structuring cash transactions to evade currency reporting requirements, fail- ing to report the receipt of $15,000 cash in the operation of his law office, making false statements to the IRS, and making a false statement under penalty of perjury in a bankruptcy case. The debtor testified at the Section 341 meeting of creditors that his medical debts resulted from illness. After the Section 341 meeting, the United States Trustee’s office in South Bend, Ind., and the case trustee in- vestigated the nature of the medical debts, leading to the discovery of the personal in- jury lawsuit. Indiana Bankruptcy debtors’ attorney David T. Galloway of Porter County, Ind., pleaded guilty April 5 in the Northern District of In- diana to criminal contempt and agreed to re- sign from the practice of law for three years. Galloway served as counsel for a Chapter 7 debtor who concealed a pending personal in- jury action from the bankruptcy case trustee. The debtor testified at the Section 341 meeting of creditors that his medical debts resulted from illness. After the Section 341 meeting, the United States Trustee’s office in South Bend, Ind., and the case trustee in- vestigated the nature of the medical debts, leading to the discovery of the personal in- jury lawsuit. Kentucky Debtors Daniel Caldera and Martha Kay Caldera of Elizabethtown, Ky., were sen- tenced Oct. 20 in the Western District of Kentucky for bankruptcy fraud. Daniel Caldera pleaded guilty to concealing a $101,295 payment from C&S Carpenter Serv- ice Inc.’s bankruptcy estate. He was sen- tenced to 21 months imprisonment plus two years supervised release, and ordered to pay $11,272 in restitution. Martha Kay Caldera pleaded guilty to filing a bankruptcy peti- tion containing a materially false declara- tion—that she and/or her spouse did not own an annuity when in fact her spouse did. She was sentenced to two years probation, in- cluding six months of home incarceration. Louisiana Former district attorney James A. Norris, Jr., was sentenced June 22 in the Western District of Louisiana to 33 months in prison and ordered to pay $190,000 in restitution for bank- ruptcy fraud. On March 10, a jury found Nor- ris guilty of four counts of making false oaths in a bankruptcy proceeding, in connec- tion with his four statements under oath that he had burned $500,000 cash in his back- yard. In 1989, Norris withdrew approximately $500,000 from his law firm in a dispute over business decisions; his former law partners ultimately obtained a court
judgment against him and filed an involuntary bankruptcy petition.

Attorney Betty L. Washington was sentenced Jan. 20 in the Eastern District of Louisiana to 33 months in prison, and ordered to pay approximately $5,000 in restitution, based on a jury conviction finding multiple counts of fraud, including bankruptcy fraud. In her Chapter 7 bankruptcy case Washington concealed her right to receive legal fees from a client. Further, as part of a scheme to obtain more than $20,000 in automobile loans, Washington tried to mislead a bank into believing her bankruptcy case had been converted.

MAINE

On June 8 Catherine Duffy Petit was sentenced in the District Court for the District of Maine to 15 years and eight months in prison and three years supervised release, and ordered to forfeit nearly $164,000 and to pay restitution of nearly $8 million, based on her conviction on 54 counts (reduced by the court to 25 counts arising from her bankruptcy fraud, securities fraud, and other violations). Petit and co-conspirators had raised almost $7 million—ostensibly for litigation expenses—by selling interests in Petit’s state accounts as well as his interests as principal beneficiary of seven life insurance policies.

Linhardt admitted that he concealed financial accounts as well as his interests as principal beneficiary of seven life insurance policies.

In her Chapter 7 bankruptcy case Washington concealed her right to receive legal fees from a client. Further, as part of a scheme to obtain more than $20,000 in automobile loans, Washington tried to mislead a bank into believing her bankruptcy case had been converted.

WASHINGTON

Kaufman, an associate with a Chapter 7 bankruptcy trustee's law firm, admitted to concealing company income from her creditors, the Bankruptcy Court, and the IRS during her Chapter 7 bankruptcy case. Puyn was the former president and owner of Sigma Acquisition Corp., Televideo Media Inc., and other New Jersey-based video production-related companies. She concealed assets worth at least $240,000 from the court and her creditors by failing to disclose her equitable interest in a Pennsauken, N.J., commercial building and the existence of an investment account held in the name of the Cogan Corp., to which she diverted part of the receipts of Sigma and the other companies she owned.

Alexander De Soria of Fords, N.J., pleaded guilty July 21 to filing a false bankruptcy petition. He admitted that he falsely stated his Social Security number on the petition when it was approximated $25,000 in debt he had incurred under the false SSN.

NEW YORK

Joseph W. Kennedy Jr. of Rochester, N.Y., was sentenced Nov. 3 to 27 months in prison and three years supervised release, and ordered to pay $235,000 in restitution on his conviction on three counts of bankruptcy fraud. Kennedy failed to disclose in his Chapter 7 schedules that he owned one insurance policy valued at $175,000. He later testified that the property's status had not changed since his bankruptcy petition was filed.

MINNESOTA

Mark John McGowan of Mound, Minn., was sentenced Sept. 1 to one year in prison and two years of supervised release for bankruptcy fraud and perjury. In his Chapter 7 bankruptcy case, McGowan listed a $100,000 house that he claimed exempt as his homestead although he actually rented the house and had no intent to occupy it.

Daniel J. Bubalo of Edina, Minn., was sentenced June 8 to 21 months in prison and ordered to pay $85,000 in restitution following his conviction on two counts of bankruptcy fraud. In his Chapter 7 bankruptcy case, converted from Chapter 11 to Chapter 7, and without the Chapter 7 trustee’s knowledge, Bubalo sold for $76,000 a Duluth, Minn., bar valued at $175,000. Bubalo later testified that the property’s status had not changed since his case was converted.

MISSOURI

Keith D. Linhardt of Warrenton, Mo., pleaded guilty Feb. 12 in the Eastern District of Missouri to bankruptcy fraud and perjury. Linhardt admitted that he concealed financial accounts as well as his interests as principal beneficiary of seven life insurance policies—earning more than $5 million on his wife, who died on a camping trip in April 1998. In July 1998, at his Section 341 meeting with creditors, Linhardt testified to the trustee concerning his nonresponse to the bankruptcy petition preparer Robert Tank pleaded guilty April 9 to criminal contempt of court in the District of Oregon. In 1996, the United States Trustee obtained an order finding Tank in violation of approximately $10,000 and prohibiting him from engaging in certain deceptive practices or practicing law in Oregon. Tank violated the order, and the United States Trustee obtained a permanent injunction against him. Tank continued to prepare bankruptcy petitions, and engaged in a series of violations of various orders.

Former Chapter 11 trustee Thomas G. Marks was sentenced March 15 in the District of Oregon to 12 months plus one day in prison, three years probation, and payment of restitution, for embezzling funds in three Chapter 11 bankruptcy cases where he acted as a fiduciary after the case was confirmed. The United States Trustee discovered the embezzlement of approximately $108,000 based on an inquiry from Marks' former business partner. The United States Trustee obtained a permanent injunction against him. Tank continued to prepare bankruptcy petitions, and engaged in a series of violations of various orders.

On Nov. 15 the District Court for the Eastern District of Pennsylvania sentenced Philadelphia attorney Steven Bernosky, and barred him from practicing law for three years, for embezzling approximately $14,000 from a Chapter 11 bankruptcy estate. Bernosky served as debtor's counsel in the Chapter 11 bankruptcy case of Morris Schiff & Co. The debtor company's property was sold for approximately $14,150, and Bernosky improperly deposited a check for the sale proceeds into his personal account. Bernosky made several restitution offers, but sentencing produced a check for the balance at the sentencing hearing. He was sentenced to five years probation and ordered to pay a $2,000 fine. He pleaded guilty after a one-count information was filed March 31.

Chester Wiles was sentenced June 7 in the Eastern District of Pennsylvania for bankruptcy fraud and perjury. Wiles was sentenced to 25 months in prison for filing a bankruptcy petition, to a concurrent 18-month term of incarceration on 12 other counts, and to five years of supervised release; he was also placed on probation for five years. Wiles had assumed the identity of a

OHIO

Albert J. DeSantis, formerly of Columbus, Ohio, and Upper Arlington, Ohio, was sentenced August 26 to 51 months imprisonment and ordered to make approximately $11,000 payment of restitution for embezzling funds, transferring real property, and concealing personal property including certificates of deposits.

Jesse Joseph Maynard and Samuel Bruce Love were convicted Sept. 1 in the Western District of Ohio on a jury verdict finding multiple counts of bank fraud, securities fraud, and other violations. Maynard was sentenced August 26 to 51 months imprisonment and ordered to make approximately $11,000 payment of restitution, for embezzling funds, transferring real property, and concealing personal property including certificates of deposits.

Mary Ann Adams and John Quincy Adams pleaded guilty Sept. 15 to bank fraud in connection with their concealment of more than $290,000 in assets after a bank concurred upon their property. The Adamses, who owned an implement company, hid tractor and combine parts, transferred real property, and concealed personal property including certificates of deposits.

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deceased person and fraudulently obtained credit in the decedent's name for 2½ years before filing for bankruptcy twice in the decedent's name. He pleaded guilty to 13 counts including false statement in bankruptcy, bankruptcy fraud, false statements to obtain bankruptcy, and HUD-insured mortgages, false statements in loan and credit applications, credit card fraud, wire fraud, interstate transport of stolen goods, and use of an unassigned Social Security number.

**SOUTH CAROLINA**

Norton. J. Max McCaskill pleaded guilty Nov. 2 in the District of South Carolina to two counts of embezzlement from bankruptcy estate. McCaskill was a former employee of a bankruptcy trustee in South Carolina. While employed to auction bank-

ruptcy estate property, he sold the property but failed to turn over the proceeds to the bankruptcy trustee.

**TEXAS**

Tronnald Dunnaway of Richardson, Texas, was sentenced Oct. 3 to 13 months in jail and three years supervised release and ordered to pay $28,359 in restitution for his role in a bankruptcy scam. Dunnaway pleaded guilty in June on the eve of trial; on June 22, his co-defendant Shelby Daniels was found guilty of 14 counts of bankruptcy fraud in connection with the scam. Daniels and Dunnaway contacted homeowners facing foreclosure, offering to help them with their mortgage problems. They persuaded the homeowners to transfer a part interest in their homes to companies controlled by, or individuals working with, the scam operators. Those companies and individuals then filed for bankruptcy to delay foreclosure on the properties, but the victims ended up losing their homes.

On June 22, after a five-day jury trial, Shelby Daniels of Dallas was found guilty of 14 counts of bankruptcy fraud for his role in a bankruptcy foreclosure scam. Daniels represented himself as a real estate consultant and contacted homeowners facing fore-

closure, persuading them to transfer a part interest in their homes to companies he controlled or individuals working with him. The company and individuals filed for bank-
ruptcy to delay foreclosure. Homeowners paid Daniels a $500 “set up” fee plus $500 per month, assuming he was working to address their mortgage problems. They ended up los-

sing their homes. On the eve of trial, Tronnald Dunnaway, who was indicted with Daniels, pleaded guilty to one count of bank-

ruptcy fraud.

**VIRGINIA**

Lee W. Smith Sr., the principal in the Chapter 11 case of Lee's Contracting Services Inc., was sentenced Nov. 10 to 21 months in prison after pleading guilty to one count of bankruptcy fraud and one count of tax eva-

sion. Smith diverted monies from the corpora-
tion to personal accounts during the pendency of the Chapter 11 case, which was ultimately dismissed because the debtor owed more than $1 million in unpaid em-

ployee withholding taxes.

The District Court for the Southern Dis-

trict of West Virginia August 4 sentenced Donald S. Pritt to 30 months imprisonment, three years of supervised release, and res-

titution of $418,000. Pritt is serving time for his conviction on one count of mail fraud and two counts of bankruptcy fraud. Pritt claimed to be per-

manently disabled following a car accident and filed disability income reim-

bursement claims under several recently issued policies and engaged in litigation with the insurance companies and ATV manufacturer. Pritt is ordered to pay in excess of $600,000 in attorney fees to the manufacturer. The bankruptcy counts arose from his transfer and concealment of assets, which began after the state court litigation and continued dur-

ing the bankruptcy case.

Ethel Mae Martin was sentenced June 15 in the Eastern District of Virginia to 27 months in prison and ordered to pay $99,000 in restitution for one count of bankruptcy fraud. Martin used at least three Social Security numbers to ob-
tain credit and filed her bankruptcy petition using a fourth one.

Elizabeth Baker pleaded guilty June 8 to one count of making a false oath in connection with her bankruptcy. Baker and her husband filed a Chapter 13 petition in 1996; when her husband later died, Baker received over $99,000 in life insurance proceeds. She converted the bankruptcy case to a Chapter 7 liquidation but did not disclose the receipt of funds to the bankruptcy trustee. Baker's bankruptcy discharge was revoked after the trustee discovered the receipt of funds as well as Baker's false statement that there were no assets other than those listed in the bankruptcy schedules.

**WISCONSIN**

The Court of Appeals for the Seventh Cir-
cuit July 20 upheld the March 1996 convic-
tion of attorney John Gellene for false mate-
rial declarations in a bankruptcy proceeding, and upheld the trial court's sentencing de-
terminations. Gellene did not disclose that his law firm represented a senior secured creditor as well as the Chapter 11 debtor, giving rise to a conflict of interest in representa-
tion. He was convicted after a jury trial in the Eastern District of Wisconsin, sentenced to 15 months in prison, and fined $15,000. In its ruling, the Appeals Court rejected Gellene's argument that his false statements were not material, finding it beyond doubt that "a misstatement in a Rule 2014 state-
ment by an attorney about other affili-
ations" is material.

The PRESIDING OFFICER. Under the previous order the Senate will now resume consideration of S. 2549, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2549) to authorize appropriations for fiscal year 2001 for military activities of the Department of Defense, for military con-
struction, and for defense activities of the Department of Energy, to prescribe per-
sonnel strengths for such fiscal year for the Armed Forces, and for other purposes.

PENDING:

Smith (of New Hampshire) amendment No. 3210, to prohibit granting security clearances to felons.

Warner/Dodd amendment No. 3267, to es-
tablish a National Bipartisan Commission on Cuba to evaluate United States policy with respect to Cuba.

Levin (for Kennedy) amendment No. 3473, to enhance Federal enforcement of hate crimes.

Hatch amendment No. 3474, to provide for a comprehensive study and support for criminal investigative powers by State and local law enforcement officials.

The PRESIDING OFFICER. Under the previous order, the Senator from Connecticut, Mr. Dodd, is recognized to offer an amendment, on which there will be 2 hours equally divided.

The Senator from Connecticut.

**AMENDMENT**

(Purpose: To establish a National Bipartisan Commission on Cuba to evaluate United States policy with respect to Cuba)

Mr. DODD. Mr. President, I believe this is the full text of the amendment. I have had several copies made for my colleagues.

Let me inquire of the distinguished Senator from New Hampshire, did he get a copy of the amendment?

Mr. SMITH of New Hampshire. Yes. Mr. DODD. Mr. President, I send the amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut (Mr. Dodd) proposes an amendment numbered 3475.

Mr. DODD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 492 between lines 2 and 3, insert the following:

**SEC. 2. ESTABLISHMENT OF NATIONAL BIPAR-
TISAN COMMISSION ON CUBA.**

(a) SHORT TITLE.—This section may be cited as the “National Bipartisan Commission on Cuba Act of 2000”.

(b) PURPOSES.—The purposes of this section are—

(1) address the serious long-term problems in the relations between the United States and Cuba; and

(2) help build the necessary national con-

sciousness on a comprehensive United States policy with respect to Cuba.

(c) ESTABLISHMENT.—

(1) IN GENERAL.—There is established the National Bipartisan Commission on Cuba (in this section referred to as the “Commission”).

(2) MEMBERSHIP.—The Commission shall be composed of 12 members, who shall be appointed as follows:

(A) Three individuals to be appointed by the President pro tempore of the Senate, of whom two shall be appointed upon the recom-

mendation of the Majority Leader of the Senate and of whom one shall be appointed upon the recommendation of the Minority Leader of the Senate.

(B) Three individuals to be appointed by the Speaker of the House of Representatives, of whom two shall be appointed upon the recom-

mendation of the Majority Leader of the House of Representatives and of whom one shall be appointed upon the recommendation of the Minority Leader of the House of Representa-

tives.

(C) Six individuals to be appointed by the President.

(3) SELECTION OF MEMBERS.—Members of the Commission shall be selected from among distinguished Americans in the pri-

vate sector who are experienced in the field of United States-Cuba relations, especially Cuban affairs and United States-Cuba relations, and shall include representatives from a cross-section of United States interests, in-

cluding labor, civil rights, religion, public health, military, business, agriculture, and the Cuban-American community.

**CONGRESSIONAL RECORD—SENATE**

June 20, 2000