

SENATE—Monday, March 5, 2001

The Senate met at 2 p.m. and was called to order by the Honorable THOMAS R. CARPER, a Senator from the State of Delaware.

PRAYER

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

Dear God, with gratitude, we remember that it was 136 years ago, on March 3, that Congress approved Treasury Secretary Solomon P. Chase's instruction to the United States Mint to inscribe coins with the new motto, "In God We Trust." We see this motto every day on the wall of this Senate Chamber. We pray that it will be the daily, hourly expression of our dependence on You. We place absolute and undoubting trust in You, Your love, Your providential care, and Your justice and mercy. We have a great need for You, Almighty God, and You are a great God for our needs. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable THOMAS R. CARPER 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.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. THURMOND).

The bill clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 5, 2001.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable THOMAS R. CARPER, a Senator from the State of Delaware, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. CARPER thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Utah is recognized.

SCHEDULE

Mr. HATCH. Mr. President, for the information of all Senators, the Senate

will immediately begin debate of S. 420, the Bankruptcy Reform Act. Today, the bill will be open for debate only. As previously announced, there will be no votes during today's session. Amendments are in order on Tuesday, and therefore votes are expected to occur. It is hoped that all action on the bankruptcy bill can be completed prior to adjourning for the week. The Senate may also consider any nominations that become available for action, and I thank all our colleagues for their attention.

RESERVATION OF LEADER TIME

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

BANKRUPTCY REFORM ACT OF 2001

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of S. 420, which the clerk will report.

The bill clerk read as follows:

A bill (S. 420) to amend title 11, United States Code, and for other purposes.

The Senate proceeded to consider the bill.

The ACTING PRESIDENT pro tempore. The Senator from Utah.

Mr. HATCH. Mr. President, today, I am pleased that we are proceeding to the consideration of bankruptcy reform legislation. Senator GRASSLEY introduced S. 220 earlier this month, which is precisely the same legislative language that was contained in the conference report passed by the Senate in December by a vote of 70 to 28. That language has been marked up and reported out of the Judiciary Committee. It is that language we are considering today in S. 420, the "Bankruptcy Reform Act of 2001."

As many of you know, we have been working on the issue of bankruptcy reform for a number of years now. By way of background, both Houses demonstrated overwhelming margins in favor of this legislation in December, but President Clinton pocket-vetoed the legislation and we simply ran out of time in the session to come back and override the veto. So earlier this month, rather than introducing something to serve as a starting point for negotiations, Senator GRASSLEY introduced exactly the language that passed both houses so overwhelmingly in December. This language was the result of a long process of bipartisan negotiations last year that resulted in agreement on over four hundred pages of leg-

islative language, on all but two issues. Although we were prepared to go directly to the Senate floor and complete this unfinished business of the last session, because of complaints by some Democrats on the committee, we held yet another committee hearing on the subject. Even after the hearing, some Democrats on the committee raised additional objections, and that is why we marked up the legislation in committee, instead of moving directly to the Senate floor for its quick consideration. We tried our best to accommodate our colleagues on the other side. I think we did, and I believe they appreciate it.

Although some 27 democratic amendments were circulated for the committee markup, I am pleased that our Democratic colleagues ultimately limited their offering of some of the amendments because those of us on the Republican side of the aisle worked very hard to accommodate Democratic concerns with respect to substantive amendments. We accepted several amendments and developed compromise provisions on several others. It is my sincere hope that we can work constructively on the floor without an unnecessary flood of amendments and without undue delay.

Again, this legislation was agreed to during bipartisan negotiations last year, with the exception of two provisions, one of which—the issue of the dischargeability of debts relating to violence—we worked in committee to resolve. I am pleased that the bill now includes a reasonable compromise developed by Senator SCHUMER and me that addresses the concerns of both sides in a fair manner. Let me take this opportunity to thank Senator SCHUMER for his leadership and hard work on this issue.

I am also pleased to have worked with the Ranking Democratic Member of the Judiciary Committee, Senator LEAHY, to include for the first time privacy protections in bankruptcy. The amendment protects personally identifiable information given by a consumer to a business debtor by adding new privacy protections to the bankruptcy code and by creating a consumer privacy ombudsman to appear before the bankruptcy court.

Given that the language we are considering is the Senate-passed conference report with the only changes being ones sought in committee by our Democratic colleagues, I am hopeful that we can all stand by the compromises we reached in good faith last year. I am the first to acknowledge that there are things I would like to

see changed in the bill, but I recognize that we all have cooperated and compromised in order to enact this legislation that provides new consumer protections, helps children in need of child support, and makes other necessary reforms to a system that is open to abuse.

As we move to consideration of this legislation, I am heartened, but not surprised, by the results of the nationwide voter poll conducted for the Credit Union National Association which indicates broad public support for reforming our bankruptcy system.

According to the poll, the vast majority of people believe that individuals who file for bankruptcy should be required to pay back some of their debts if they have the means to do so.

This is precisely what the bankruptcy reform legislation is designed to do. The late Erma Bombeck once asked her husband, "What do you think I'd do if I won a million dollars?" "You'd spend \$2 million," he said. The reason her anecdote is funny is that it rings so true. Many people, even during the best of economic times, do not exercise financial responsibility.

The poll also shows that most people think it should be more difficult for people to file for bankruptcy. This finding indicates to me that Americans have had enough. They believe it should be made more difficult for people to file for bankruptcy. Fourteen percent strongly oppose that provision, 14 percent somewhat oppose, 24 percent somewhat favor it, and 40 percent strongly favor, or 64 to 28. So it is a very important thing when you think about it.

I have to say that, as I have mentioned the poll shows, most people think it should be more difficult for people to file for bankruptcy. This finding indicates to me that Americans have had enough; they are tired of paying for high rollers who game the current system and its loopholes to get out of paying their fair share.

Although this legislation does not make it more difficult for people to file for bankruptcy, it does eliminate some of the opportunities for abuse that exist under the current system. Our current system allows wealthy people to continue to abuse the system at the expense of everyone else. People with high incomes can run up massive debts and then use bankruptcy to get out of honoring them.

All of us end up paying for the unscrupulous who abuse the system. In fact, it has been estimated that every American family pays as much as \$550 a year in a hidden tax as a result of the actions from these abuses. The bankruptcy reform legislation will help eliminate this hidden tax by implementing a means test to make wealthy people who can repay their debts actually honor them. I suppose we can call this a tax cut for the responsible people in America.

There are numerous examples of people who take advantage of loopholes at the expense of everyone else. I recently heard from the President of a credit union in Wisconsin who told me about a young couple who wanted a "clean financial slate" before they got married. What did they do? They ran up their credit card purchases. One of them prepaid on a car loan with the credit union to have the other cosigner released. Then, although they were both employed full time, they filed for bankruptcy to wipe out all their debt. The credit union—and its members—had to eat the \$3,000 in credit card debt and another couple of hundred dollars on the car.

Bankruptcy relief was never meant to allow this kind of abuse. That is a minor story compared to the millions of examples that over the years could be cited. Hard-working Americans, including the members of credit unions nationwide, have been victimized by abusers of the current bankruptcy system long enough.

Bankruptcy abuse also hurts our Nation's small businesses. As Thomas Donahue, the president and CEO of the U.S. Chamber of Commerce, said recently:

Without congressional action, losses from bankruptcy abuses will continue to break the banks, and backs, of the Nation's small businesses and retailers, which work with slim profit margins and an even smaller margin for error.

Make no mistake, misrepresentations about this legislation have been running rampant by those who oppose any meaningful bankruptcy reform. Perhaps we can take some comfort in the words of former British Prime Minister Harold MacMillan who said:

I have never found, in a long experience of politics, that criticism is ever inhibited by ignorance.

Despite the allegations of opponents of reform, the poor are not affected by the means test. The legislation provides a "safe harbor" for those who fall below the median income, so they are not subjected to the means test at all.

Another misrepresentation I have heard again and again is that this legislation won't let people file for bankruptcy relief when they need it. The fact is, this legislation does not deny anyone access to bankruptcy relief; it just requires those who have the means to repay debts based on their income to do so. It is that simple.

Opponents of this legislation have also waged the claim that it somehow hurts women and children. This falsehood is a particularly disturbing one for me to hear because I have had a long history of advocating for children and families in Congress. I have worked tirelessly, provision by provision, to make this legislation dramatically improve the position of children and spouses who are entitled to domestic support.

It can be difficult to get the word out when misrepresentations abound about what bankruptcy reform legislation really does. In fact, the bankruptcy legislation will put a stop to letting deadbeat parents use bankruptcy to avoid paying child support. This bill would mean putting an end to paying lawyers ahead of the children who rely on child support. Current bankruptcy law simply is not adequate, and, frankly, I was outraged to learn of the many ways deadbeat parents are manipulating and abusing the current bankruptcy system in order to get out of paying for their domestic support obligations. This bill is a tremendous improvement for children and families over current law. That is why there is such overwhelming support for this legislation from the child support professionals across the country—the very people who go after deadbeats to get children the support they need.

I hope those who oppose any reform to our Nation's bankruptcy system will not engage in petty parliamentary tactics and try to encumber it with frivolous amendments. Nevertheless, I am optimistic that this much-needed bankruptcy reform legislation will be signed into law this year. We have a no-nonsense President in the White House who understands the importance of personal responsibility. So let's enact this meaningful bankruptcy reform. As I said last year, the American people have waited long enough for it, and it is time for us to do what really is in the best interest of the people at large. It is time to give this, in effect, tax cut to the millions of people out there who are paying, on the average, an extra \$550 a year because of those abusing the system.

I yield the floor.

Mr. LEAHY. Mr. President, bankruptcy is a complex area of the law. It has competing public policy interests between debtors and creditors and among competing creditors.

The complex and competing interests involved in achieving fair and balanced reforms of our bankruptcy system demand we work in a bipartisan manner throughout the legislative process. Actually, that is the lesson we learned from failed attempts of past reform measures, and it is all the more relevant with an evenly divided Senate.

The Republican leadership in the Senate and of the Judiciary Committee I felt did not want the Judiciary Committee involved in shaping bankruptcy reform legislation this year, but over the last couple of weeks the committee was able to hold an informative hearing and a markup that began the process of improving the bill.

In fact, when we finally started talking about amendments to greatly improve the bill, we spent less than 4 or 5 hours. Eight amendments were adopted by the Judiciary Committee during a couple hours of work on Tuesday and a

couple hours of work on Wednesday, and we improved it.

I am pleased to learn of the majority leader's remarks on Wednesday when he congratulated the committee for its positive action and for completing its work on an expedited basis last week. The point being: Just put us in a room, actually have us all there, and give us a little time. We usually work these things out. We can do the same thing on the floor. If the leadership wants us to complete this bill, we can do it expeditiously.

The bill the Senate begins considering today is the bill that originated in the Judiciary Committee, S. 420, with those important committee amendments already incorporated. The committee held an informative hearing and markup which has improved the bill in several key areas. I commend the Democratic members of the Judiciary Committee for their amendments and for their willingness to expedite committee action on this measure. I will give an example.

Senator FEINSTEIN pointed out a number of aspects of the bill need further refinement and our attention with respect to the harshness of the means test and the need for balance with regard to consumer credit disclosures and solicitations. In addition, she coauthored with Senator FEINGOLD an amendment that the committee debated and adopted by a 10-8 vote to provide balance and fairness to the bill's landlord-tenant provisions. I know the Senator from California will continue her good work so that the bill considered by the Senate is further improved.

During the markup, the committee adopted a number of improvements to the bill. We also showed what happens when we work in a bipartisan fashion.

I commend the chairman and Senator SCHUMER for reaching agreement on one of the most contentious issues in the bankruptcy debate in the last Congress: the discharge of penalties for violence against family planning clinics.

I believe the compromise Senator HATCH and Senator SCHUMER worked out, along with help from my staff, was possible in part because of the powerful testimony at our committee hearing on the need to end this abusive practice.

During our hearing on bankruptcy reform legislation, Maria Vullo, a top-rate attorney, testified about the need to amend the bankruptcy code to stop wasteful litigation and end abusive bankruptcy filings that are used only to avoid the legal consequences of violence, vandalism, and harassment to deny access to legal health services. I believe she impressed all members of the committee. I think she made all members of the committee realize we have to move on this issue.

As a result of the amendment adopted by the committee last week, perpetrators of clinic violence will no

longer be able to seek shelter in the Nation's bankruptcy courts.

In addition, the committee adopted a Leahy-Hatch amendment to protect the personal privacy of consumers whose information is held by firms in bankruptcy. The amendment of the Senator from Utah and I permits bankruptcy courts to honor the privacy policy of business debtors and creates a consumer privacy ombudsman to protect personal privacy in bankruptcy proceedings.

I appreciate the chairman's effort in joining me on this amendment to add important consumer privacy protections to the bankruptcy code.

The irony is, the Leahy-Hatch amendment would not even be needed if everybody was doing what they should. The Leahy-Hatch amendment is needed because the customer list and databases of failed firms can now be put up for sale in bankruptcy without any privacy considerations, and even in violation of the failed firm's own public privacy policy against the sale of personal customer information to third parties.

Let me explain what happens. You have an online company and they have a privacy policy that guarantees privacy of your family's information: You can give us all the details about your children, you can give us all this information because we promise you we will never sell it to anybody else; we will never give it to anybody else.

They keep their word, but they go into bankruptcy. The bankruptcy court looks at the file and says the only thing you have left worth any money is this list of names of these children, their parents, whomever. It is valuable. The trustee in the bankruptcy says: I have sworn an oath; I have to uphold the law. I have to sell that list. Suddenly the list you thought was sacrosanct is sold. I will give an example.

Toysmart.com. is a failed online toy store. It filed for bankruptcy last year. Its databases and customer lists were put up for sale as part of the bankruptcy proceeding. It went on the auction block even though they promised that all the information would never be allowed out.

The Leahy-Hatch amendment that we adopted in committee adds privacy protections and a consumer privacy ombudsman to the bankruptcy code to prevent future cases such as Toysmart.com.

We adopted several amendments by Senator FEINGOLD to strengthen chapter 12 to help our family farmers with the difficulties they face.

I offered another amendment that added a number of temporary bankruptcy judgeships to the bill, actually in line with the recommendations of the Judicial Conference of the United States.

All in all, the eight amendments the committee adopted to the initial pro-

posal began the process of improving the bill during this Congress. We worked expeditiously in the Judiciary Committee to accommodate the interests of the majority leader in having prompt action on this measure. We did so in spite of the fact that this committee has not taken the organizational actions necessary to adopt a budget and to create subcommittees.

I thank the Members on my side of the aisle who have been willing to make quorums and move forward even though we have yet to organize the committee.

Last Wednesday, the majority leader said on the Senate floor:

I think the committee needs to be congratulated because the committee worked yesterday, it worked again today, and it completed its work. I do not know how many amendments actually were considered, but they dealt in some way with as many as 30 amendments and I guess voted on a whole lot of them.

I thank the majority leader for his kind words about the Judiciary Committee's consideration of this bill.

The majority leader also stated on the Senate floor last week that he hoped "for a full and free debate—amendments will be offered, considered, and voted on."

I agree we should have such a full and free debate. It is actually the best way to proceed. The irony is we have a lot of discussion about should the Judiciary Committee mark this bill up or not mark it up? Should we meet on this bill or not meet on this bill? We spent more time talking about meeting on the bill than we actually did when we sat down.

When we sat down and followed the normal process, we considered the amendments, we voted them up or down and sent the bill to the floor. The Senate works best when it can openly and freely work its will on major legislation.

Senators will return tomorrow. If we start voting on this early, bring up amendments, vote on this early tomorrow, go into the early evening, do the same on Wednesday, probably into Thursday morning, we can easily finish this bill so long as we don't interrupt it for other work.

We made a good start in the Judiciary Committee, but there are some issues that have to be held to the floor. We did not address the homestead exemption cap. Certainly that is a huge loophole where somebody could dump a whole lot of money in a few States into multimillion-dollar mansions and then declare bankruptcy and hide it from creditors.

We didn't talk about consumer credit card disclosures. Chairman HATCH asked that a number of these amendments be reserved for floor action. I agreed so as to help move this out of committee. But now we are ready to offer those amendments.

I believe we can craft a balanced bankruptcy reform law that corrects

abuses by debtors and creditors in the current bankruptcy system. For example, we should provide for more disclosure of information so consumers may better manage their debts and avoid bankruptcy altogether. They must have a better idea what it means when they sign up for a credit card. They ought to have some idea when they are told, here is the minimum payment for the month. They also ought to have something saying, if you carry the minimum payment, here is what you will owe in the end, which may be many times what was paid for the item in the first place.

I know Senators LEVIN, DURBIN, SCHUMER, DODD, and others share a commitment to include credit industry reforms in a fair and balanced bankruptcy bill.

Billions of credit card solicitations made to American consumers in the past few years have contributed to the rise in consumer debt and bankruptcies, including a 7 or 8 year old receiving a credit card with a long line of credit, or a dog gets a credit card. Somebody puts their dog's name on an answer to a letter, and suddenly the dog is getting a credit card with an approval letter: Dear Mr. Rover Leahy: We are so impressed with your past credit card we are now giving you a \$2,000 credit line.

When it comes to kids in school who can barely get enough money to go to the movies, credit card companies say: Dear Student: With your great credit card, here is \$2,000, \$3,000.

The idea is if you start using it, you get hooked on using that one credit card. On one side we have people trying to hook kids on drugs; on the other side, we have credit card companies trying to hook them on credit cards. In fact, it is estimated that last year credit card companies mailed 3.3 billion solicitations. In case you wonder why your mail is late, it is because of the credit card solicitations.

Many of the most controversial proposals for changing this bill are to benefit the credit card industry. A lot of what is driving the consideration of this bill is that the credit card industry is going to get some real big gifts. The biggest gift is to give to the credit card industry the taxpayer pays for bankruptcy courts and the authority of the Federal law to help them with the collection practices of these companies after they have given the credit card to your pet dog or your kids in school or your aging parent in a nursing home.

Business Week recently reported Dean Witter estimated this bill would boost the earnings of credit card companies by 5 percent a year. Want to know about a gift? This bill at present would give credit card companies alone a 5-percent increase. I would like to become the CEO of one of those credit card companies, hope the bill passes, and I could say: Look, our earnings went up.

One credit card company, MBNA, would make in profit—not in earnings, but in profit—\$75 million a year, according to the Business Week article, if we pass this bill the way it is.

They will make a lot of money. If some of their lobbyists are outside singing jingle bells, it is not just the snow that shut down the Washington area this morning that encouraged them; it is this bill. In fact, it is only fair if the credit card industry is going to get the profits, they ought to be involved in bankruptcy reform. They ought to be asked to show how the changes they seek will benefit consumers. If they are going to make the extra profits, if they are going around saying it will benefit consumers, let me see the lower interest rates. Let me see the lower fees.

If this bill passes and gets signed into law, let us all ask the credit cards, where are the lower fees? Where are the lower interest rates? Who wants to bet we will see them?

There is no guarantee the billions in credit industry profits are going to be passed along to the consumers. I happen to agree with President Bush. He underlined the importance of examining credit industry practices when discussing the state of America's economy.

President Bush said he will "remind Members of both the Senate and the House that there is a lot of debt at the Federal level, but there is a lot of debt at the private level. We've got a lot of people struggling to pay off credit card consumer debt."

I am one Democrat who says President Bush is absolutely right. I agree with him. I think we ought to tell the credit card companies if you are going to get a big windfall from the Senate and the House, give something back to the consumers, and stop trying to hook kids on credit and credit cards that they can never pay off in their lifetime. Stop trying to hook them when they are in college, stop trying to hook parents who are strapped already with more credit cards without telling them what it will really cost them if they get behind.

Another improvement we should make is to address the problem of wealthy debtors who use overly broad homestead exemptions to shield assets from their creditors. Senator KOHL has been a leader on this issue and a champion for closing down the loophole for the rich.

In some States, wealthy debtors have million-dollar mansions that are protected from bankruptcy. There has been an abuse of the bankruptcy fresh start protection. In the last Congress, the Senate overwhelmingly, Republicans and Democrats, voted to close this loophole of the bankruptcy code. By a vote of 76-22, the Senate adopted a bipartisan amendment offered by Senators KOHL and SESSIONS to cap

homestead exemption at \$100,000. But the giveaway bill this year guts that provision. We have to put it back in. We want to make this law have a sense of being balanced.

At our hearing in the committee, Brady Williamson, the former chair of the National Bankruptcy Reform Commission, testified that ending homestead abuse was a key consensus recommendation of the Bankruptcy Reform Commission.

I think we should remember as we go through this week what purpose bankruptcy serves. It is a safety net for many Americans. That is why it has been here since the beginning of this country. Those who use bankruptcy are usually the most vulnerable of the American middle class. They are older Americans who have lost their jobs or are unable to pay their medical debts. They are women attempting to raise their families or secure alimony and child support after a divorce. They are individuals struggling to recover from unemployment.

As we move forward with reforms that are appropriate to eliminating abuses in the system, we need to remember the people that use the system, both the debtor and the creditor. We need to balance the interests of creditors with those of middle-class Americans who need the opportunity to resolve overwhelming financial burdens.

The last two Congresses proved there are many competing interests in the bankruptcy reform debate that make it difficult to enact a balanced and bipartisan bill. By working in a bipartisan fashion from the beginning of the amendment process to the end, we can craft reforms and ensure our bankruptcy laws better serve the intended goals and correct abuses of the bankruptcy system by debtors and creditors. That is why I say let the process work through. Bring up amendments. Some will be adopted; some will not.

Nobody is out here to delay it. We are just trying to make a better bill. Let's do something about the homestead exemption. Let's do something about appropriate disclosure to consumers.

Let us make this a better bill and then send something to the President that he can be proud to sign, knowing it is consistent with what he said about a lot of people struggling to pay off credit card debt. The President will know that we have done something consistent with what he said just in the last couple of days.

I will work with Senator HATCH and my good friend, Senator Grassley from Iowa, to make more improvements on the Senate floor. Let's reach a bipartisan consensus that can be enacted into law. Let's do it in the next couple of days. Let's work on this. Let's start voting early tomorrow on it and let's wrap it up. Let's not go off this until

we finish. If we do that, we can complete our work.

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

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

The bill clerk proceeded to call the roll.

Mr. CARPER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. CARPER. Mr. President, for the last hour or so we have been privileged to hear comments from Senator HATCH and Senator LEAHY who discussed the debate of the bankruptcy reform legislation, which took place in the Judiciary Committee over the last several weeks. We now have the opportunity, today and tomorrow, to begin amending the bankruptcy reform legislation that was vetoed by President Clinton last year.

I wish to express my own appreciation to both Democrats and Republicans on the Judiciary Committee for letting the process work, and for moving the process forward.

I especially thank Senator SCHUMER and Senator HATCH for working out a compromise on those who would use bankruptcy as a way to avoid their responsibilities; or for those who have brought action against family planning clinics, or, frankly, any act of violence, intimidation or threat.

I am appreciative of Senator LEAHY and Senator HATCH for the work they have done in trying to make sure that consumer privacy protections are provided in this legislation.

The history of bankruptcy is known by many people. For much of the last century, individuals and businesses have been able to seek protection through bankruptcy in order to put their lives back together, or their businesses back together. Several chapters that exist for bankruptcy are designed to provide a place for consumers to find relief.

In the last decade we have witnessed some of the strongest economic expansion in our country's history—the longest economic expansion in our Nation's history—yet during the 1990s we have seen an alarming increase in the number of people filing for bankruptcy.

Not all of those people who filed for bankruptcy had any other recourse. In fact, the lion's share of the people who filed for bankruptcy last year—or the year before that and the year before that—were folks who were up against the wall. They needed a way out and for them bankruptcy was that way out.

There are people who lost their jobs; people whose family suffered illnesses; maybe catastrophic illnesses; or marriages that were dissolved; or relationships that came to an end. And because of those situations and others like

them, those families need the protection of bankruptcy.

Not everyone who files for bankruptcy needs the protection afforded them in chapter 7. For some who file, chapter 7 is not the appropriate venue, because they have the ability to pay at least a portion of their debt. If an individual can repay some of their debt, they should instead file under chapter 13.

The challenge that the committees in the Senate and House faced last year was to try to figure out a fair way to determine who indeed had the ability to pay something of their debts and who did not.

Among the other reasons why we need reform—it has been alluded to before, and I will touch on it briefly—is that under current bankruptcy law those who have an obligation to pay child support, or those who have an obligation to make alimony payments, in many cases find those priorities low on their list. And, frankly, they are pretty low on the list of the bankruptcy laws of our land. We need to do something about that. This legislation would. It would raise the priority of child support payments and alimony payments as well.

Currently those who have those kinds of obligations to their children, or to a former spouse, also have to try to use something called the automatic stay as a way to avoid meeting those obligations while their bankruptcy case winds its way through court, and sometimes this can be a long period of time. This legislation would end the automatic stay for child support and alimony payments, making sure individuals are responsible for these personal obligations.

State and local governments are affected as well. As former Governor of Delaware, and former chairman of the National Governors' Association, one of the reasons why the National Governors' Association supported bankruptcy reform was to make sure individuals who had the ability to pay some of their State and local taxes were called upon to do that where it was reasonable. This legislation would do that.

In the end, when people who have the ability to pay, do not pay and walk away from those debts, the rest of us end up paying the costs of their bankruptcy. Businesses and creditors have to swallow the debt. Then, those of us who borrow money—whether it is for a house, or for a car, or for credit card purchases—in the end we pay more than we really ought to. This is not fair to the majority of us who pay our bills.

I have only been in the Senate for about 2 months. One of the comments I have heard most frequently is the old adage "don't let the perfect be the enemy of the good." My guess is we are going to hear that a lot on the Senate

floor this week. I will be the first to say it.

This bill represents in many respects so much that is needed. The changes don't do everything I would like. I will mention a couple of concerns that I have.

I think it was Senator LEAHY who spoke a few moments ago about the credit card applications that come to our children.

In some cases rather young children, even to our pets. I think he referred to Rover, Rover Leahy. I do not know if his dog actually did get a credit card application. I would just say we get a lot of mail in our home. I am sure we all do. We probably get more credit card solicitations than we would like. But we simply throw them away if we are not interested.

If credit card issuers or, frankly, others who are extending credit are so foolish as to extend credit to a pet or to a child, who does not have the ability to repay that obligation, that is a poor underwriting decision by the extender of the credit. And they deserve, in the end, what they will get. It is issued probably to someone who either maybe will not use it, or if they do use it, it is perhaps not with the intent of ever paying that obligation.

For the real person who is actually extended the credit card under those circumstances, under this bill, if they do not have the ability to pay, if, indeed, their income is under a median family income, they have a safe harbor. If they have to declare bankruptcy, they will continue to have the ability to file under chapter 7 and will not have to pay that obligation.

Senator LEAHY also mentioned the issue of disclosure. We get our credit card statements whenever they come. There is a statement on the credit card that says: If you pay your minimum monthly amount that is due, you can do so and not incur any kind of penalty. The credit card does not say how long it is going to take you to actually pay off your credit card bill if you only pay the minimum.

I wish there was some way to address that in a way that does not put the extender, the creditor, in harm's way with respect to class action lawsuits. This is a difficult situation.

The bill that is before us this week does provide an example to those of us who are consumers and explains that if we only pay the minimum payment, it may take an extended period of time to pay our credit card bill. It actually uses an example, as I understand it. Creditors, in this case, issuers of a credit card, are to provide on the statement an example that if this is how much you owe, and you pay your minimum payment—and this is the interest rate—this is how long it will take you to actually pay down your obligation. They actually offer a 1-800 number that someone can call to say: "My

debt is \$800. That is what my statement says. My minimum payment is \$20 a month. How long will it take me to pay it off?" We can get an answer by calling the 1-800 number.

I wish we had the ability to put a close estimate of what the debt would cost a consumer, and how long it would take to pay off, right on the credit card statement. I am told the reason why the bill out of committee does not do that is because of concerns about class action lawsuits. That is a legitimate concern but, for me, the solution is not a perfect one.

The other issue I wish we could address is the homestead exemption. I understand Senator KOHL may try to address this issue this week. People roll up big debts and then go to a State that has a large homestead exemption, and they put a lot of money, a lot of assets therein, for example, a very expensive home—a quarter of a million dollars, half a million dollars, or million-dollar home—and then walk away from their other obligations and use that estate, that homestead to protect their assets.

I understand Senator KOHL is going to offer an amendment that makes this practice somewhat more difficult to do. I welcome that provision.

But most of the people who file for bankruptcy are not folks who seek to try to stiff credit card or financial institutions or department stores or anyone else. They are people who are left with little other choice. As I said earlier, they have been dealt, in many cases, a difficult or maybe a crippling blow in their lives. More than 90 percent of the people who file for bankruptcy actually need the protection of the laws, and fewer than 10 percent actually have the ability to pay something back.

But of those people who do have the ability to pay something back, I believe—and I suspect almost all of us believe—that they should repay at least a portion of their debts. I don't care if it is only 5 percent of the people who file who have the ability to pay something back—or 4 percent or 3 percent—if they have the ability, they should make that effort. We should expect that of them and of ourselves.

A major challenge the committee has faced, and the Congress has faced, in trying to craft an appropriate balance—weighing the concerns and rights of consumers versus those who extend the credit—is in relation to the tough questions that we have dealt with, such as how do you actually determine the ability to repay? We all come from different family circumstances in terms of employment, marital status, and illness. How do we determine who has the ability to repay? The committee, to its credit, has provided for a safe harbor, essentially to say people whose median family income falls below that of 100 percent of the median family income

with respect to their State, they would automatically have a safe harbor. They could file for bankruptcy in chapter 7, and they basically get a free pass.

What is 100 percent of median family income? I think for a family of four in Delaware, it is about \$45,000 a year. I think in Maryland, it is about \$50,000 a year; and in Alabama, it is perhaps \$35,000 a year.

For those whose family income is between 100 percent of median family income and 150 percent of median family income, they would receive, not a complete pass, but a rather cursory review to see if they would not also qualify for that safe harbor.

So we are talking about, in Maryland, for example, those whose income is between \$50,000 and \$75,000 would be below the 150-percent threshold, and I think would, for the most part, after an expedited review, have the right to file under chapter 7.

I think it is appropriate to ask, for one who files for bankruptcy, what kind of expenses are factored in when determining whether or not a person has the ability to pay? We get beyond these thresholds of 100 percent of median family income, 150 percent of median family income. Is anything else taken into account? As it turns out, a number of payments are. And they are the kind of payments we would expect for people to be able to hold their households together and be able to work.

For example, a person who is asking to file under chapter 7, as opposed to chapter 13, if their income exceeds those thresholds of 100 percent or 150 percent of median family income, they could present documentation to the bankruptcy court indicating how much their housing costs, their rent or mortgage payments are. If they have car payments, those would be appropriate, as well as would education expenses, clothing, and food allowances. Judges are given discretion to address special needs as well, including medical costs.

Let me close by saying Senator LEAHY, in his comments, talked about how many credit card solicitations are mailed out every year. I think he indicated the number is over 3 billion. That is a lot of mail. I would just remind everyone, as those credit card solicitations come into our mail boxes, of course, we do not have to take advantage of all of them. When I drive down the road in Delaware, and I go by an ice cream store or a doughnut shop, as much as I might be tempted to pull in and sample their wares, I do not always do that. We have to show some personal discretion regardless of how tempting those treats might be.

But if financial institutions actually do make money, and if their bottom lines are enhanced to some extent by the adoption of this legislation, my guess is, in the end, they all do not keep that money. My guess is, in the

end, if you think about the competition—and it is a dog-eat-dog world these days in the credit card business—if I do not like the interest payment that comes with my credit card, I can find dozens of other issuers with a lower rate. If I do not like the monthly fee that I am asked to pay, I can find dozens of other issuers with lower monthly fees.

I would simply suggest the competitive nature of the business, including the credit card business, is such that for those issuers of credit cards who do not pass along some of those savings to consumers, then their competitors will. If competitors lower their interest rates and reduce or eliminate their monthly fees, those of us who are consumers will move off to take advantage of their lower interest rates and lower fees.

Let me conclude with these comments. I am glad we are at this point in the debate. I look forward to the debate over the next several days. I am very pleased we are going to have this debate. And those who have amendments, if they want to offer them, will have the opportunity to do so. We will debate them, and vote on them, and then vote on final passage.

I hope the amendments make the bill even a little better than it is today. I think it is better today than it was going into the committee a week or so ago. I am pleased to participate in the debate.

The PRESIDING OFFICER (Mr. VOINOVICH). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, bankruptcy judges, scholars, practitioners, labor unions, consumer advocacy organizations, and civil rights groups have uniformly rejected the Bankruptcy Reform Act of 2001 because its harsh and excessive provisions will have a devastating effect on working families.

Despite their words of warning, two of the most profitable industries in America—the credit card industry and the banking industry—have insisted upon a harsh bill that will fatten their bottom line while unfairly penalizing vulnerable Americans.

While we do need to pass a bill to reduce the fraud and abuse within the bankruptcy system, this bill will not accomplish that goal. This bill will hurt women, children, and hard-working American families, those who truly need the bankruptcy system to prevent unintended financial hardship.

This is no time to pass such harsh legislation. For weeks, President Bush has warned the Nation about the perils of an economic downturn. Pointing toward layoffs and rising unemployment, decreasing consumer confidence, and minimal economic growth, President Bush is urging Congress to act to strengthen the economy. But punitive bankruptcy reform legislation does not fall into that category. Now more than

ever, we need to ensure that Americans losing their jobs or struggling with medical debt have the second chance for economic security that the bankruptcy laws are intended to provide. It makes no sense to pull the rug out from under them, just as the economy is weakening.

We need to separate the myths from the facts—and focus on the real winners and losers under the proposed legislation. By any fair analysis, this bankruptcy bill is the credit industry's wish list, a blatant effort to increase its profits at the expense of working families.

We know the circumstances and market forces that often push middle class Americans into bankruptcy.

Rising unemployment and company layoffs are major parts of the problem. In recent months, the slowing economy has caused a noticeable jump in the national unemployment rate. It rose to 4.2 percent in January, the highest level in 16 months. The slowing economy has also triggered massive layoffs. Within the past weeks, Verizon announced its plan to cut approximately 10,000 jobs, and Daimler Chrysler announced it would drastically cut its workforce by eliminating 26,000 jobs over the next three years. Xerox plans to eliminate 800 jobs on top of the 5,200 cut last Fall. Telecommunications giant World Com reported plans to lay off up to 15 percent of its workforce, a loss of 11,500 jobs. Sara Lee plans to lay off 7,000 employees. AOL-Time Warner wants to cut 2,000 jobs. Lucent Technologies plans to eliminate 10,000 workers. The layoffs go on and on. Overall, companies have announced plans to lay off close to 70,000 workers—and the year has just begun.

Often, when workers lose their current good jobs, they are unable to recover. In a February 2000 survey conducted by the Bureau of Labor Statistics that approximately one-fourth of workers displaced from full-time wage and salary jobs received earnings substantially lower than what they had received before they lost their jobs. It is all too common for laid-off workers to be forced to accept part-time jobs, temporary jobs, or jobs with fewer or no benefits at all.

Divorce is another major cause of bankruptcy. Divorce rates have soared in recent decades, and the financial consequences are particularly devastating for women. Divorced women are four times more likely to file for bankruptcy than married women or single men. In 1999, 540,000 women who head their own households filed for bankruptcy to try to stabilize their lives; 200,000 of them were also creditors trying to collect child support or alimony. The rest were debtors struggling to make ends meet.

Another major factor in bankruptcy is the high cost of health care. Forty-three million Americans have no

health insurance, and many more are underinsured. Each year, millions of families spend more than 20 percent of their income on medical care. Older Americans are hit particularly hard. A 1998 CRS Report states that even though Medicare provides generally good health coverage for older Americans, half of this age group spend 14 percent or more of their after-tax income on out-of-pocket health costs, including insurance premiums, co-payments and prescription drugs.

A report published in Norton's Bankruptcy Adviser says:

The data reported here serve as a reminder that self-funding medical treatment and loss of income during a bout of illness or recovery from an accident make a substantial number of middle class families vulnerable to financial collapse. For middle class people, there is little government help, so that when private insurance is inadequate, bankruptcy serves by default as a means for dealing with the financial consequences of a serious medical problem.

These are the desperate individuals and families from whom the credit card industry believes it can squeeze higher profits. The industry claims that these men and women are cheating and abusing the bankruptcy system, and are irresponsibly using their credit cards to live in a luxury they cannot afford.

These Americans are not cheats and frauds, but they do constitute the vast number of Americans in bankruptcy. Two out of every three bankruptcy filers have an employment problem. Two out of every five bankruptcy filers have a health care problem. Divorced or separated people are three times more likely than married couples to file for bankruptcy. Working men and women in economic free fall often have no choice except bankruptcy. Yet, the credit card industry is determined to deny them the safety net they need.

There is no doubt that large numbers of Americans will be harmed by this legislation. They do the right thing and play by the rules. They work hard and try to provide for their children. But sometimes, unexpected tragedy strikes, and nothing can prepare them for the financial difficulties they will encounter.

The Trapp family of Plantation, FL is one of these families. They are not wealthy cheats trying to escape from their financial responsibilities. They are a middle class family engulfed in debt, because of circumstances beyond their control.

Mr. and Mrs. Trapp worked as letter carriers for 12 years. Both worked before and after their three children were born. They had a good life, but an unexpected medical obstacle occurred. Their 4 year old daughter, Annelise, contracted a muscle disease that is similar to a very rare form of Muscular Dystrophy. Her muscles are very weak. She needs a respirator to breathe, and she also needs constant nursing care.

The Trapps had good health insurance through the United States Postal

Service. But even with this comprehensive coverage, Annelise's medical expenses left the family with massive debts. Their insurance has paid millions of dollars, but the Trapps' portion of the bills was still \$124,000. This debt combined with \$26,000 owed on a specially manufactured van to accommodate Annelise made it impossible for the family to meet its financial obligations. They were forced to declare bankruptcy.

Proponents of the bill argue that the Trapp family would not be affected by the means test, because their current income is below the State median income. That is not true. Before Mrs. Trapp left her job, the family's annual income was \$83,000 a year or \$6,900 a month. Under the bill, the Trapp family's previous six months' income would be averaged, so that they would have an average monthly income of about \$6,200—above the State median—even though their actual monthly gross income at the time of filing was \$4,800.

Based upon the fictitious income assumed by the legislation, the Trapp family would be subject to the means test. And the means test formula—using the IRS standards—assumes that the Trapps have the ability to repay more than their actual income would allow.

This harsh legislation is an undeserved windfall for one of the most profitable and powerful industries in America. Credit card companies are engaged in massive and unseemly nationwide campaigns to hook unsuspecting citizens; like the elderly, college students, and the working poor, on credit card debt. In 1999 alone, Americans received 3 billion—3 billion—credit card solicitations. That's more than three times the 900 million mailings they received in 1992.

The average American household is carrying \$7,500 worth of debt, 150 percent higher than a decade ago. A major cause of the problem is that the cost of credit has gone up, and credit card companies are bolstering their profits through heavy penalties and aggressive collection practices. Credit card companies are also targeting marketing campaigns at those who cannot afford to pile up such debts. Instead of helping these individuals recover from their debts, the industry is supporting legislation that will only drive them deeper into financial despair.

Supporters of the bill argue that it is not a pro-credit card industry bill. But, to deal effectively and comprehensively with the problem of bankruptcy, we have to deal with the problem of debt. We must see that the credit card industry does not abandon fair lending policies to fatten its bottom line, or ask Congress to become the collector for its unpaid credit card bills.

The industry and congressional supporters of the bill attempt to argue

that the bankruptcy bill will help, not hurt, women and children. But that is false and misleading.

Proponents of the bill praise the alimony and child support provisions. They say that these provisions will make child support and alimony payments the number one priority in bankruptcy. But this rhetoric masks the complexity of the bankruptcy system. When taken individually, some of these provisions are positive steps towards helping women and children collect the support to which they are entitled. However, they do not address the main problem created by the bankruptcy bill.

Thirty-one organizations that support women and children have said, "Some improvements were made in the domestic support provisions . . . However, even the revised provisions fail to solve the problems created by the rest of the bill, which gives many other creditors greater claims—both during and after bankruptcy—than they have under current law." It is obvious that if this bankruptcy legislation is enacted, women and children will be the ultimate losers in the process.

It is true that the pending legislation moves support payments to first priority in the bankruptcy code. But the first priority ranking only matters in the limited number of cases in which the debtor actually has assets to distribute to a creditor. As 116 professors of bankruptcy and commercial law have stated:

Granting "first priority" to alimony and support claims is not the major solution the consumer credit industry claims, because "priority" is relevant only for distributions made to creditors in the bankruptcy case itself. Such distributions are made in only a negligible percentage of cases. More than 95 percent of bankruptcy cases make NO distributions to any creditors because there are no assets to distribute. Granting women and children first priority for bankruptcy distributions permits them to stand first in line to collect nothing.

Beyond the false rhetoric claiming that women and children receive "first priority" lies an ugly truth—in many instances, women and children will be last in line. Under current law, an ex-wife trying to collect support has special protection. But under the pending bill, more debt is created that cannot be discharged after bankruptcy—credit card debt. This step will certainly create intense competition for the former husband's limited income. Under current law, he can use his post-bankruptcy income to meet his basic responsibilities, including his student loans, his tax liability, and his support payments to his former wife and children. But if this bill becomes law, one of his so-called "basic" responsibilities will be a new one—to Visa and Mastercard. We all know what happens when women and children are forced to compete for these scarce resources with these sophisticated lenders—they lose!

Although many of the new domestic support provisions are helpful, they don't solve the problem created by this bill—and some of those provisions undermine the ability of women to collect support payments. Under the bill, a prerequisite to Chapter 13 approval is the payment of support claims. The goal is worthwhile, but other provisions in this bill will drain debtors of available funds and prevent them from meeting the requirements of a Chapter 13 plan and from making child support payments. If there is not enough money to cover all obligations, including the new obligations created by this bill, more Chapter 13 plans will fail, making the provision worthless and making it less likely that women and children will get the support they deserve.

This legislation not only unfairly targets middle class and poor families—it also leaves flagrant abuses in place. Any credible bankruptcy reform bill must include a homestead provision without loopholes for the wealthy.

The pending bill does include a half-hearted loophole-filled homestead provision. However, it will do very little to eliminate fraud. With a little planning—or in some cases, no planning at all—wealthy debtors will be able to hide millions of dollars in assets from their creditors. For example, Allen Smith of Delaware—a State with no homestead exemption—and James Villa of Florida—a State with an unlimited homestead exemption—were treated very differently by the bankruptcy system. After trying desperately to make ends meet in the midst of financial distress, Allen Smith eventually lost his home. However, James Villa was able to hide \$1.4 million from his creditors by purchasing a luxury mansion in Florida which he was able to keep after bankruptcy.

Last year, the Senate passed the Sessions-Kohl homestead amendment which corrected this abuse of the bankruptcy system. But that provision is not in this bill. Surely, a bill designed to end fraud and abuse should include a loophole-free homestead provision.

For any bankruptcy reform to be effective, the homestead loophole must be closed permanently. It should not be left open just for the wealthy. Yet the bill's supporters refuse to fight for such a responsible provision with the same intensity they are fighting for the credit card industry's wish list, and fighting against women, against the sick, against laid-off workers, and against other individuals and families who will have no safety net if this unjust bill passes.

Proponents of the bill also argue that it will help small businesses. This is another credit card industry myth.

This bankruptcy reform bill is not based on any serious business need. In fact, its overhaul of Chapter 11 will hurt, not help, small businesses. Chap-

ter 11 was enacted to serve the interests of business debtors, creditors, and other constituencies affected by business failures—particularly employees. A principal goal of Chapter 11 is to encourage business reorganization in order to preserve jobs. Supporters of the bill ride roughshod over this important goal. They create more hurdles, additional costs, and a rigid, inflexible structure for small businesses in bankruptcy. As a result, fewer small business creditors will be paid, and more jobs will be lost.

It is a travesty that hard-working American families will be the victims of bankruptcy reform. AFL-CIO President John Sweeney said it well:

This bill punishes working families who need protection from financial distress—distress all too often the result of the terrible financial burden of catastrophic illness or other personal tragedies. It threatens jobs in financially distressed companies, all while it carefully protects abuses of the bankruptcy system that benefit the rich—abuses like the homestead exemption.

I agree with John Sweeney and the scores of labor, consumer, religious, and civil rights groups who oppose this bill. It is clear that the bill before us is designed to increase the profits of the credit card industry at the expense of working families. If the bill becomes law, the effects will be devastating, and I urge my colleagues to reject it.

Mr. President, I want to take a few moments of the Senate's time to go through these charts and illustrate some of the points I mentioned in my earlier statement. This chart represents why Americans file for bankruptcy.

Medical problems, or substantial medical debt, are the reasons for 45 percent of bankruptcy filings. Job problems are 68.9 percent, effectively 70 percent. Those reasons taken together—job and medical problems—amount to 75 percent of all bankruptcies.

This obviously is accelerated. For what reasons? One reason is the increasing softness of the economy at the current time and the increasing number of unemployed, particularly with many mergers leading to dramatic changes in income over a relatively short period of time.

Another reason is the increasing number of Americans who do not have health insurance and, correspondingly, the increasing amount being paid for prescription drugs. If one looks behind these figures with reference to medical problems, one will find most of them are older workers in their fifties, prior to the time they are eligible for Medicare.

The total number of Americans who are uninsured is increasing. All of that is related to the increasing number of layoffs. The increasing number of uninsured and the increasing costs of prescription drugs are reflected in this figure.

Let's look at the remaining approximately 25 percent. Basically, the other 25 percent are women who are single, women involved in divorce. If we look over this chart, we see that in 1981—red representing joint bankruptcies, yellow the men, and blue the women—single women were third, behind joint filers and less than men. Joint bankruptcies continued. The women passed the men in 1991. In 1999, the women were No. 1. They came from being third, virtually about one-fifth of the total, to now being almost half the total.

Who are these individuals? Who are these women? These are women who have not been able to claim their alimony. A great percentage of these are women who are unable to get child support to which they are entitled. What happens to them? They end up in bankruptcy.

Then we find out how the new provisions in this bill treat them. They treat them much more harshly. I'm not the only one saying it, although I have repeated it. Virtually every single group that is an advocate for children, women, or workers agrees, let alone the bankruptcy professionals involved in this. That is what this bill is about.

I have a list of those groups that are strongly opposed to it. The various women's groups include: National Women's Law Center, National Partnership for Women and Families, Children's Defense Fund, American Association of University Women, Church Women United, Coalition of Labor Union Women, National Center for Youth Law, Center for Child Care Workforce, the YMCA, and Children NOW. The labor groups include: The AFL-CIO, Communications Workers of America, United Steelworkers of America, International Brotherhood of Teamsters, and the list goes on. Other key groups include: Leadership Conference on Civil Rights, Consumers Union, Consumer Federation of America, Religious Action Center, Alliance of Retired Americans, and National Senior Citizens Law Center.

This is just part of the list of groups whose prime responsibility is representing vulnerable children. That is the purpose of the Children's Defense Fund. The other organizations protect women in our society from the harshness of legislation and from the inequities of the workplace. All of them are universally against this legislation because they find it puts a harsh burden on children, women, workers, and on those who have experienced a significant increase in their medical bills. That is what is happening. This is a profile of those individuals who are going into bankruptcy.

Generally at the end of the day around here, we look at pieces of legislation and ask on the one hand, who benefits and on the other, who pays. It is not a bad way of looking over legislation. If we had more of that around

here and we looked out for average working families, we would come to some rather different conclusions. We certainly would on this one because virtually the entire bankruptcy bar, those professors who are teaching in law schools in the North, South, East, and West, as well as judges, have come to the same conclusions.

Members of the Judiciary Committee have reviewed it as a result of the hearings. Advocates of the various groups have been out there time and time again. One might find fault with one particular group, but virtually all the groups that represent children and workers are opposed to this legislation because of its unfairness.

Those who will benefit are the credit card industry and the banks, make no mistake about it. That is enormously interesting to me, as someone who is the prime sponsor of the minimum wage. We can find time for consideration of the bankruptcy bill; yet we do not have time to look at an increase in the minimum wage for hard-working Americans. We cannot find time to schedule that, but we can find time to consider legislation that is going to benefit some of the wealthiest and most powerful companies and corporations in America. Make no mistake about it, that is what this legislation is about.

As this institution and its leadership is about choices, make no mistake what the choice is. The choice is to look after the interest of the credit card companies and the banks. That is first. It is early March, and that is where we are. I hope the American people are aware of this legislation and its implications.

DEPARTMENT OF LABOR ERGONOMICS RULE

Mr. KENNEDY. Mr. President, I want to speak on another issue affecting working families that also will be coming up in a very few hours. That is the proposal that will be made by, as I understand, our Republican leadership or representatives introducing legislation which, after a 10-hour agreement, will vitiate the existing rules to protect American workers from ergonomic injuries.

If we asked Americans 10 years ago what ergonomic injuries were, a great many Americans would not have been able to pronounce the word "ergonomic," and they really would not have had much of an understanding as to what the problem was.

Interestingly, there was a very courageous and brave woman who did understand that problem and that challenge and was willing to do something about it. That was then-President Bush's Labor Secretary, Elizabeth Dole. This is what the Secretary of Labor said about ergonomic injuries in 1990, 11 years ago:

One of the Nation's most debilitating across-the-board worker safety and health illnesses. . . .

We must do our utmost to protect workers from these hazards. . . .

By reducing repetitive motion injuries, we will increase both the safety and productivity of America's workforce. I have no higher priority than accomplishing just that.

That was 11 years ago. Over the period of the last 10 years, we have had study after study by the National Academy of Sciences, by the Institutes of Medicine, by a range of different independent groups. Finally at the end of last year, there was the promulgation of a rule to provide protection.

For whom are we providing protection? Basically, ergonomic injuries are repetitive motion injuries, including carpal tunnel syndrome, tendonitis, and back disorders. Ergonomic injuries occur across the board. Among those affected are secretaries who endure carpal tunnel syndrome from the use of computers, factory workers who pick up and place equipment on assembly lines, nurses who suffer back injuries from lifting patients, and high-tech workers who sit at keyboards all day long. All across our new economy, these injuries are taking place.

Let's look at the numbers of people affected. The source is the Bureau of Labor Statistics in the year 2000. There are 1.8 million ergonomic injuries reported yearly, and 600,000 people lose time from their work yearly. Ergonomic injuries impose annual costs of \$50 billion; account for over one-third of all serious job-related injuries; and account for over two-thirds of all job-related illnesses.

Why do I bring this up? We were talking a few moments ago about bankruptcy, and that is the measure before the Senate. Tomorrow, on a privileged motion, without any other earlier statement, only what we have read in the newspapers and in the last several hours have confirmed, we will face a motion made by the other side under particular procedures. We will permit only 10 hours of debate, and if that motion carries, the rule that was in the works for 10 years will be wiped out within a 10-hour period. The way the language of the law is drafted, there will be little recourse to reissue the rule in its current form.

That is what will be before the Senate tomorrow. We will get off this bankruptcy bill with time enough to look after another major issue of special importance to the Chamber of Commerce and the National Association of Manufacturers. Of course, the Chamber of Commerce has a direct interest in bankruptcy, because of the credit card industry and the banking industry. The Chamber of Commerce is leading the battle on this bankruptcy bill.

The Chamber is looking for a twofer this year. They are looking for two big wins at the expense of working Americans: one, in the area of bankruptcy;