

SENATE—Tuesday, March 1, 2005

The Senate met at 9:45 a.m. and was called to order by the Honorable TOM COBURN, a Senator from the State of Oklahoma.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Infinite spirit, we praise You for Your mighty deeds. Everything You do is right and no other god compares with You. You alone work miracles and You have let nations see Your mighty power.

Be with our Senators and their staffs. Give them the wisdom to trust You and to follow Your precepts. Make the future bright for them and their loved ones as they seek first to live for You. Give them hearts that refuse to forget those who live on life's margins: The lost, the lonely, and the least. Open their eyes to see the pain in our world. May the words they speak bring life and peace.

Only You, Lord, are our mighty rock. We place our hope in You, for You rule the Earth with justice. Amen.

PLEDGE OF ALLEGIANCE

The Honorable TOM COBURN 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. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 1, 2005.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TOM COBURN, a Senator from the State of Oklahoma, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. COBURN thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning, following leader time, we will proceed to a period of morning business for up to 60 minutes. That time is divided for the majority for the first 30 minutes and the minority in control of the second 30 minutes. At approximately 11:30 a.m. the Senate will resume consideration of the bankruptcy bill.

Yesterday, we began debate of the bankruptcy bill with several opening statements and made great progress. Today, we expect to begin the amendment process. I understand Senator DURBIN may be able to offer an amendment when we resume the bill this morning.

We will recess from 12:30 until 2:15 today for the weekly policy luncheons.

With respect to the voting schedule, it is my expectation to have votes this afternoon on bankruptcy-related amendments. Most probably we will not vote after 7 o'clock tonight, but as the schedule proceeds we will be able to make those announcements. We will have votes this afternoon.

Given the compressed workweek, I hope to make great progress on the bill this week, spending Monday, Tuesday, Wednesday, Thursday, and Friday on this bill. Hopefully we can complete it this week.

BANKRUPTCY REFORM

Mr. FRIST. Mr. President, I will address my leader comments this morning to the bill S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005. This legislation was passed with bipartisan support in the Judiciary Committee on the 17th. Over the last 7 years, it has repeatedly passed this Senate and the House with bipartisan majorities. Yet we still do not have a bill as law. That is the goal in this Congress.

Both sides of the aisle recognize the current system is calling out for reform. Personal bankruptcies are skyrocketing and, at the same time, wealthy debtors are walking away from debts that they have the ability to repay. This abuse does not just hurt the creditor they owe, but it hurts all who end up paying higher fees and higher prices as a result of the system that is out of control.

It is fitting that a Senator from Tennessee is talking about this issue. As it happens, a city in my home State of Tennessee, Memphis, has come to be known as the bankruptcy capital of America. Memphis ranks No. 1 in personal bankruptcy filings if you com-

pare Memphis to 331 metropolitan areas. The total bankruptcy filing rate in Memphis in 2004 was roughly 26 people for every 1,000 residents. That is well over three times the national average.

Bankruptcy has become so common that it has lost the stigma it had even a short generation ago. Today it is just another method for getting out of debt, a tool just to get out of debt. Some folks have even been known to plan their bankruptcy. They buy a house or they buy a car or furniture or whatever else they need and then file a bankruptcy form. They figure they can get the big ticket items upfront, and for everything else they will use cash.

It is not altogether an accident that the Memphis bankruptcy system is what one attorney calls a "well-oiled" machine. It was Memphis's very own U.S. Representative, Walter Chandler, who established a chapter of bankruptcy law with the 1938 Chandler Act. His motivation was simple. America was going through the Great Depression. Times were tough for everyone. Debtors wanted to pay back what they owed, and local businesses needed to stay afloat. Congressman Chandler reformed the system to help those in dire financial trouble go to the courts and work out, appropriately, a payment plan.

Congress has passed, and the courts have upheld, Federal bankruptcy laws for over 100 years. The Constitution gives Congress the express power to "establish uniform laws on the subject of bankruptcies throughout the United States."

And the Supreme Court has stated:

One of the primary purposes of the Bankruptcy Act is to give debtors a new opportunity in life in a clear field for future effort, unhampered by the pressure and discouragement of preexisting debt.

Unfortunately, however, we veered away from this original positive, constructive, good intent. Bankruptcy filings were low during the early part of the 20th century. They were generally tied to whatever the business cycle might have been. In the past two decades, the number of bankruptcies have skyrocketed, actually accelerating during the economic boom, speeding up during the boom of the 1980s and the 1990s. The total number of bankruptcies more than doubled during the 1980s and then doubled, once again, from 1990 to 2003.

For too many people, bankruptcy is no longer a last resort. It has become a first stop. Opportunistic debtors who have the means to repay use the law to evade personal responsibility.