

times with damaged rivers and polluted waters, will have access to vital Federal funds to ensure that those communities can be reinvigorated.

So I ask my colleagues to join me in support of this amendment as a safeguard for private property and for American communities.

Thank you, Mr. President. I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I share many of the sentiments expressed by my colleague from Arkansas. I believe that he has brought up an important issue, an issue that should not be decided simply by fiat from the President and the President's administration, but one that ought to be carefully considered here by the Congress.

Without having read every word of his amendment, I am inclined to tell him that I agree with it. I must tell him at the same time, in this relatively empty Senate Chamber, as he knows, his amendment will be quite controversial. I am certain it will require a rollcall. For that reason, I am particularly happy that he did bring it up tonight so that other Members can consider its provisions so that it can be debated further tomorrow. But while I had said not too long ago that I did not know of a number of other amendments that will require a rollcall, I will have to amend that statement and say that I think that the amendment of the Senator from Arkansas will require a rollcall.

I do hope that he and others will speak on it tomorrow. I just say that I think the statement he has made is correct, that this is an issue in which the Congress should be involved.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

#### THEMES FOR BANKRUPTCY REFORM IN THE 105TH CONGRESS

Mr. GRASSLEY. Mr. President, I rise today to address an important topic which will be coming before the Senate in the near future. In 1994, Congress created the Bankruptcy Review Commission and charged this Commission with developing suggestions for changing the bankruptcy code. As the ranking member of the subcommittee with jurisdiction over bankruptcy at that time, I assisted in creating the Commission. When I became the chairman of the subcommittee after the 1994 elections, I fought to ensure that the Commission was funded. The Commission's report is due on October 20, 1997.

I will have much to say at that time about the Bankruptcy Review Commission and the way in which it was conducted. As some of my colleagues may know, there have been some troubling instances that have come to my attention regarding the way the Commission has operated.

For now, however, I simply want to outline my views on the substance of bankruptcy reform.

I believe that the current bankruptcy system needs to be fixed in several ways. Under current law, it is just too easy to declare bankruptcy. And it is too easy for people who declare bankruptcy to avoid repaying their debts when they have the ability to do so. Of course, decades of irresponsible and runaway spending by Washington has set a bad example for the American people, so Congress bears some of the responsibility for this new attitude of deficit living that seems to push many Americans into bankruptcy.

With record numbers of personal bankruptcies in this country, American businesses are losing millions of dollars a year to bankruptcy. And this results in higher prices for homes, cars and other consumer goods for those Americans who pay their bills on time, and as agreed. In other words, those of us who play by the rules are picking up the tab for those who don't.

I think that Congress needs to tighten the bankruptcy system so that bankruptcy is reserved for only those Americans who really need the extraordinary protections of the bankruptcy code. At the same time, I'm very aware that creditors can sometimes use abusive tactics. In fact, Sears was recently forced to pay a multi-million dollar settlement for engaging in abusive activity. So, in my opinion, bankruptcy reform which will help creditors get more of what they are owed should also include reforms to enhance protections for debtors from harsh or abusive conduct.

Section 707(b) is one example of a situation where the bankruptcy code sends the wrong signal to the American people and may encourage irresponsible conduct. Section 707(b) allows a bankruptcy judge to dismiss a chapter 7 case only to prevent substantial abuse. In other words, Section 707(b) says that it's OK to abuse the bankruptcy system somewhat, so long as you don't abuse it so much that the abuse becomes substantial. I think we in Congress ought to change this to say that debtors can't abuse the bankruptcy system at all. The consideration of Section 707(b) will be very important when Congress considers reforms in the context of consumer bankruptcy.

I also believe that chapter 11 of the bankruptcy code needs fundamental reform. In hearings before my subcommittee on how bankruptcy disrupts funding for education, I learned that many businesses which attempt to reorganize flounder for too long, thereby deleting the assets of the company. That's less money for creditors and em-

ployees of the company. I think that this should change. The Bankruptcy Review Commission has adopted a proposal to speed things up for small businesses in chapter 11 cases. I look forward to supporting that proposal in the next session of Congress.

I believe that Congress needs to look long and hard at the way attorneys are compensated in bankruptcy. It seems to me, from the reports I receive from around the country, that attorneys are using up the assets of the bankruptcy estate without really contributing very much. And attorney's fees are paid ahead of—and at the expense of—schools, workers and children entitled to child support. I think that's something we need to change. I'm a little disappointed that the Review Commission did not really get into this issue, but it is something that I will be pursuing in the bankruptcy reform bill.

Another area which needs attention is the effect of the new global economy on bankruptcy. With the increase in international trade, many complex questions arise when a multinational company declares bankruptcy. Right now, international insolvency is an issue where there isn't very much international cooperation. The United Nations recently approved a model law on international insolvency and bankruptcy and I look forward to considering that model law in the coming year. In the United States, we put a great deal of emphasis on reorganizing companies under chapter 11. Chapter 11 protects jobs and creditors. But other nations don't put such an emphasis on reorganization. So these foreign nations sometimes aren't as respectful of our bankruptcy laws as they should be. Of course, the United States has exercised a leadership role in the area of international bankruptcies for many years through section 304 of the Bankruptcy Code which recognizes the validity of foreign bankruptcies. It is time to take the next step and make sure that all companies—wherever they are located—are treated fairly when they confront the bankruptcy laws of a foreign nation. If companies fear that they won't be treated fairly under a foreign nation's bankruptcy system, they may be less willing to invest. And that would hamper international trade, which America needs if it is to remain a strong and vibrant economy.

Mr. President, unfortunately there is a very parochial perspective among many bankruptcy professionals. The idea has somehow flourished that bankruptcy should be as broad and all-encompassing as possible. I don't share this point of view. I think we have to remember that bankruptcy should be a last resort. And that means the bankruptcy laws should be narrow and provide only as much relief as is necessary. The so-called automatic stay provides a clear example of the parochial attitude of many in the bankruptcy community. The automatic

stay is a court injunction which automatically arises whenever anyone declares bankruptcy. Earlier in this Congress, as part of the authorizing legislation for the Chemical Weapons Convention, I authored an amendment which gives the Government an exception to the automatic stay so that public health and safety regulations can be enforced. So, the philosophical question posed by my amendment is this: Which policy should win out, bankruptcy policy or public health and safety policy? For me, that choice is simple. I want to protect the American people from unsafe food and unsafe airlines. But many in the bankruptcy community believe that Congress should make the opposite choice.

When we begin the process of bankruptcy reform, I will be looking to find other instances in which the Bankruptcy Code harms the public so that Congress can make changes to protect the public.

The broad themes that I believe will dominate bankruptcy reform in the 105th Congress, include the following: Promoting personal responsibility; protecting consumers, debtors, and the public; promoting international commerce; and protecting States' rights where possible.

I look forward to coming before the Senate next year with a good bankruptcy reform bill which promotes these themes. I hope to do that in a bipartisan manner. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. KEMPTHORNE. Mr. President, I thank the Chair.

(The remarks of Mr. KEMPTHORNE and Mr. CHAFEE pertaining to the introduction of S. 1180 and S. 1181 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

#### MORNING BUSINESS

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business with Senators permitted to speak therein for up to 5 minutes each.

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

#### THE BOSNIAN ELECTIONS

Mr. BIDEN. Last weekend the people of Bosnia and Herzegovina went to the polls to elect municipal governments. These local elections had been postponed from last year because of tampering with registrations, chiefly by the Bosnian Serbs.

I am happy to report, Mr. President, that this year's municipal elections were a success. Despite dire threats of violence against refugees and displaced persons who wanted to cross over to their former homes to vote, over 2 days not one single incident of serious violence occurred in the entire country.

Why? Because SFOR, led by recently reinforced American troops, made clear to all parties that violence would not be tolerated.

Every single time over the past several years when the West has been forceful in its behavior, the ultra-nationalists in Bosnia have backed down.

The elections were carried out by the Organization for Security and Cooperation in Europe [OSCE], in which the United States is an active member. The OSCE deserves a great deal of credit for its successful labors.

The results of the elections will not be known for several days. Already, however, some encouraging signs are emerging. In Tuzla, the Muslim Party for Democratic Action [SDA] conceded defeat by Mayor Selim Beslagic's multi-ethnic joint list. I met Mayor Beslagic last month. He represents just the kind of democratic, tolerant, pragmatic politician that can rebuild Bosnia.

Until now the three ethnically based parties that profess to represent the interests of the Muslims, Serbs, and Croats have dominated the airwaves and the patronage system. Tuzla—and perhaps other cities in both the federation and the Republika Srpska—show that if SFOR and the international community guarantee equal access, their monopoly on power can be broken.

Moreover, it is likely that thanks to absentee voting and to the protection offered by SFOR to returning refugees, the election may reverse the vile ethnic cleansing of the war. For example, the town of Drvar in western Herzegovina was 97 percent Serb until the town's inhabitants were driven out in the fall of 1995. Last weekend the Croats who displaced the Serbs did their best to harass returning Serb voters. International election officials from the OSCE, however, insisted that the Serbs be allowed to vote.

Several other towns like Jajce and Srebrenica, site of the largest civilian massacre in Europe since World War II, may see their former inhabitants, in these two cases Muslims, forming the governments.

The international community is now faced with the stark question of whether it will enforce the results of the elections by guaranteeing that the newly elected councils not remain governments in exile.

Enforcing the election results, of course, means that the right of refugees and displaced persons to return must be honored. In most cases that would be able to be accomplished only by the international community under the protection of SFOR.

Mr. President, I believe we have no choice in this matter. Both for moral and practical reasons we must move rapidly to enforce resettlement of refugees. This will be a difficult task, and time is short before the onset of the Balkan winter. Most likely we will have to begin with highly visible demonstration returns in one to two selected towns. But we must keep the democratic momentum going.

Rebuilding shattered Bosnia is an immense undertaking. Now for the first time in years, there has been a string of successes. The United States has been the prime mover in these, and we must continue our valuable and honorable work.

I thank the Chair and yield the floor.

#### THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, September 15, 1997, the Federal debt stood at \$5,388,983,472,859.37. (Five trillion, three hundred eighty-eight billion, nine hundred eighty-three million, four hundred seventy-two thousand, eight hundred fifty-nine dollars and thirty-seven cents)

Five years ago, September 15, 1992, the Federal debt stood at \$4,033,874,000,000. (Four trillion, thirty-three billion, eight hundred seventy-four million)

Ten years ago, September 15, 1987, the Federal debt stood at \$2,353,169,000,000. (Two trillion, three hundred fifty-three billion, one hundred sixty-nine million)

Fifteen years ago, September 15, 1982, the Federal debt stood at \$1,113,183,000,000 (One trillion, one hundred thirteen billion, one hundred eighty-three million)

Twenty-five years ago, September 15, 1972, the Federal debt stood at \$436,866,000,000 (Four hundred thirty-six billion, eight hundred sixty-six million) which reflects a debt increase of nearly \$5 trillion—\$4,952,117,472,859.37 (Four trillion, nine hundred fifty-two billion, one hundred seventeen million, four hundred seventy-two thousand, eight hundred fifty-nine dollars and thirty-seven cents) during the past 25 years.

#### HISPANIC HERITAGE MONTH

Mr. HATCH. Mr. President, it is with great pleasure that I join with my colleagues in celebrating Hispanic Heritage Month.

Since 1968, we have formally recognized and celebrated the tremendous contributions of Hispanic-Americans to the history, strength, security, and development of our great nation. This year, we once again embark on this