

Mr. NICKLES. Mr. President, I ask for the yeas and nays on the nomination.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is, Will the Senate advise and consent to the nomination of John M. Duncan to be Deputy Under Secretary of the Treasury? The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Nebraska (Mr. HAGEL) and the Senator from Arkansas (Mr. HUTCHINSON) are necessarily absent.

Mr. REID. I announce that the Senator from Delaware (Mr. CARPER), the Senator from South Dakota (Mr. JOHNSON), the Senator from Arkansas (Mrs. LINCOLN), and the Senator from Nebraska (Mr. NELSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Delaware (Mr. CARPER) would vote "aye."

The result was announced—yeas 94, nays 0, as follows:

[Rollcall Vote No. 14 Ex.]

YEAS—94

Akaka	Dorgan	McConnell
Allard	Durbin	Mikulski
Allen	Edwards	Miller
Baucus	Ensign	Murkowski
Bayh	Enzi	Murray
Bennett	Feingold	Nelson (FL)
Biden	Feinstein	Nickles
Bingaman	Fitzgerald	Reed
Bond	Frist	Reid
Boxer	Graham	Roberts
Breaux	Gramm	Rockefeller
Brownback	Grassley	Santorum
Bunning	Gregg	Sarbanes
Burns	Harkin	Schumer
Byrd	Hatch	Sessions
Campbell	Helms	Shelby
Cantwell	Hollings	Smith (NH)
Carnahan	Hutchison	Smith (OR)
Chafee	Inhofe	Snowe
Cleland	Inouye	Specter
Clinton	Jeffords	Stabenow
Cochran	Kennedy	Stevens
Collins	Kerry	Thomas
Conrad	Kohl	Thompson
Corzine	Kyl	Thurmond
Craig	Landrieu	Torricelli
Crapo	Leahy	Voivovich
Daschle	Levin	Warner
Dayton	Lieberman	Wellstone
DeWine	Lott	Wyden
Dodd	Lugar	
Domenici	McCain	

NOT VOTING—6

Carper	Hutchinson	Lincoln
Hagel	Johnson	Nelson

The nomination was confirmed.

The PRESIDING OFFICER (Mr. SESSIONS). The President will be notified.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

The majority leader.

UNANIMOUS CONSENT REQUEST— BANKRUPTCY

Mr. LOTT. Mr. President, as most Members know, the Senate has been waiting for the Judiciary Committee to complete action on the very important bankruptcy bill for some time now. There is a long history behind it. As you recall, we passed the bankruptcy bill last year by a very wide margin, 70–28. The bill was eventually vetoed, even though, when I talked to the President personally about it, I had the impression that he had some hesitancy in vetoing it, but he did. And in view of the lateness of the hour, it was not overridden—an effort was not made to override it.

So at the beginning of this session, it seemed to me this was a bill that had been worked through the meat grinder very aggressively and that we should move it very quickly. So my thought was we should file it and, under rule XIV, bring it directly to the floor of the Senate. I did not make any effort to do that in a surprising way. There seemed to be pretty broad agreement that that would be a reasonable way to approach it.

However, there was some feeling by the ranking member on the Judiciary Committee that the committee should have a chance to have a look at the legislation. I discussed it with the chairman of the Judiciary Committee, Senator HATCH. While he would have preferred that it go straight to the floor, he thought that was a reasonable request and that that would make the Members feel it was being done in a fairer way. So be it; that would be fine.

All along, of course, I was talking to Senator DASCHLE, and we were talking about the best way to proceed, never wanting to surprise him at all. So it went to the Judiciary Committee. At that point then, there was an objection which delayed it for another week. And I thought the next week we would get it out. For a variety of reasons, without pointing fingers at anybody, it did not come out the week before the President's Day work period. Then I thought that this week we would get to it.

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. They reported out the bill today, so we are ready to go. I hope we can get to the substance of the bill and have a full and free debate—amendments will be offered, considered, and voted on—and then we will bring this legislation to conclusion.

This is a part of my extraordinary, good-faith effort, I say to the distin-

guished Senator from Minnesota, to make sure we go by regular order—let the committees do their job, be considerate of other Senators' wishes, be considerate of the chairman of the Judiciary Committee, be considerate of the ranking Democrat on the committee, and confer with my colleague, Senator DASCHLE, the leader of the Democrats here in the Senate, to make sure he is aware of what I am thinking, and ask for his help. And he has given it.

So I really bent over backward. It is part of this atmosphere we are trying to create—bipartisanship, working together. As we look toward bringing education to the floor, and campaign finance reform to the floor, and the budget resolution, I am doing everything I can to set a tone where everybody can make their case. Everybody will have that opportunity. But I must say, I am really getting frustrated. However, I am ever hopeful that my gentle nature and my plaintive plea will appeal to the Senators who might have some reservations about us moving to consider this bill.

So, Mr. President, I ask unanimous consent that the Senate begin consideration of the bankruptcy bill, reported out of the Judiciary Committee today, at 10 a.m. on Thursday.

The PRESIDING OFFICER. Is there objection?

Mr. WELLSTONE. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. REID. Will the Senator yield?

Mr. LOTT. I am glad to yield to the distinguished assistant minority leader.

Mr. REID. Mr. President, I say to the majority leader, we know the strong feelings the Senator from Minnesota has, and we respect that wholeheartedly.

I had one problem with the bill that dealt with something that was offered on the floor by Senator SCHUMER and me dealing with clinic violence. It went to conference. They stripped it, even though it passed here by an extremely wide margin.

The Judiciary Committee put that in yesterday. It is in the bill that will come before the Senate. I am very grateful to Senator LEAHY, who worked so hard on this matter, and the entire Judiciary Committee for allowing it to be part of this bill.

I believe it is a much better bill with this provision in it. It was not in the bill when it came to the floor out of conference. I voted against it. I am appreciative of what the Judiciary Committee has done in this regard.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, I will be glad to yield to the Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I will follow our minority leader. I wanted to respond to what the majority leader said, but I will follow the leader.

Mr. DASCHLE. I would prefer to follow the senior Senator from the State of Minnesota.

Mr. LOTT. To help with all this, why don't I yield the floor. I will stay to participate because I have a feeling the Senator from Minnesota is going to be persuaded by the generous nature of his leader and my persuasive abilities to let us get to the substance of the bill. I know with this Senator from Minnesota, I have heard him time and time again say: I have a right as a Senator to make my case and offer my amendments. I believe he will remember on occasion I have supported his right to be able to do that. He will have his right. But to delay this bill another week, what does it accomplish? We could begin to make progress, and we could have a vote on amendments.

I wish he would reconsider. This is on the motion to proceed. I think the American people look at us and say: Excuse me? You are going to have a cloture vote to cut off a filibuster on the motion to proceed to the bill; then you are on the bill and you have to do it again?

I hope the Senator will relent. I yield the floor to see what the Senator has to say.

THE PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I won't be long. I thank the majority leader for his graciousness, even though we are in disagreement. I appreciate not only what he said but the way he said it.

It is extremely important that to the maximum extent possible we work together. This bill is going to come to the floor of the Senate; there is no question about it. There are going to be votes. As a Senator from Minnesota, I will use this occasion. Perhaps we will have discussion tomorrow and can reach some agreement about how to move forward. Let me say that to the majority leader.

This is an opportunity for me to say to other Senators and, more importantly, to the people of Minnesota, this bill is harsh and one sided. I cannot believe that we make it so difficult for people who find themselves in such difficult circumstances. Fifty percent of the people of the country who declare bankruptcy do it because of a major medical expense. Almost all the rest of the cases are because of someone losing a job or because of a divorce.

I will not speak long, but I want the majority leader to know how heartfelt my objection is. It is not just a question of procedure or inside baseball in the Senate. I don't want to miss an opportunity to talk about how harsh and mistaken this piece of legislation is.

We just had 1,300 LTV workers laid off work in northeast Minnesota. The way this bill reads, in terms of what they can file for chapter 7, they are supposed to look at the average of their income over the last 5 months. That doesn't help them. Many of them just lost their jobs. I don't want them to go under. I want them to be able to rebuild their lives.

In my not so humble opinion, this is a classic example of a financial serv-

ices industry with enormous clout putting on a full court press. I am proud, working with other Senators, to have held them off and held them off. This bill may pass. It doesn't ask these credit card companies to be accountable at all. It does not deal with some of the worst circumstances that affect families that are going to go under. It has an onerous means test. It is extremely one sided.

The first piece of legislation we are going to pass in the Senate, as the economy begins to go down and people are worried about losing their jobs and are feeling the economic squeeze, is a piece of legislation that is going to make it practically impossible for many families that are going under, through no fault of their own, to file for chapter 7 and rebuild their lives. What a start.

I come to the floor to object because I believe this is an egregious piece of legislation. The majority leader has been gracious to me. He knows I have the right, as does the minority leader, to object.

I say to the majority leader: This is tonight. Because he has been gracious, we can talk tomorrow and maybe we can figure out a way that we can proceed. However, I am not going to give up my opportunity to talk about how harsh this legislation is, and I am not going to give up my opportunity, in every way I can, to point out the weaknesses. There will be plenty of opportunity next week as well.

I hope when we do move forward—and this is something I want to discuss with the leader—there will be the opportunity for amendments, and we will have a full-scale debate; we will operate as a Senate, which is what the majority leader and minority leader want us to do. For tonight, I have to object, and I object for those reasons.

THE PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, once again, we hear the eloquent passion of a Senator who cares deeply about an issue. I applaud him for that passion and his compassion for those who are now out of work as a result of layoffs in Minnesota. I understand how deeply felt his views are.

He has expressed, in his own eloquent way, that it is within his right to object tonight. Each Senator has enormous power to stop things. Each Senator has enormous power to change the legislative process.

The majority leader, on several occasions, could have thwarted this process, avoided regular order, prevented Senators from the opportunity that I believe we will have next week to offer amendments. He could have done a number of things using his rights, first as a Senator and, secondly, as a leader, to undermine what we have delicately constructed here in this new bipartisan environment. He could have done that. Senator LOTT chose not to do that.

The majority leader said, in keeping with the spirit we are trying to main-

tain, as much as I wanted to go to this bill 3 weeks ago, last week, the week before, as many times as we have talked about this, every time I have asked him, he has said: Look, I am going to try to maintain the kind of spirit that we have been able to create so far where we can have a win-win; Senators who are passionately opposed to this bill ought to have the right to express themselves, ought to have the right to offer amendments, ought to have the right to have a good debate; Senators who want to move this process along ought to be able to use the tools available to them to do that as well.

What we are trying to do is to strike a delicate balance because there is passion on both sides. There is a depth of feeling on both sides. I, frankly, have been on both sides because I am so ambivalent about the importance of the arguments raised by the Senator from Minnesota as well as the concern that I have for the abuse we find in the system.

I appreciate very much the Senator from Minnesota expressing himself and at least giving us the possibility that we could revisit this issue tomorrow, and I recognize, once again, that if every Senator exercised all of their rights, we probably wouldn't get much done in this body.

But because everybody uses common sense, attempts to strike a balance between exercising those rights and moving along the legislative process, generally, we have worked out things in a way that has accommodated the needs of most people. It is in keeping with that spirit that I hope we can talk to the issue again tomorrow. I thank the Senator from Minnesota, and I thank the majority leader.

I yield the floor.

Mr. LOTT. Mr. President, I appreciate the comments of the Senator from South Dakota. He has been working with me in good faith. We communicate regularly. We have to keep trying to do that. That is why I sense that he feels the same frustration that I do, that we both try to bend over backward to accommodate everybody, and it is still very tough. We are facing further delays.

I am encouraged. The Senator from Minnesota has indicated we can talk tomorrow, and we will look for a way to move this legislation forward in a way that is acceptable hopefully to him and everybody else. I will look for him tomorrow.

There are two points I want to make. The first bill we pass in the Senate this year is not going to be the bankruptcy bill. I think the first one we passed was pipeline safety. It is good legislation, broadly supported. We passed one other bill that week. I think pipeline safety was the first one.

The other thing is that I understand how the Senator feels, and you have to have some emotions and compassion for people who get into difficult straits. There needs to be a way for them to

come out of them and get a job or have a job and get back into business. Also, this is personal with me, too. My mother and father tried to be small business owners. My dad was a pipefitter in the shipyard. It was hot, tough work. He decided they could get into the furniture business at one point. He would go pick up the furniture in his pickup truck and bring it back to the store. It was Market Street Furniture Company. I will never forget it. He would do the selling and delivering, and they sold a lot of items on credit. My mother was the bookkeeper in the back of the store. One of the reasons why they could not make it was that many of those people to whom they sold the furniture on credit just would not pay their bills.

So there is another side. There are small business men and women who wind up holding the bag, and when you are a small business man or woman, that profit margin is pretty tiny. It is 5 percent, 10 percent maybe. But I remember it was very small in that furniture store.

There were other factors involved, but eventually it ran them out of business. My dad went back to the shipyard, and he got to work in the pipe department. But that is the other side of the coin.

What about the small business men and women who are out there trying to create jobs to help their family and people say, "We don't want to pay"? A lot of them hide behind bankruptcy.

I have supported bankruptcy laws and reform of bankruptcy laws. I supported the bankruptcy judges system. But we have made it too easy now for people to use bankruptcy as an excuse to hide and get out of paying what they owe. There is broad, bipartisan support on this. I think we ought to get it done as soon as we can. I will work with the Senator to make sure he believes his voice was heard. I know how he feels about it personally. I do, too. There is another side of that coin. It is kind of a family thing with me. We will find a way to get it done.

I thank Senator DASCHLE and Senator REID for staying on the floor and working through this.

I yield the floor.

Mr. WELLSTONE. Mr. President, I don't want to debate the majority leader tonight. I want him to know that one of the good things about the very important debate we are going to have is that I will be able—the Presiding Officer is involved in this debate as well—to cite independent study after independent study showing that the abuse, when it comes to bankruptcy, is a very small percentage. I think the majority leader will be pleased to hear that given the comment he made. We will have the debate. I thank the majority leader.

MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate enter

into a period of morning business with Senators permitted to speak therein for up to 10 minutes each.

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

BLACK HISTORY MONTH

Mr. DASCHLE. Mr. President, I rise today to recognize the celebration of Black History month. It began in the 1920's when Dr. Carter G. Woodson, a historian and educator, proposed the idea of creating "Negro History Week" during the second week of February to commemorate the history and achievements of the black community. He chose this week to honor the birthdays of Abraham Lincoln and Frederick Douglass, both of whom had a great impact on the lives of African Americans across the country. Since 1976, we have dedicated the entire month of February to celebrating the contributions of African Americans throughout our Nation's history.

Today, African Americans represent about 13 percent of our total population, and they greatly contribute to the increasingly dynamic cultural tapestry of America. Over the years, they have actively shaped the future of our country in the roles of teachers, parents, judges, doctors, lawyers, religious leaders, and factory workers.

Although the African American population of my home State is smaller than most, the cultural heritage of South Dakota has been enriched by our African American community.

I am proud to tell you about Oscar Micheaux, the first African American to produce a feature-length film, as well as the first African American to break the "sound barrier" with a "talkie" motion picture, the earliest form of film with sound. Born to freed slaves in 1884, Micheaux grew up in Illinois as one of 11 children, before he moved to South Dakota to become a farmer. It was on the South Dakota prairie that he began to write, publish, and sell his first novels.

At a time when blacks were not welcome in the film industry, Micheaux started his own company, where he wrote, directed, and produced at least 43 movies during the course of his life. He dealt with such controversial subjects as white-on-black crime, intra-racial discrimination, and lynching. In 1919, he released "The Homesteader," a movie based on his autobiographical book that describes his experiences on the South Dakota plains. This became the first feature length film produced by an African American.

Because Hollywood discriminated against blacks, Micheaux was forced to do all of the work for his films independently. He was responsible for not only producing, but distributing his films which were only viewed in segregated black theaters. Some of his films that addressed issues like real estate discrimination and inter-racial relationships were censored and confiscated for being too "controversial."

Despite facing discrimination, Micheaux paved the way for blacks in the film industry.

Micheaux is revered by such entertainment industry figures as Spike Lee, Robert Townsend, Tim Reid, and Carl Franklin. South Dakota holds an annual film festival in Micheaux's honor. A true pioneer in every sense, he is a hero to all Americans who have a dream.

I salute this accomplished, self-made man. His achievements serve as a wonderful example of how barriers can be overcome and how dreams can be attained. Micheaux and other figures in the African American community remind us of the difference an individual can make to the Nation, and that dreams can still be attained, even in the face of adversity. Micheaux's life encompasses Dr. King's vision when he said that he had a dream that "... children will one day live in a Nation where they will not be judged by the color of their skin, but by the content of their character."

We are still working today to realize this dream. Black History Month not only celebrates the individual achievements of the African American community, but reminds us all that we need to come together as a greater community to ensure that everyone has equal rights, freedoms, and the resources to achieve their dreams.

Mr. DURBIN. Mr. President, I rise today in recognition, honor and celebration of Black History Month. This year's theme is "Creating and Defining the African-American Community: Family, Church, Politics and Culture." We should use the forum this month to educate all Americans that African-American history is American history. African-Americans have played a key role in shaping America by their known and untold contributions to science, art, education, politics, commerce and culture.

Dr. Carter G. Woodson is the founder of Black History Week which has expanded to Black History Month. Dr. Woodson, the son of slaves, realized that the rich and detailed history of African-Americans was in danger of fading to obscurity, so he became an impassioned teacher and advocate of African-American history, and created some of the first courses and textbooks devoted to this topic. He also founded what is now known as the Association for the Study of African-American Life and History. A firm believer in the importance of education, he studied at Harvard, the Sorbonne in Paris and the University of Chicago. Dr. Woodson was also Dean at Howard University in Washington DC.

Black History Month gives Americans an opportunity not only to learn of great African-American leaders like Dr. Martin Luther King, Jr., but also to learn of lesser known African-Americans who have played key roles in molding our great country. For instance, most Americans do not know that Jean Baptist Pointe DuSable