

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.

Unlike in Memphis, where filers typically use chapter 13, the overwhelming number of filers nationally—over 70 percent—opt for chapter 7 so they can walk away from their debt.

Where does all this leave us? It leaves us at an historic high of over 1.6 million filings per year. Personal bankruptcies outnumber business bankruptcies by a multiple of more than 45 to 1. Among those filings, we see an increasing number which are fraudulent. In fact, the FBI estimates at least 10 percent of all filings involve fraud of some type. In most of the fraud cases that are identified, the filer in some way hides or pushes their assets over to the side. For example, a debtor would file chapter 7, claiming to have no assets of any kind, but they still drive a luxury sedan, may have a boat in the driveway, and even sport expensive jewelry and clothing.

The result is pretty clear. Every bill you pay, I pay, that the American people pay includes what is a "bankruptcy tax" that amounts to about \$400 a year for every man, woman, and child in this country—an unnecessary bankruptcy tax of \$400 for every man, woman, and child in this country.

That is what we are addressing on the floor of the Senate this week. For that bankruptcy tax, people say: How do you pay that tax? I was meeting with some Tennesseans earlier this morning. They asked: What do you mean? How do you pay that tax?

The tax is a hidden tax, but you pay it. It is in every electric bill, every phone bill, every mortgage payment you pay, every purchase of furniture, every car loan you obtain—\$400 a year. Interest rates are higher, downpayment requirements are larger, grace periods become shorter, and late-payment penalties are astronomical, all because some people are shirking their debt obligations. The people who are hurt most by all of this are the low-income earners.

Say, for example, you have a dishwasher and the dishwasher breaks. The owner would go to the neighborhood store. But because of the high rate of personal bankruptcies, they could not get credit. The store would no longer give credit. The owner, who has this broken dishwasher, cannot afford to pay for it with cash but is denied that opportunity to purchase because credit cannot be issued. The store cannot make the sale. It is those low-income earners who are disproportionately affected by a system that is out of balance.

Without credit, saving up enough money to buy a couch or to even pay for school clothes can become a real hardship. And high interest rates can make using a credit card, as we all know, risky.

Ultimately, bankruptcy abuse by wealthy debtors disproportionately harms those who can least afford it. That is why the Bankruptcy Reform Act enjoys strong bipartisan support, strong support from both sides of the aisle.

It establishes a means test that is based on a fair principle, a simple principle, and that is this, that those who have the means should repay their debts. A simple principle: Those who have the means should repay their debts.

It specifically exempts anyone who earns less than the median income in their State. It also allows every consumer to show special circumstances, if they exist, if they cannot handle a repayment plan. We know the No. 1 reason people file for bankruptcy is because of an unexpected health emergency. If you look at all these filings, that ends up being No. 1. Consequently, in the legislation that is on the floor, we allow every filer to deduct 100 percent of their medical costs.

We also know education is a big outlay for many families. Under bankruptcy reform, parents can deduct private school tuition to protect their children's educational opportunities.

The bill does much more. The bankruptcy bill strengthens protections for child support and alimony payments. It protects patient privacy and care during bankruptcy proceedings that in-

volve health care facilities. It protects consumers from deceptive credit practices that can lead to financial distress, and it protects the system that allows America to be one of the most generous countries when it comes to bankruptcy.

We all know sometimes a person simply gets in over their head or they get socked with an unexpected setback. They are overwhelmed by the bills, and for every step forward there are two or three steps back. Most people in this difficult situation want to do the right thing. It is in their heart to do the right thing. They want to pay their debtors, they want to meet their obligations, but they cannot. What they need is a fresh start.

The legislation before us is thoughtful. It is well considered. It is family centered. It closes unfair loopholes so that the system and the people it is designed to help can get that fresh start and get back on track.

I look forward to the debate today, which I know will be robust. We will be debating amendments and voting on the amendments over the course of the day—indeed, over the week. I am hopeful that by working together in a bipartisan way on a bill we know will be to the benefit of the American people, we will make huge progress today, tomorrow, and the next day, so we can soon have a bill on the floor that will receive overwhelming bipartisan support.

Mr. President, I yield the floor.

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

The PRESIDING OFFICER (Mr. CORNYN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ORDER OF PROCEDURE

Mr. REID. Mr. President, I ask unanimous consent that the time of the distinguished Republican leader and the Democratic leader not be charged against morning business today.

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

BANKRUPTCY REFORM

Mr. REID. Mr. President, the bankruptcy bill which will shortly be on the floor is a very important piece of legislation. It embodies a principle I agree with: Those who have the means to repay their debts should be required to do so. I believe—I am old-fashioned—that people who borrow money should pay it back.

I supported the bill before, most recently in 2001. I hope to be able to support it again. But a lot has happened in the 4 years since the hearings were held on this bill in addition to the one hearing that was held 2 or 3 weeks ago.

There is new evidence—a lot of evidence—about who declares bankruptcy. Medical catastrophes: About half the people who file for bankruptcy file them because of medical emergencies. Also, extended military duty has caused havoc for people who are in the Guard and Reserve, in the State of Nevada especially.

Then, of course, we have the corporate bankruptcies of 2002 and 2003. We still have one of the criminal trials going on with Enron today. The chief executive officer of that company is testifying for the second day. WorldCom was another corporate bankruptcy that created a lot of attention. I believe it should change how we look at bankruptcy.

There are things that have occurred since we last took this piece of legislation up when it passed the Senate overwhelmingly, as I recall with 82 votes. Again, there have been medical emergencies, extended military duty, and corporate bankruptcies. These corporate bankruptcies have left employees without pensions.

Finally, we need to address the ongoing problem of violence. People are trying to say this is an abortion amendment. It is not an abortion amendment. It is about holding individuals who believe they are above the law accountable for their actions when they break the law in a number of instances. I invite everyone to read the amendment. For example, if people commit illegal acts in protest of a clinic that is engaged in lawful research on animals, then they need to be held accountable for their actions. They cannot simply discharge their debts through bankruptcy proceedings because they disagree with the law that they violated. The same holds true for individuals terrorizing reproductive health care clinics and doctors by engaging in violence. All we are saying is these people who commit these acts and break the law should not be able to discharge these debts in bankruptcy.

This amendment is not about abortion. It deals with a number of different scenarios where individuals who have broken the law try to discharge their debts through bankruptcy proceedings because they disagree with the law. So I hope people will look at these amendments on the merits of the amendments. People have tried to say this is an abortion amendment. It is not. I would hope people would look favorably on some of the amendments we offer dealing with corporate bankruptcies, dealing with pensions, dealing with medical catastrophes, and extended military duty.

We have the opportunity to have a good, sound, firm debate and send a bill to the House that takes into consideration the new matters that have appeared since we last passed this bill.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business for 1 hour, with the first 30 minutes under the control of the majority leader or his designee and the second 30 minutes under the control of the Democratic leader or his designee.

The Senator from Texas is recognized.

SOCIAL SECURITY

Mrs. HUTCHISON. Mr. President, I rise this morning to talk about the great leadership our President is providing in the area of Social Security.

When Social Security was created in 1935, the average lifespan of an American was about 64, and 54 percent of the workers in our country were expected to live to collect Social Security. So the system was sound and, of course, the actuarial table was sound.

So much has changed—all for the good—in our country. In fact, today our life expectancy is 79 plus for a woman and 74 plus for a man. Yet we know that is going to get better. People are going to live even longer than that and, furthermore, they are going to be healthy. They are going to be able to collect more than they invested in their Social Security.

Our President is looking at the facts. Our President is looking at the statements from the previous administration, President Clinton, who said: There is a red flag here and we better look at Social Security if we are going to start the process of determining what is the right thing to keep Social Security stable.

But it was before that that our President started seeing this looming crisis on the horizon. Today we know from the testimony of the Chairman of the Federal Reserve, Alan Greenspan, that in 2008, the baby boomers are going to start coming into the Social Security system. In 13 years, 2018, the Government will begin for the first time to pay out more than it is collecting. That means we are going to start seeing more encroachment on the deficit. By 2042, the fact is there will be an absolute bankruptcy.

By law today, what happens when that occurs, when bankruptcy is declared, benefits will automatically be cut without any further action of Congress or the President—drastic cuts, probably 25-percent cuts. So if we are

going to keep our promise to the people in the system today, to the people in the system 10 years from now, we are going to have to take action to preserve those benefits in a fiscally responsible way. If we are going to keep the promise to people who are 20, 25, 30, 35, we are going to have to do something that is innovative and creative, something that has been tried in other countries, and it has worked, and that is to allow our young people to set aside 2 or 3 percent of their 12 percent in a personal account that they can own themselves and control with investments that would be certified investments. What would be certified is something like a 401(k) offering, something like a total market index and a total bond index or a 50/50 total market/total bond index, something very conservative and proven through all the cycles of the stock market to be much better in return than anything someone could get in Social Security.

Young people overwhelmingly favor this option because they know they will be able to build up and get bigger checks, with less government responsibility, and they will be able to pass to their children what is left over in their accounts when they die so their children will have a nest egg to grow.

This is something the President wants Congress to do, and I am going to help him because I believe it is the right thing to do for our country, for the young people coming into our system, to make sure they have something better if they choose that option.

The important thing that has been missed in much of this debate is that personal accounts are an option. If someone wants to stay in the system exactly as it is now, they have that option. But if they want to go into the new system, which would allow them to take some part of their present tax and have a little more control and absolute ownership, they have it as an option. People 55, 60 will probably not do it, but a lot of people who are 50 and certainly people below 50 are going to look at that, and we will have a huge influx into that new option that will then allow a better future and an ownership that has never been allowed before.

Our President is taking the lead. We have a duty, as Congress, Republicans and Democrats together, to sit down with the President to discuss different plans. Maybe we can take something from this plan and something from that plan. Personally, I will not support raising taxes. I don't think we need to do it if we plan ahead. I will not support raising the limit on the salaries that are now taxed. That is unnecessary if we take steps now to start a transition process that will eventually take more of the burden off Government and make the Social Security system sound. But that is my opinion.

There are others on the other side of the aisle and on our side of the aisle who may have a different view. Some may favor a part of what the President