patient privacy and care during bankruptcy proceedings that involve health care facilities. It protects consumers from deceptive credit practice 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.

There remain, however, some misconceptions about this bill that should be dispelled. The first regards our protections for Active-Duty military personnel and veterans. Some opponents of the bill charge that we do not adequately address the needs of our combat men and women who suffer financially.

Madam President, it should go without saying that the Senate and the American people deeply honor our men and women in uniform. Every day, these young soldiers sacrifice to protect us and to defend the freedom we enjoy. We are indebted to them for the dangers they face on the field, and we are indebted to their families they leave in order to fight for that freedom.

That is why last Tuesday we passed the Sessions amendment to help clarify protections for our military and others under a safe harbor in the bill. This provision, which passed with 63 votes, makes explicitly clear that Active-Duty military and low-income veterans are protected by the safe harbor. In addition, it also protects debtors with serious medical conditions.

On this issue, the other side has created a red herring designed to score political points and shift the debate away from bankruptcy abuse. Another red herring is the charge that the bankruptcy bill sacrifices consumers to benefit credit card companies. The truth is that the bill before us includes several carefully negotiated amendments that expressly protect credit card holders.

Among its beefed-up consumer protections are increased disclosure requirements for credit card statements and mandates that credit card companies assist borrowers in determining how long it will take to pay off their credit card balances, additional disclosures to borrowers buying and refinancing their homes, and additional disclosures regarding credit card introductory rates and new disclosures related to credit card late fees.

These protections are the result of lengthy and careful negotiation. Additional measures should be properly addressed in the Banking Committee. As Senator SESSIONS has pointed out, we are debating a bankruptcy bill designed to create a fair and commonsense process in the Federal courts.

Moreover, the bill before us has passed this body three times, with overwhelming bipartisan support. In the 105th Congress, it passed by a vote of 97 to 1. In the 106th Congress, it passed 83 to 14. And again in the 107th Congress, it passed by a vote of 82 to 16.

It is time to take action on this much needed reform that is supported by both sides of the aisle.

I am confident that by working together we can get this done in this Congress, this week, and see bankruptcy reform signed into law. I encourage our Members, this afternoon, to vote for cloture so we can bring this bill to fruition, to make it the reality we know the American people deserve.

It is long past time to stop the abuses of the Bankruptcy Code. The legislation before us is thoughtful. It is built on common sense. It offers the opportunity to give the system, and the people it is designed to help, a fresh start. In short, it promises to deliver meaningful solutions that will keep America moving forward.

Madam President, I yield the floor.

RESERVATION OF LEADER TIME

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

BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 256, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 256) to amend title 11 of the United States Code, and for other purposes.

Pending:

Dorgan/Durbin amendment No. 45, to establish a special committee of the Senate to investigate the awarding and carrying out of contracts to conduct activities in Afghanistan and Iraq and to fight the war on terrorism.

Pryor amendment No. 40, to amend the Fair Credit Reporting Act to prohibit the use of any information in any consumer report by any credit card issuer that is unrelated to the transactions and experience of the card issuer with the consumer to increase the annual percentage rate applicable to credit extended to the consumer.

Reid (for Baucus) amendment No. 50, to amend section 524(g)(1) of title 11, United States Code, to predicate the discharge of debts in bankruptcy by an vermiculite mining company meeting certain criteria on the establishment of a health care trust fund for certain individuals suffering from an asbestos related disease.

Dodd amendment No. 52, to prohibit extensions of credit to underage consumers.

Dodd amendment No. 53, to require prior notice of rate increases.

Kennedy (for Leahy/Sarbanes) amendment No. 83, to modify the definition of disinterested person in the Bankruptcy Code.

Harkin amendment No. 66, to increase the accrual period for the employee wage priority in bankruptcy.

Dodd amendment No. 67, to modify the bill to protect families.

Kennedy amendment No. 68, to provide a maximum amount for a homestead exemption under State law.

Kennedy amendment No. 69, to amend the definition of current monthly income.

Kennedy amendment No. 70, to exempt debtors whose financial problems were caused by failure to receive alimony or child support, or both, from means testing.

Kennedy amendment No. 72, to ensure that families below median income are not subjected to means test requirements.

Kennedy amendment No. 71, to strike the provision relating to the presumption of luxury goods.

Kennedy amendment No. 119, to amend section 502(b) of title 11, United States Code, to limit usurious claims in bankruptcy.

Akaka amendment No. 105, to limit claims in bankruptcy by certain unsecured creditors.

Feingold amendment No. 87, to amend section 104 of title 11, United States Code, to include certain provisions in the triennial inflation adjustment of dollar amounts.

Feingold amendment No. 88, to amend the plan filing and confirmation deadlines.

Feingold amendment No. 89, to strike certain small business related bankruptcy provisions in the bill.

Feingold amendment No. 90, to amend the provision relating to fair notice given to creditors.

Feingold amendment No. 91, to amend section 303 of title 11, United States Code, with respect to the sealing and expungement of court records relating to fraudulent involuntary bankruptcy petitions.

Feingold amendment No. 92, to amend the credit counseling provision.

Feingold amendment No. 93, to modify the disclosure requirements for debt relief agencies providing bankruptcy assistance.

Feingold amendment No. 94, to clarify the application of the term disposable income.

Feingold amendment No. 95, to amend the provisions relating to the discharge of taxes under chapter 13.

Feingold amendment No. 96, to amend the provisions relating to chapter 13 plans to have a 5-year duration in certain cases and to amend the definition of disposable income for purposes of chapter 13.

Feingold amendment No. 97, to amend the provisions relating to chapter 13 plans to have a 5-year duration in certain cases and to amend the definition of disposable income for purposes of chapter 13.

Feingold amendment No. 98, to modify the disclosure requirements for debt relief agencies providing bankruptcy assistance.

Feingold amendment No. 99, to provide no bankruptcy protection for insolvent political committees.

Feingold amendment No. 100, to provide authority for a court to order disgorgement or other remedies relating to an agreement that is not enforceable.

Feingold amendment No. 101, to amend the definition of small business debtor.

Talent amendment No. 121, to deter corporate fraud and prevent the abuse of State self-settled trust law.

Schumer amendment No. 129 (to amendment No. 121), to limit the exemption for asset protection trusts.

Durbin amendment No. 110, to clarify that the means test does not apply to debtors below median income.

Durbin amendment No. 111, to protect veterans and members of the armed forces on active duty or performing homeland security activities from means testing in bankruptcy.

Durbin amendment No. 112, to protect disabled veterans from means testing in bankruptcy under certain circumstances.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, I understand that at 10:15, the Senator from New York is to be recognized to offer an amendment?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. KENNEDY. Madam President, this bankruptcy bill is mean-spirited and unfair. In anything like its present form, it should and will be an embarrassment to anyone who votes for it. It is a bonanza for the credit card companies, which made $30 billion in profits

last year, and a nightmare for the poorest of the poor and the weakest of the weak.

It favors the credit card companies, the giant banks, and the big car loan companies at every turn. It favors the worst of the credit industry—the interest rate gougers, the payday lenders, and the abusive collection agencies. It hurts real people who lose their savings because of a medical crisis or lose their jobs because of outsourcing or suffer major loss of income because they were called up for duty in Iraq or Afghanistan.

It protects corporate interests at the expense of the needs of real people. It does absolutely nothing about the glaring abuses of the bankruptcy system by the executives of giant companies such as Enron, WorldCom, and Polaroid, who lined their own pockets but left thousands of employees and retirees out in the cold.

It favors companies like MBNA, a top credit card issuer, with over $80 billion in loans, which has contributed $7 million to Federal candidates, a half a million dollars to President Bush alone, and spent over $20 million in lobbying, since 1997, when their lobbyists wrote this bill.

On the other side are people like special ed teacher Fatemeh Hosseini on the front page of Sunday's Washington Post. She fell on hard times when her husband left her and their three children. After her credit card debt reached $25,000, she stopped using the cards and took a second job to try to pay down that debt. She paid $2,000 a month but was hit with very high interest rates, which were raised even higher because of missed payments, heavy late fees, and over-limit penalties.

She made no new purchases, but by last June her $25,000 debt had nearly doubled to almost $50,000. The longer she tried to pay what her statements told her were her minimum payments, the more her debt went up. When all of her salary was going for payments, she had no choice: she was forced into bankruptcy, in the hope of getting the ''fresh start'' the Nation has long provided to its working people when they hit bottom.

This bill says to companies like MBNA: We'll help you scare that teacher out of going into bankruptcy by making the bankruptcy process expensive and burdensome to people like her. If we can't scare her away, we will help you squeeze your high interest rates out of her for a few years longer, even though she can't possibly pay off the amount she owes. We will take sides with companies like you and against people like her.

That is what this bill says. We all know that is wrong. How could the Senate possibly do something so immoral and unreasonable and unfair to our constituents when they are most in need of our help? Where are the vaunted values our colleagues talk about so much? Why didn't the Judiciary Committee do something about this travesty before it reached the floor? Why haven't we fixed it on the floor after more than a week of debate?

This bill was bulldozed through the committee on the pretense that we should not deal with its serious problems there but should wait until it reached the full Senate for serious negotiations and basic improvements. We were assured that there would be good-faith discussions and compromises and that all reasonable amendments would be given fair consideration.

But now there has been no good faith at all—no meaningful discussions, no negotiation, no real consideration of any of the very reasonable amendments that have been proposed to give this bill some shred of balance and fairness. On the contrary, the Republican leadership has invoked the strictest possible party discipline. When individual Republicans say they want to support or offer constructive amendments, they are ordered not to do so. Even when a Republican identifies a serious gap in the bill, such as the very basic jurisdiction outrage pointed out by Senator CORNYN, an outrage that has prejudiced workers and retirees in almost every State, the Republican leadership said no and refused to let the amendment be called up.

The excuse for this bad faith and breach of promise is itself bizarre. The Republican leaders say they cannot upset the delicate compromise reached two Congresses ago, but the only real compromise was the one that had the Schumer amendment in it, and this year's bill doesn't have that amendment in it. In committee Senator SCHUMER discussed his amendment, but I didn't see the other side jumping up to adopt it in order to restore and preserve the so-called compromise. The floor leaders have not indicated that they plan to accept this amendment to restore and preserve the supposed compromise.

Let's be clear—any pretense of protecting a previous compromise disappeared when the bill's sponsors unilaterally took the Schumer amendment out of the bill before introducing it this year. So there is no compromise before us in the first place. What's more, even the 2001 bill is now totally obsolete.

A great deal has happened in the past 4 years that helps us understand the real issues in this bill and shows that abuse of the system by consumers is not the real problem. We have now felt the full impact of the Bush economic decline, the broad record levels of sustained unemployment.

We have seen an explosion of medical costs, prescription drug costs, and health insurance costs. We have seen job after job eliminated or downgraded or outsourced.

A half million guardsmen and reservists have been called to active duty in Afghanistan or Iraq, leaving their families and their jobs and their small businesses behind to suffer the economic consequences, but this Senate said no to the Durbin amendment.

We have seen the enormous harm caused to employees and retirees by corporate mismanagement and fraud at major companies like Enron and WorldCom and Polaroid, which abused the bankruptcy laws to avoid their obligation to their own loyal workers. We have seen credit card rates go higher and higher and higher, as high as 30 percent or more, plus fees and penalties and charges, raising credit card profits by another $10 billion, even as general interest rates remain low.

We have seen the credit card companies use a self-help remedy for the problems they create by their own indiscriminate and predatory marketing practices. They charge still higher risk-based rates to the very same people who can't even afford the lower bait-and-switch rates.

We now know a lot more about the abuse of bankruptcy this bill was supposedly designed to address. Four years ago we were told we were a nation of bankruptcy abusers. But now, thanks to the careful study of actual bankruptcy case files, we know the truth. We know that 50 percent of the families who go bankrupt have suffered from serious medical problems and have exhausted their savings. Most of those families had paid for health insurance, but it still left them with no financial protection from serious illness or accidents.

If the family is impacted by cancer, you know right at the outset, even if they have health insurance, they are going to have a $35,000 bill. If it is the heart or stroke, it may be $20,000. If they have a child, spina bifida, autism, other kinds of serious children's diseases, it is going to be $15,000 to $20,000. We know that right at the start. And in too many instances, that is just enough to throw hard-working Americans into the bankruptcy system and the harsh provisions of this legislation. Most of these families tried in every possible way to avoid bankruptcy for years. They gave up food and medicine and utilities and other necessities of life and even transferred their elderly parents into less adequate nursing homes in order to try and avoid bankruptcy. But facts like these don't bother the sponsors of this bill. They just make it up as they go along.

In the past week, for example, some of us offered amendments that would exempt people from the burdensome procedures in this bill if their finances were devastated by medical problems or because they were called up for military duty, and they were voted down. Instead the bill's sponsors introduced and adopted a devious amendment that they said would do what our amendment did. But, of course, it did nothing of the kind. It simply added some words about medical costs and military callups in a way that did not change the real substance of the committee's bill.

The sponsors also said our amendments exempting those below the median income from the means test were

unnecessary because low-income filers were already exempt. If they really mean what they say about no means testing for people below the median income, then they should not be refusing to accept our amendment which makes that exemption absolutely clear.

Another Democratic amendment would have placed a generous limit of 30 percent on the interest rates any credit card company could charge. It very carefully stated that it would not change the status quo in States which already had lower limits. That didn't stop the bill's supporters from claiming that the bill would be an intrusion on States rights because it would lift the limit in States with a lower limit.

And perhaps the most outrageous claim of all, one which I thought was dead and buried after it was dragged out in 2001, was dragged out again—a big blue chart and all—and further inflated in their debate. The sponsors repeated the old chestnut that every American family is paying $400 a year in a hidden bankruptcy tax for abuses that this bill would stop. Only now they say this mysterious tax has risen to $550 per person per year.

How is the original $400 number calculated? The debts discharged from all consumer bankruptcies each year are about $40 billion. There are 100 million families in the United States. Therefore, those consumer bankruptcies must be costing each family $400 per family. But this phony math assumes that every dollar discharged in bankruptcy, 100 percent, could have been collected in full, if not for the massive abuse of the system by every consumer who goes bankrupt.

It assumes that the credit card companies and payday lenders and other lenders who collect this debt under the bill would somehow distribute it to all 100 million American families instead of keeping it for themselves. Obviously, neither of these assumptions is true. Even the bill's supporters have long ago conceded that the maximum conceivable amount recoverable from the consumer bankruptcies is about 10 percent of the total. Other estimates conclude that the real number is a small fraction of that.

We don't have to guess what a responsible lender's loss from bankruptcy abuse might be. The lead-off pro-bill witness at our hearing on the bill was the head of the Wisconsin community credit union, testifying for the national credit union lobby. He told us in the last 9 years his credit union has had an average of 10 bankruptcies a year from 11,000 members. He estimated that the 9-year loss from abusive cases was $15,000 to $75,000, with the higher figure based on an unlikely assumption of 15 percent abuse. His credit union's loss from possible abuse spread across its entire membership was 15 to 74 cents a year per member—not per every family in his county or state, but just his members. Yes, a real 15 cents instead of the mythical $400 dollars we have heard about for years on this floor.

Why is that lender's loss from abuse so low? Because that credit union cares about its members, who are also its owners. It gives them a credit level appropriate to their finances, and does not promote across-the-board increases in credit limits. It routinely monitors credit card debt for signs of trouble. When members hit hard times, the credit union does not pounce on them. It looks for ways to help them out. In short, it is a careful and responsible lender, not a predatory lender.

Hello? Could this tell us something about the real problem here? Perhaps the credit card companies who are really pushing this bill should think again about having solicitation desks every fifty feet in the airport, offering gifts to anyone who signs up for a card. Perhaps they should think twice about offering multiple cards to young college students. Perhaps they should not encourage people to raise their card limits recklessly or send them pre-printed checks against their accounts in junk mailings. Perhaps they should not send monthly statements urging their customers to pay only the monthly minimum and pile up their debt.

This bill does nothing to prevent the enticements that the credit card companies use to run up their profits. It does nothing to prevent the real abuses of the system by those who use unlimited homestead exemptions or ''protective'' trusts to hide tens of millions of dollars from the bankruptcy process.

We still have time for common sense amendments on all of these issues, but unless there is a change in direction, Republican party discipline will be invoked to defeat them.

In fact, the present bankruptcy system has an effective way of dealing with real abusers. Bankruptcy judges can and do deny the petitions of those who have defrauded or abused the bankruptcy process. The corporate sponsors of this bill know that, but their real motivation is only partly to squeeze millions more dollars from the people who do get into the bankruptcy system.

The more insidious purpose of this bill is to frighten people away from the system altogether, by making it so burdensome and expensive, that they delay filing for bankruptcy or never file. That way, the predatory lenders can continue to collect excessive interest and fees and penalties month after month from people who cannot afford to pay them.

What this bill does to catch the very small number of potential abusers—most of whom can be caught and screened out under the existing system—is to impose huge new paperwork and filing and counseling and other barriers on all those who seek to enter the system, whether they are above or below the median income level, and whether or not there is the slightest indication that they are trying to game the system.

Why else would the bill place such strict and intolerable personal liability on the bankruptcy lawyer for mistakes made in the detailed information provided by the client? In Boston and throughout the country, pro-bono lawyers from leading firms now lend a hand with bankruptcy filings to people down on their luck. The sponsors know that if this bill passes, those firms will not let their lawyers do that public interest work, because the risk will be too high.

There is so much wrong with this bill that we must take the time to get it right. That is why we must have a serious discussion and negotiation and amendment process.

That is why we must defeat tomorrow's cloture vote and continue to seek a bill that is not an embarrassment to the Senate and the fundamental principle of fairness and simple justice for all. It's wrong, deeply wrong, for the Senate to rubber-stamp the greed of the credit card industry.

In a few moments, the Senator from New York will be recognized. I wanted to add a word of support for his amendment. His amendment is not about abortion. It is about violence. Those who promote the culture of life should not be encouraging acts of violence against any members of our society. There is no legitimate reason to oppose this amendment. Those who break the law through violence and intimidation should not have bankruptcy as a shield.

Finally, in a vote later this afternoon, the Senate will declare its true loyalties. Do we stand with low- and middle-income families who fall on hard times, or do we stand with the credit card companies looking for higher and higher profits at any cost? If we are true to our values, we will stand with America's families and defeat this bill because above all else, America stands for freedom and fairness and opportunity. There is nothing fair about a single parent struggling to make ends meet only to be gouged by credit card companies with double-digit rates. There is no freedom in falling ill with cancer and facing a mountain of medical bills only to be hounded by credit card companies to pay them first.

And what is fair when an average American who has done everything right still has to go alone into bankruptcy court and stand up against the big credit card companies and all their might and try to make a fresh start?

I am reminded of the words of Leviticus in the 25th chapter which reads: If one of your brethren becomes poor and falls into poverty among you, then you shall help him, like a stranger or a sojourner, that he may live with you. Take no usury or interest from him, but fear your God that your brother may live with you. You shall not lend him your money for usury nor lend him your food at a profit.

One glance at the story of Fatemeh Hosseini shows that even when you try your hardest to repay your debts, you are met by the cold, cruel world of the credit card companies. With our vote

this afternoon, we have an opportunity to live up to the words of Leviticus and our basic values as Americans and vote against this bill.

The PRESIDING OFFICER (Mr. VITTER). The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, I thank the Senator from Massachusetts for his leadership on this legislation. The bill we are considering today, S. 256, is the bankruptcy reform bill. For American families who have been absolutely devastated by medical bills, by loss of jobs from outsourcing of jobs overseas, by family circumstances beyond their control, this bill makes it more difficult to go to bankruptcy court to put whatever they have on the table and to try to start anew. It was written by the financial industry, by credit card companies, and big banks in an effort to make certain that people in debt never get out of debt. They want to make certain that debt will hound you and trail you for a lifetime.

When Senator KENNEDY offers an amendment and says should we not at least say to people who have been devastated by a medical crisis in their family and go through bankruptcy that they will have a roof over their heads, that we will protect their home for $150,000 worth of value, the Republicans on this side of the aisle said no. They should put that home up, lose it if necessary, if they want to file for bankruptcy.

I offered an amendment that said what about the Guard and Reserve units, men and women who are serving overseas leaving behind businesses that go bankrupt? Should we not give them some consideration in this bill? Should not the harshest aspects of this bill not apply to men and women in uniform serving our country? The Republican side of the aisle said no; apply the law as harshly as possible to these soldiers as you would to everyone else.

Time and again, as we have offered amendments to try to stand up for those who were struggling in America to get by in a tough economy, in difficult times, facing family disasters, the Republican side of the aisle said it is more important that the credit card companies get another dollar from those families. It is more important that the banks prevail. Even if the loans they offered in the first place are illegal, we have to stand by the credit industry.

The credit industry will win this battle. American families, American soldiers, and those struggling with medical bills will be the losers.

I hope before this bill is completed that a few basic amendments that show common decency and common sense will prevail.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the hour of 10:15 a.m. having arrived, the Senate will proceed to the consideration of amendment No. 47 to be offered by the Senator from New York. The time until 12:15 p.m. will be equally divided for debate.

Does the Senator offer the amendment?

AMENDMENT NO. 47

Mr. SCHUMER. Mr. President, I offer the amendment, and I ask unanimous consent that Senator FEINSTEIN be added as a cosponsor to the amendment.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. SCHUMER], for himself, Mr. REID, Mr. LEAHY, Mrs. MURRAY, and Mrs. FEINSTEIN, proposes an amendment numbered 47.

Mr. SCHUMER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To prohibit the discharge, in bankruptcy, of a debt resulting from the debtor's unlawful interference with the provision of lawful goods or services or damage to property used to provide lawful goods or services)

On page 205, between lines 16 and 17, insert the following:

SEC. 332. NONDISCHARGEABILITY OF DEBTS INCURRED THROUGH VIOLATIONS OF LAWS RELATING TO THE PROVISION OF LAWFUL GOODS AND SERVICES.

Section 523(a) of title 11, United States Code, as amended by this Act, is further amended—

(1) in paragraph (18), by striking ''or'' at the end;

(2) in paragraph (19), by striking the period at the end and inserting ''; or''; and

(3) by inserting after paragraph (19) the following:

''(20) that results from any judgment, order, consent order, or decree entered in any Federal or State court, or contained in any settlement agreement entered into by the debtor, including any court ordered damages, fine, penalty, citation, or attorney fee or cost owed by the debtor, arising from—

''(A) an action alleging the violation of any Federal, State, or local statute, including but not limited to a violation of section 247 or 248 of title 18, that results from the debtor's—

''(i) harassment of, intimidation of, interference with, obstruction of, injury to, threat to, or violence against, any person—

''(I) because that person provides, or has provided, lawful goods or services;

''(II) because that person is, or has been, obtaining lawful goods or services; or

''(III) to deter that person, any other person, or a class of persons, from obtaining or providing lawful goods or services; or

''(ii) damage to, or destruction of, property of a facility providing lawful goods or services; or

''(B) a violation of a court order or injunction that protects access to—

''(i) a facility that provides lawful goods or services; or

''(ii) the provision of lawful goods or services.

Nothing in paragraph (20) shall be construed to affect any expressive conduct (including peaceful picketing or other peaceful demonstration) protected from legal prohibition by the first amendment to the Constitution of the United States.''.

Mr. SCHUMER. Mr. President, I hope everybody will pay attention to this debate, which has been going on intermittently in the Chamber for the last 4 or 5 years. Not much has changed, except the votes of some of my colleagues, if you can believe the press reports.

Let me start by saying I believe in bankruptcy reform. It is very wrong for people to abuse the code. But reform should be across the board, it should be applied fairly. It should not be just for some interests. When some interests are abused, we legislate on that, but when other interests are abused, we do not. It should not sweep under the rug people who have real needs, as the amendments of some of my colleagues—the Senator from Massachusetts and the Senator from Illinois—have tried to address. A reform bill should not contain a trove of treats for some supposed victims of the system, such as banks and credit card companies, but leave others shivering in the cold.

For this reason, the bankruptcy bill before us today does not do the trick. It has many deficiencies and, to my mind, a glaring, gaping hole. While the bill supporters give lipservice to fairness, they have carved out a loophole for those who use violence, for those who seek to use bankruptcy for a purpose it was never intended. It is a loophole that I cannot live with, and, once upon a time, in a different world, the vast majority of Senators agreed with me and voted to close this loophole.

Most of you are already familiar with this provision. After all, most of you have voted for it before. Indeed, this is identical language; there is not a single word change in this amendment, the Schumer-Reid amendment, from the amendment that was added to the bill a few years ago. This identical language was contained in the compromise bill we have heard so much about this past week.

Along with Senator REID, I am reintroducing the provision that would close this loophole once and for all. I am pleased that Senators LEAHY, FEINSTEIN, and MURRAY are also cosponsors of the amendment.

Put simply, the Schumer-Reid amendment would end the ability of violent extremists to hide behind bankruptcy laws to escape court-imposed debts. The amendment is very simple: If you use violence or the threat of violence to achieve a goal, a political goal, and you are successfully sued—as you should be—by the person or persons you have used violence against, you cannot then go back home to a bankruptcy court and say, protect me. Has anyone who ever envisioned the bankruptcy law felt that it should be used to protect those who use violence or threats of violence? I doubt it.

There is talk by some of ''peaceful protests.'' As I will talk about later, the bill explicitly protects peaceful protests but not violence or the threat of violence. It doesn't matter if you are

an extremist in the pro-life movement or the animal rights movement or any other movement; if you believe you are so right that you have the ability to take the law into your own hands and threaten others and do violence to others because your knowledge and feelings are superior to everybody else's, you are wrong. That is not American. Again, you should not be allowed to use the Bankruptcy Code to protect yourself from a rightfully imposed civil remedy.

This amendment could really be called the Schumer-Reid-Hatch amendment because in 2001 Senator HATCH sat down with me and together we worked out this compromise. We worked out this precise language in a bipartisan fashion over 4 years ago. There is only one difference—that since we worked out this compromise, which a large number of colleagues on the other side of the aisle supported, including those who disagree with me on the issue of choice, we have found that a small group in the House has been able to block the bill if it had this amendment in it. There is no reconsideration of the merits of the amendment. There is no argument made against the amendment that hasn't been made before and rejected overwhelmingly by this body. It is simply allowing a small few in the other body to dictate what we are doing here.

If reason and logic prevail, this amendment would be considered among the least controversial and most sensible fixes to the current bill. If bipartisanship and consistency were the order of the day, this provision, which was unceremoniously stripped from the current bill, would pass again overwhelmingly. The bill is intended to curb abuses of the Bankruptcy Code. But why are we curbing abuses when the victim is a credit card company or a bank but not anybody else? Why not also when the victim is a woman pursuing her constitutional rights? Does that woman have any less rights than a bank or credit card company, or a doctor pursuing a living, doing what he believes is right and what is allowed by law, according to the Supreme Court and enshrined in the Constitution, and this doctor tries to prevent people from hounding his children, from threatening them with violence, and then you say, no, we are going to protect the credit card companies and the banks but not that doctor, not that woman; is that fair? Is this bill fair and balanced?

We want to reform bankruptcy; there are abuses. But why are we only reforming the abuses that affect some and not others? Why are we only reforming the abuses that affect some of the most powerful interests and not those who are weaker or more helpless?

In the current climate, I am sad to say that there appears to be an edict from the leadership on the other side to vote down every amendment, no matter what its wisdom for efficacy. That is not what the Senate is about, that is not what America is all about, and that is not what our constituents sent us here to do. It would be a tragedy if that sort of marching-in-lockstep attitude affected the Schumer-Reid amendment.

Let me take a minute to describe the history of this amendment, to refresh the recollection of many of my colleagues who may have forgotten it. Let me tell you what happened. Of course, Roe v. Wade was passed by the Supreme Court in 1973. Many opposed Roe v. Wade; they felt it was against their religious beliefs. I respect those religious beliefs. A large movement of protests developed, the vast majority of which was peaceful. The former bishop in my home of Brooklyn would stand in front of a clinic every week and pray the rosary. That is an American thing to do. That is a peaceful protest. But there were some—an extreme few—who decided that they were so right, that what they heard from God prevailed over what anybody else heard from God, and that they should take the issue into their own hands. Some used the methods of blockade, passive resistance. Others went further. They would put acid on clinics that would render them useless—a destruction of personal and private property, if there ever was. They would threaten doctors. They would follow their children going home from school and harass them. Inhumane. They would even encourage people to kill doctors. We know doctors who were killed.

This protest movement was largely successful. It shut down about 80 percent of the clinics in America. There were some States and many counties where a woman who was seeking her own right to choose would not get that right, and, as a result, a number of us worked on a law—I was a sponsor in the House, and I believe Senator BOXER was a sponsor in the Senate—that would give the clinics that offered people a way to effect their right to choose some help. The law made it a Federal crime to use violence or the threat of violence against clinics. That was necessary because you had large jurisdictions where the elected sheriff said, I will not enforce the law, taking matters into his own hands.

As we were discussing what to do with this bill, I remember a meeting in New York, and a young woman from one of the defense funds that represent women said: Why don't you include the right to sue, so if the Federal Government is unwilling or slow and cumbersome in protecting this Federal right, the clinic could sue. We put it in the bill as an afterthought, but it really proved to be the hope and the salvation of the clinics because they began to sue those who would blockade them when police forces would not enforce the law.

There was Dobbs Ferry in New York, where they wanted to enforce the law. They had a police force of three, and hundreds of people were protesting violently and blockading—not peacefully—and the police force was overwhelmed. But the right to sue opened up these clinics and, once again, the constitutional right, available voluntarily to women.

No woman is forced to avail herself of this right; it is choice. That is what it is all about—choice. Your beliefs may be different from mine, but I respect yours; I hope you respect mine. I am not imposing mine on you, and you should not impose yours on me, particularly when they are deeply held religious beliefs. That is America.

So the clinics were open again. Many of these violent protesters sort of faded away. They realized the legislatures were going to keep the Roe v. Wade law, that they could not succeed in overturning it. If you believe the polls, over 60 percent of Americans support the right to choose. They had turned to violence and threats of violence, and now the FACE law had stymied them in that decidedly un-American way to enforce your views or effect your views. So we offered an amendment.

I skipped one point. Some of the more militant of these groups—the militant of the militant—came up with a new way to avoid these civil suits that the FACE law allowed. They said: Go back and declare bankruptcy once you are sued, and then they cannot pursue the money judgment used against you. This was made particularly difficult because most of the groups that used violence or threats of violence were not indigenous. They were not from the local community. There were a lot of people against the clinics in the legal community, but they, like most Americans, effected their views peacefully. But these were sort of roving bands of groups from across the country. They would be sued successfully, and then they would each go back to their home jurisdiction and file for bankruptcy.

It was impossible for these clinics, most of which were small and not terribly well funded, to then file after they won the first suit—a burden enough to them. They should not have had to do it. It should have been the Federal Government or the local government enforcing the law. But they went back home, declared bankruptcy, and the clinics were not able to pursue each of those suits in their home States.

An example is that of the notorious Nuremberg files case that took place in Portland, OR. The defendants created, in that case, a Web site that collected personal information about providers of abortion, clinic staff, law enforcement officials, judges, and even Senators. The site listed the names of those wounded in gray type and for those who had been killed—including Dr. Barnett Slepian in my State who was murdered in front of his family in 1998—they crossed out the names, as if they had achieved something good.

Doctors and their families targeted by this Web site had to wear bulletproof vests, install security systems, and take other precautions. As one witness testified before the Judiciary

Committee, speaking of the targeted doctors:

They are not secure in their homes or in their offices. They do not sit by windows in restaurants, and they even refrain from hugging their children in front of open windows.

Can you imagine? Under the FACE law, the victimized doctors sued these violent radicals who would threaten them. Judges and juries sided with the victims and issued verdicts. For example, there was a $109 million verdict against the Nuremberg defendants. In another case, Operation Rescue President Randall Terry ran up $1.6 million in fines on account of his acts of clinic violence. But did these violent extremists pay up? No. They instead filed for bankruptcy to avoid responsibility for their heinous acts. In fact, many of these public defendants publicly bragged about being judgment proof and thumbed their noses at their victims, forcing years of protracted litigation.

Randall Terry, for example, blithely filed for bankruptcy to avoid paying his debts. And the Nuremberg file defendants forced bankruptcy litigation for years in six different jurisdictions to avoid their debts. Some of the extremist groups even recruited people and had as a criteria for admission to the group that you make yourself judgment proof. One radical group, for instance, the American Coalition of Life Activists, drafted its Constitution to state that members of the organization ''must have their assets protected from possible civil lawsuits (judgment proof).''

As one can imagine, with these tactics, it took years to enforce the judgments against these violent radicals, and victimized doctors, families, and clinics could not get the justice they deserved. We all know that the wheels of justice are sometimes too slow, but tactics such as this made a mockery of our system.

So when the bankruptcy bill came before the Senate back in 1999, I offered an amendment to stop this awful abuse of the system. It made sense. It was not adding a new issue to the bill. The bill was supposed to deal with abuses of bankruptcy, and if there was ever an abuse of bankruptcy, what these violent extremists did was an abuse of the bankruptcy law. No one, when they wrote the bankruptcy law, thought the Randall Terrys of the world deserved protection.

When I offered the amendment, Senator HATCH and others—some pro-choice, some pro-life—came to me and said: Why are we singling out pro-life activists who engage in violence and take the law into their own hands? What about other extremists who abuse the Bankruptcy Code by using violence or the threat of violence?

They were right. So we sat down. We had a fruitful discussion. From this, Senator HATCH and I worked out a compromise with which everyone could live. We hammered out an amendment that was not particular to the issue of the clinics but dealt with anybody who would use violence or the threat of violence in the same way—blockades, arson, whatever. They, too, if they had a judgment against them, could not go to bankruptcy court and successfully ask for protection.

The amendment we have does not mention the word ''abortion'' or ''choice.'' It simply talks about anyone who uses violence. It would be applied with equal force and vigor to animal rights activists, to the environmental extremists in the ELF movement. It only affects, frankly, those on the far right or the far left who believe they are so morally superior to all of us that they can avoid this constitutional democracy and, with violence, take actions into their own hands. Anyone who violently or misguidedly blocks access to services, whether in the name of the pro-life movement, the animal rights movement, the environmental movement, or any other movement, would lose the ability to hide behind the Bankruptcy Code.

It would apply equally. It did apply equally to pro-life extremists and ecoterrorists, one on the far right and one on the far left. Indeed, if militants in the pro-choice movement should block a facility that was pushing abstinence, it would apply to them, too. If violent atheists blocked access or burned down a church, it would apply to them. It applies to anybody who uses violence and then seeks protection of the Bankruptcy Code.

This amendment is not about abortion, as its critics attack it. It did have its origins there because that is where violence was used, but now, after the Schumer-Hatch compromise, it is an amendment simply about the rule of law, something everyone of any political party, of any political belief who is an American—when you swear your loyalty to the Constitution of the United States, you are basically swearing loyalty to the rule of law.

Let me underscore this: It does no harm, none, not 2-percent harm, not 1-percent harm, not .1-percent harm; it does zero harm to legitimate protesters who do not engage in violence or threats of violence. The amendment expressly states that ''nothing in this provision shall be construed to affect any expressive conduct, including peaceful picketing or peaceful demonstration, protected from legal prohibition by the first amendment to the Constitution of the United States.'' If you protest peacefully, you are protected. If you use violence or the threat of violence, you are not. That is the American way, and we made it clear.

People who are against this amendment say it stands in the way of peaceful protests. I ask them to cite me a single example where that has happened. It has not.

This was a fair amendment. It applied to anyone who used violence to effect their means and, in overwhelming numbers, Democrats and Republicans supported it. Virtually all of my Republican colleagues now on the Judiciary Committee, including some leading pro-life Senators, supported it—Senators HATCH, GRASSLEY, KYL, and SESSIONS. I take off my hat to them. They were being fair. I am sure they received a little pressure: Don't do this. Maybe there were some winks: Hey, maybe this violence is OK because we feel so passionately about an issue. But they stood up. To their credit, these Senators, even though they are staunchly pro-life, were reasonable and sensible about the issue.

Then on March 15, 2001, a bankruptcy bill, largely identical to the one before us today, except that it had the Schumer-Reid-Hatch language in it, passed in the Senate by a vote of 83 to 15. Only two Republicans voted against it, and that was for reasons other than this amendment.

Then, of course, the bill was sent to the House. It looked like as if would pass. I supported the bill with this amendment in it. I have always said I will be for the bill with this amendment because I think this amendment is so important, even though I am not happy with other provisions in the bill. I am, frankly, less happy today with the other provisions in the bill.

The bill was sent to the other body, and a fight ensued within the Republican caucus. A large number, probably a majority of the Republican caucus, wanted to support the bill, but a small number who were the most fervent in their pro-life beliefs said no bill. The Republican leadership in the House said since this divides our caucus, even though a vast majority of the House would have supported the legislation, in my judgment, they pulled the bill.

So now we are back to where we are today. We have basically the same compromise as last year but without the Schumer-Hatch compromise. All I am doing today is adding that compromise word for word. Again, not a comma, jot, or tittle has been changed in the bill.

I have watched while amendment after amendment offered by Democratic Senators to end abuses and close loopholes has been beaten back because of an edict that this ''negotiated compromise''—not negotiated certainly with many of us on this side—should be delivered pristine to the House.

Republicans defeated an amendment to protect veterans because it was not part of the compromise. That was offered by the Senator from Illinois, Mr. DURBIN. For example, a National Guard man or woman, a reservist sent overseas does not make the same money they made before, and maybe they have to go into bankruptcy. Do we want to come down like a hammer on these people the same as we would come down on somebody who squandered whatever money they had in Las Vegas gambling? Absolutely not. But the amendment was defeated.

There was an amendment that was defeated to protect victims of identity

theft. I believe that was done by my colleague from Florida, Senator NELSON, because it was not part of the compromise.

Senator KENNEDY has eloquently spoken of those who have to go into bankruptcy because they do not have adequate health insurance or any health insurance, and they are putting their every last nickel to save their husband or their wife or their mother or their father or their child. Again, no protection.

An amendment I offered which said millionaires could not abuse the code by setting up a trust and putting all their assets in this trust and then declaring bankruptcy and shedding themselves of debt also was not allowed because of the compromise.

Mr. President, do you know what was part of the original compromise? The Schumer-Reid amendment or, more correctly, the Schumer-Reid-Hatch amendment. Yet this provision was stripped from the current bankruptcy bill.

If Senator HATCH continues to suggest we should honor the grand compromise from last time and not change it, then let's do it for everybody. Let's not just take out this provision.

What, I ask, has changed since the bill of this language passed by a vote of 85 to 13? Absolutely nothing. It was a good law then, it is a good law now. On what basis can my colleagues now oppose the Schumer-Reid amendment because it targets, among others, those who take the law into their own hands to oppose a woman's right to choose? That is nonsense. Senator REID is the lead cosponsor of the amendment, and he is pro-life. And as I have said, the language is not particular to abortion.

Let me ask my Republican colleagues a question. I hope they are listening: Would my Republican colleagues oppose a broadly worded murder statute because, among other things, prosecutors could bring charges against someone who killed a doctor who would provide abortion services? Would they oppose a neutrally drafted arson statute because men and women who burn down health clinics might come under its ambit?

There is no moral reason, no legal reason, no logical reason, for Senators who once overwhelmingly supported this language to now oppose the Schumer-Reid amendment. Some of my colleagues have said they are still in favor of this amendment but do not want the entire bankruptcy bill to be held up because of it. My purpose is not to hold up the bankruptcy bill, and I think my colleagues on the other side who worked with me over the years on this bill understand that. My purpose is to preserve the rights of those who seek to do constitutionally protected acts in the face of violence.

So I ask my colleagues to please think about what they are doing. If they vote against this amendment, they are voting against the rule of law. If they vote against this amendment, they are voting against the fundamental way we do things in America. If they vote against this amendment, many of my colleagues are voting exactly the opposite of what they did a few years ago. I ask my colleagues not to change their vote because of political expediency. If my colleagues turn their back on this amendment now, it will be a turnaround, an about-face, on fairness, on reform, and on bipartisanship.

As I have said, this is not pro-choice or pro-life. It is pro rule of law and it is antiviolence. No matter how strongly people feel—and I respect people's passions; I respect their passions whether they come from religion or politics or anything else—the greatest danger our Republic faces is apathy, so people who feel passionately are good. Because someone feels passionately, they should not be allowed to take the law into their own hands and then hide like a coward behind the bankruptcy law.

Just as we are trying to end the abuses of the bankruptcy law when it affects banks, we should also end abuses of that law when it affects victims of violence. It is vital that we make the law perfectly clear that debts incurred by violent extremists who take the law into their own hands are nondischargeable, and that is all this amendment does, no more or no less. If we do not, individuals and organizations seeking to shut down public facilities, whether they be clinics, powerplants or animal laboratories, will continue to force victims of clinics and other violence into a world of perpetual litigation by using the Bankruptcy Code as it was never intended.

I ask my colleagues to support this amendment. Most of them did once and they should do so again.

I reserve the remainder of my time, and 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.

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

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

Mr. SCHUMER. Mr. President, my colleague from Alabama is in the Chamber. I was going to ask that the time be equally divided as we were in the quorum call and not charged to myself, but if my colleague from Alabama is taking the time, then that is moot.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. I thank the Senator from New York. As someone who has worked hard on this bankruptcy legislation for the 8 years I have been in the Senate, I have learned a political lesson that no matter how much bipartisan support a bill has, how much momentum it has, how needed it is, things can go awry.

In the last passage of this bill, Senator SCHUMER offered, and aggressively argued, for the amendment that we are debating today. The leadership on this side of the aisle said, OK, we will accept it. I realized that it was problematic for a number of reasons. I opposed the amendment, but it passed, and without a whole lot of objection, I suppose, from this side. The truth is it then became the single factor in the House's rejection of the bankruptcy bill, a bill that passed this body by a vote of 83 to 15. It was really a remarkable sort of event.

Let me just say a few things about the bankruptcy procedure. It has long been a fundamental principle of bankruptcy that while a bankrupt individual may bankrupt against their lawful debts, wipe them all out, and pay none of those debts, it has always been the law that a bankrupt may not discharge, may not wipe out, erase the debts that they incur as a result of intentional or willful misconduct.

If a debtor lists debts that arise from an intentional wrong against someone, the trustee in bankruptcy or a creditor or any of the creditors can object to that discharge, and they would note that it should not be wiped out, it should not be discharged, because it is a debt that arises from a willful, wrongful act.

The court then considers that and determines whether or not the debt should be wiped out and whether or not it was a debt that arose from a nondischargeable reason like willfulness.

Senator SCHUMER's amendment says that willful violators of abortion clinic protest prohibitions, and really a lot of other protestors, it appears to me—maybe unions, civil rights, environmental, I think he has said that they are covered here—he says that if willful violators of abortion clinics and these others included in his bill are sued and a judgment is rendered against this protestor under Federal law, then automatically those judgments are not subject to discharge; the court does not review it; they remain a debt of the protestor for their life, and they can be pursued by collection attempts for as long as that debt exists, and it can be for some time.

What we do know is this: Abortion clinic protestors have been sued for misbehavior at abortion clinics under the FACE Act. Some of these people have been relentless in their actions and have acted repeatedly in violation of law, and they have been sued. Judgments have been rendered against them. Most of them do not violate the law. As the Senator has said, the archbishop prays the rosary and conducts lawful acts, demonstrating his concern over the taking of what I consider to be life by the abortion act, and this is a free country and they are allowed to do that. But there are certain things that one cannot do in that protest, and a number of people in the past, a lot more than is currently happening, frankly, violated those prohibitions of the FACE Act. They have been sued and judgments have been rendered against them.

We also know that some of those protestors who had judgments rendered against them went to bankruptcy court and sought to wipe out their debts and not pay these debts for their protests, to discharge them from bankruptcy.

Finally, we know that under the current law, and under the law that is in the bankruptcy bill that is moving forward today, it has not changed on this point. That law prohibits the discharge of debts arising from willful acts. In every single case that the courts have considered petitions for discharge, in these abortion FACE Act violation cases, the bankruptcy court has refused to discharge the debt. They say, no, it was a willful act and you cannot discharge it; you still owe it. And the abortion clinic plaintiff or doctors or whoever is victimized can continue to pursue collection wherever they go. They can file garnishments against people's wages, file judgments against their property and pursue them aggressively and steadfastly to collect that debt. That is what the law has said every single time, and there is not much dispute about that. I do not think the Senator from New York would dispute that.

By his amendment, the Senator from New York, because of his concern over these very few cases, frankly, but he is concerned about it and has raised the issue a number of times, has managed, as a result of his successful passing of that amendment on this Senate floor 2 years ago, to cause the bankruptcy bill and all of its important parts to actually die and not become law because the House refused to accept it. Because of his concern, I know he has offered this again.

What he would want to say, and what his amendment says, I think fairly stated, is that a protestor and not just abortion clinics but any number of protestors who are sued under Federal law, and a judgment is rendered against them, Senator SCHUMER would want to make that judgment automatically not dischargeable, automatically without review by the court or any examination of the facts of the situation, to say it should not be discharged and will remain a permanent debt of the protestor.

I know the Senator said we all voted for this and there was some sort of agreement. I really do not think there was an agreement about this. As I recall, it came up in the Judiciary Committee. Chairman HATCH was trying to move the bill forward, as he frequently does, and allowed it to become accepted by a voice vote without any big to-do. It came up to the floor and was debated again, and a decision was made that we would just allow it to pass. It was not that big a deal as people saw it at the time.

I opposed it. I did not feel good about targeting these kinds of cases. I thought that the current law was acceptable and we should not go in this direction, but it passed and I voted for final passage of the overall bankruptcy bill. So I think that is why the Senator says I and others voted for it. A lot of people voted for the bill on final passage that may not have voted for the amendment on the floor.

Regardless of that, the question is, now what should we do? I would just note that there are a number of reasons why I think this should not be a part of the bill. First, as I have noted, these protestors have lost every single case in which they have sought to discharge debts arising from judgments under the FACE Act. The current bankruptcy law and this bill will say flatly that such debts are not dischargeable if the injury is the result of a willful, malicious act, as these violations for the most part are.

So, first, it is not necessary, and I would again note that the bill covers more than just abortion protestors. There could be any number of protestors. I think about the situation where maybe somebody from Alabama goes up to the southern district of New York and gets sued up there and a big judgment is rendered against them for taking a position unpopular in New York or maybe, as has happened in the past, people from New York have come down to Alabama and have been involved in protests and could have judgments rendered against them in local courts. So the Senator would say that under no circumstances, when that judgment were to appear on a discharge petition in bankruptcy court, would the court have any authority to look behind it. This Federal bankruptcy judge would have no authority to look behind this judgment to see if it was willful or intentional as the current law and the law has always been in bankruptcy, to my recollection, pretty much from the history of bankruptcy law. He would not look behind it and he would decide automatically it is a judgment not dischargeable. I am not sure that is good policy. I am not sure we want to do that. As a matter of fact, I do not think it is. I think the current law works. We should not do this. The Schumer amendment is bad policy. I disagree with it. I do not think it is the biggest deal in the entire world, but I think under the legal system and the principles of this bill, we would be better off allowing the bankruptcy court to consider these debts and examine them to make sure they meet the standards of discharge.

There is a big practical reason. This bill has passed the Senate four times by an overwhelming vote. One time I think it was 97 to 1. It has been marked up in the Senate Judiciary Committee four times, and it has not been lightly considered on the floor of the Senate. It has been the subject of hours and hours and days of debate. We are already into the second week on this bill. After all the debate and all the hoopla we have had, and so many other issues, we continue to pound away at this legislation for reasons that I am unable to fathom. But we are moving forward. I believe we will pass it again.

What is the practical reason? The House of Representatives rejected this bill the last time for the sole reason of the Schumer amendment. It is unbelievable. As much as we had in this bill, all the pages of this legislation, one little amendment killed this legislation, an amendment that I believe is bad policy, certainly not necessary, and I submit could result in killing this legislation again if we move it forward.

So let's not do it. Let's not do this. Let's not go beyond the bill that we have now, that came out of the Judiciary Committee with a bipartisan vote, an overwhelming vote out of the Judiciary Committee to come to the floor without the Schumer amendment in it. Let's not add this amendment and jeopardize the passage of the bill.

Let's not add this amendment and perhaps take a step, I submit with all seriousness, that could curtail protests and freedom of expression in America. Sure the protesters have lost every time. I believe they should have lost every time under the law. But there may be some times, under some of these provisions of Federal law, that could result in judgments that legitimate protesters were simply standing up under hostile circumstances in a hostile jurisdiction for what they truly believe in, and then the bankruptcy judge has no ability whatsoever to prohibit this judgment from sticking against them perhaps for the rest of their lives.

I don't know.

I don't think the law is failing in this regard, and I do not think the law is being abused in this regard. I think it is being handled well. We do not need this amendment for the reasons I stated, and for other reasons, frankly, that I will not state at this time.

I urge the rejection of the Schumer amendment and note with pleasure that Senator HATCH, the former chairman of the Judiciary Committee, now a senior Republican member of it who has worked on this legislation since the beginning, is on the Senate floor. I am pleased to yield to him.

Mr. HATCH. I thank my colleague.

The PRESIDING OFFICER (Mr. SUNUNU). The Senator from Utah.

Mr. HATCH. Mr. President, I appreciate the remarks of my colleague. As usual, he has done a very good job in outlining what is involved in this bankruptcy bill, and I believe he deserves a lot of credit for the hard work he has done on the floor.

Mr. President, comes now the Schumer amendment or, should I say, comes again the Schumer amendment. I rise to speak in opposition to this amendment. Been there. Done that. In fact, I have been there and done that a few times.

I have been around here long enough to know a poison pill when I see one. And make no mistake about it, this has become a classic poison pill amendment.

I have worked in good faith for several years to attempt to neutralize the

counterproductive effects of this amendment. But no matter how we try to adjust the language, we cannot overcome the basic flaw in the amendment: The Schumer amendment is a solution in search of a problem.

I oppose this amendment. It is no secret that I am genuinely fond of the senior Senator from New York. While I frequently disagree with him on issues, I respect enormously his political skills.

Even when from my perspective he is wrong—such as the leadership role he has played in organizing the first permanent filibusters of majority-supported judicial nominations—I know that he always tries to act in a heartfelt manner that advances his political agenda.

We have been able to achieve compromises on many issues over the years. Senator SCHUMER and I have worked together on many crime issues. For example, we have worked on language pertaining to the designation of high-intensity drug trafficking areas.

Over a period of years we have tried to work together on the subject matter of the pending amendment to the bankruptcy bill. I have always been willing to work with him and others in the interest of passing the bankruptcy reform bill.

From the beginning of this debate, many others and I have long contended that his amendment is unnecessary on its own merits. The amendment which we consider today appears to seek to guarantee the collection of civil and criminal penalties arising from criminal violations of the 1994 Freedom of Access to Clinic Entrances Act. The purpose of the Schumer amendment is to make clear that those who are fined due to attacks on abortion clinics are prevented from being able to discharge these fines and civil judgments resulting from such attacks through bankruptcy proceedings.

My friend from New York has pushed a hot button. He must know that. Injecting the polarizing politics of abortion into the bankruptcy bill, most would have to agree, does not appear to be calculated to help the passage of the bankruptcy bill. Quite the opposite, the Schumer amendment has become a wedge issue that has stopped the bill in the past and, today, can threaten the passage of this important bipartisan bill that enjoys broad bicameral support.

I urge my colleagues to vote against the Schumer amendment. Let me first explain my substantive objections and then I will describe my procedural, pragmatic, and political concerns with the Schumer amendment.

At the outset, it should be understood that in its best light the Schumer amendment is a belts-and-suspender proposition that attempts to solve a problem which, as far as I can tell, has never actually occurred.

We have been debating this bill for 8 years, and I am still unaware of any actual case in which a person who has been fined for harming a person or property in connection with any unlawful protests against, or attacks on, abortion clinics, has had any subsequent fines or financial penalties discharged through bankruptcy. At our markup of this legislation in February of 2001—more than 4 years ago, Senator Schumer said in justification of the amendment:

> . . . this is a vital amendment. I am not going into all the details . . . I will not catalogue them except to tell you that when Maria Vullo testified and anyone else did, they said without the Schumer Amendment we would go back to the days before 1994 when the clinics were closed by some who had felt . . . that they were more moral than the rest of us. . . .

Certainly that prophesy has not come to pass in the 4 years subsequent to the time that Senator SCHUMER made that statement back in 2001.

I am unaware of a systemic shutdown of the network of abortion clinics in this country over the past four years. Nor am I aware of any evidence of the use of the bankruptcy code as a mechanism of escaping financial responsibility for acts of violence against abortion clinics or their personnel, or for that matter, any other criminal enterprise.

The reason for this outcome is simple: Current law prevents such an outcome. Section 523(a)(6) of the bankruptcy code already prohibits the discharge of debts through willful or malicious injury to a person or property, and section 523(a)(12) makes restitution orders resulting from a criminal conviction nondischargeable through bankruptcy.

Nothing in this bill changes these provisions in the law. Moreover, a growing body of case law confirms the adequacy of these provisions when it comes to enforcing judgments arising from FACE Act violations.

In Behn v. Buffalo GYN Womenservices, a 1999 decision in Federal bankruptcy court in Senator SCHUMER's home State, the court rejected an attempt to discharge a civil award debt resulting from an abortion protest.

So it was rejected.

In Bray v. Planned Parenthood of Columbia/Willamette, decided in 2000, a bankruptcy court in Maryland rejected the attempt to discharge debts resulting from an Oregon case in which a Web site produced by anti-abortion extremists threatened the lives of those working in these clinics. The 2001 Treshman decision in a Maryland bankruptcy court confirmed that such actions will not be tolerated by permitting discharge of restitution or judgment through bankruptcy.

Randall Terry, the founder of Operation Rescue, is living proof of the adequacy of these laws. His Web site now solicits contributions after he was completely bankrupted as a result of actions found to be violative of the FACE Act.

From a purely legal perspective, it seems fair to say that what we have here is a solution in search of a problem. This is actually confirmed by the most recent testimony of my colleague from New York's star witness on this subject, Maria Vullo.

Way back when this amendment was first suggested back in 1998 or 1999, several cases were still pending. But now these cases have been resolved. And in every instance, the courts have refused a discharge of these debts.

In answer to a question of Chairman SPECTER in connection with the Judiciary Committee's last hearing on bankruptcy reform, held only 3 weeks ago, Ms. Maria Vullo acknowledged that she was ultimately successful under current law in all six bankruptcy courts where she acted to help prevent such improper bankruptcy discharges of abortion clinic-related fines.

There you have it. The primary litigator in these cases testified that she has won in all of her cases under existing law. This should help lead us to the conclusion that there is no compelling legal reason to change the law. There is an old saying: If it ain't broke, don't fix it.

We are not talking just belts and suspenders, we are talking belts, suspenders, *and* an elastic waist band. Discharges related to FACE Act violations have not been permitted under current law.

Our laws are clear. We discourage, prevent, and punish abusive filings, including those related to those offenses that occur in connection with abortion clinics. Again, to my knowledge, there is a complete absence of cases demonstrating the problem that this amendment seeks to address. This is not surprising.

Our bankruptcy laws already act to prevent, have prevented, and will act in the future to prevent precisely the problem that Senator SCHUMER is worried about, but cannot, it appears, document. The truth of the matter is that, on the merits, this is just an unnecessary amendment. Yet this amendment has already scuttled bankruptcy reform on two occasions.

In 2000 essentially the same bankruptcy bill passed this body with 83 votes and then 70 votes. It was vetoed by President Clinton in the waning days of his second term for failing to include this amendment. Then in the 107th Congress, the House of Representatives rejected even a twice-amended—and moderated—Schumer amendment.

Now that it is clear that the courts will not discharge these debts, the proponents of this amendment have slightly but subtly changed their tune. Now the alleged issue of concern is that some will nevertheless continue to attempt to discharge such fines and penalties—that is, sometime, some place, someone will try to use the bankruptcy code to shield illicit acts involving attacks on abortion clinics.

Some argue the amendment is justified on the supposed need to codify the general prohibition of section 523(a)(6) against discharging debts accrued in

connection with willful or malicious injury to a person or property with a special provision of law geared solely toward abortion clinic-related violence. The fact is, however, current bankruptcy law, along with the ever growing body of precedents on this subject, make it clear that attorneys will not be inclined to make these frivolous and abusive filings in the future.

Rule 9011 of the Federal Rules of Bankruptcy Procedure already allows sanctions against attorneys who participate in submissions to delay proceedings and needlessly increase the cost of litigation. It says a frivolous action without evidentiary support can be punished. I guess it is true that particular bankruptcy courts may sometime in the future eventually be faced with a filing by someone asking for improper discharge of debts, but that is just the nature of litigation within the bankruptcy system and the American system of justice.

Having the right to bring a claim in our system is very different from winning that claim. For each case that goes to trial, there is a winner and a loser. Trying to get around the bankruptcy code and case law precedents in the manner feared by supporters of the Schumer amendment is a losing case under current law.

Courts decide cases on the basis of the law and the particular facts in front of them. That bankruptcy courts will have to undertake their normal and traditional role of reviewing all relevant aspects of individual filings that may, or may not, include these improper and unsustainable claims related to abortion clinic damages is hardly a grave injustice.

And for what it is worth, the success of the FACE Act and the decisions of bankruptcy courts that hold those debtors to account appears to have resulted in an ever dwindling number of judgments that must be litigated.

This is an issue that is being overhyped.

The current statutes are clear.

The case law is clear.

The paucity of evidence of such claims for abortion clinic-related violence and injuries being routinely, or even infrequently, made in bankruptcy proceedings, reflects the fact that the word is out that the statutes and case law already prevent the problem that the Schumer amendment allegedly solves.

Moreover, I would like to add that section 319 of this bill expresses the sense of the Senate that all signed and unsigned documents submitted to a bankruptcy court must be preceded by a reasonable inquiry to verify that this information is well grounded in fact and warranted by existing law or based on a good faith argument for an extension, modification, or reversal of existing law.

I am hopeful that this sense-of-the-Senate provision will help spread the word even further.

When the Schumer amendment burst upon the floor in 2000, I worked in good faith to make this questionably meritorious issue more palatable to Members on my side of the aisle.

In particular, I wanted to help alleviate the concerns of those who, as I, hold strong pro-life views. We are sensitive to the fact that the original Schumer amendment could reasonably be interpreted as affecting first amendment rights to protest against what we believe is the unjustifiable practice of abortion.

It is my recollection that the original Schumer language back in 2000 also addressed attempted or alleged harassment, interference, and obstruction. Many believed that this language was way too broad and could have potentially implicated the actions of peaceful anti-abortion protestors who were simply exercising their freedom of speech.

Nevertheless, for a variety of reasons, mostly political rather than legal or policy, the Schumer amendment was accepted. One of the key factors was that it appeared to some at the time that the amendment was offered in part to give then-Vice President Gore an opportunity to possibly cast a tie breaking abortion vote during the Presidential election year of 2000.

I cannot say for certain that this was the case. But if it was, it probably would not have been the first time that Presidential politics played out on the floor of the Senate.

Before the February 2, 2000, vote on the Schumer amendment, I said the following on the Senate floor:

> Although I believe this amendment to be tremendously flawed, the majority leader, Senator Grassley, and I recommend that Members on both sides vote for this amendment. We will, in good faith, in conference correct the amendment and resolve these problems at that time. With this amendment accepted, nobody will be able to demagogue this issue politically in the context of true bankruptcy reform. We pledge to work with our friends on both sides of the aisle who are interested in this issue during conference to make sure the law is clear, that the due respect for the first amendment, and debts arising from violent acts cannot be discharged in bankruptcy.

This is hardly a ringing endorsement and certainly nothing near an absolute commitment to retain this language at any cost or contingency.

Nevertheless, in the 106th Congress the bankruptcy bill, with this flawed language, passed the Senate with 83 votes.

Eventually during the House-Senate conference committee the Schumer abortion clinic-specific amendment was not contained in the conference report. The bankruptcy legislation, without the Schumer language still passed the Senate with a strong bipartisan 70 votes.

Unfortunately, President Clinton then pocket vetoed the bill passed by both the House and Senate.

Early in the 107th Congress, I worked with Senator SCHUMER on compromise language that moved away from the incendiary abortion clinics-specific language to a more general and neutrally-phrased provision related to ''lawful good and services.'' This provision was adopted by a unanimous voice vote of the Judiciary Committee on February 28, 2001.

I would note for the record that despite this compromise, Senator SCHUMER voted against the bill on final approval in the Judiciary Committee.

On July 17 , 2001, this bill passed the Senate by a vote of 82–16.

The House-passed version of the bankruptcy bill in the 107th Congress once again did not contain comparable language. I might add that the House passed its bill by a strong bipartisan vote of 306–108 on February 26, 2001.

At this point Senator SCHUMER and I worked with Representatives HENRY HYDE and JOHN CONYERS and others to fashion an acceptable compromise.

This compromise was rejected.

Frankly, at the time, I would have preferred that the compromise be accepted and this already overdue bill be signed into law.

However, I can well understand the frustration of many of my colleagues in the House being asked to adopt a watered-down version of an amendment without meaningful legal effect derived from the inflammatory original version of the Schumer amendment that addresses a problem that apparently does not exist in the first place.

Rather than go down this fruitless road again, I ask my colleagues to vote down the Schumer amendment for once and all.

Not only is it unlikely that the House will accept it, the Senate should not accept it either.

One important difference from the situation of 3 and 4 years ago is that we now have, as I discussed earlier, a more definitive picture of how the courts will interpret the application of section 523(a)(6) in the context of abortion-clinic related claims.

In short, the courts have not and will not allow fines or judgments stemming from the willful or malicious injury to a person or property to be discharged in bankruptcy whether they arise out of illicit actions against abortion clinics that violate the FACE Act, or, for that matter, any other of the literally dozens of other injuries that can be conjured up relating to willful or malicious injury to a person or property.

No one would, or should, take seriously any amendment that purported to state explicitly that fines or judgments incurred from yelling fire in a crowded theater could not be discharged through bankruptcy.

Nor should we support the Schumer amendment when we know it is both unnecessary and divisive.

You do not have to be pro-life to be against the Schumer amendment. You just have to conclude that 8 years is enough time to have worked on one bill that has repeatedly engendered broad bipartisan support.

And to hold up this legislation once again over an incendiary, extraneous,

redundant poison pill amendment is just not right.

I always try to seek a compromise or accommodation with my colleagues whenever it is productive to do so and consistent with my principles.

In this case it is simply not possible to do so in a productive manner absent any sign from the House that its Members are receptive to such a compromise.

Having worked on this issue for several years, I have reached the conclusion that the inherent volatility of the subject matter of the original Schumer amendment has made it nearly impossible to arrive at a neutral language resolution to this undocumented problem at this time.

Moreover, the well-known by now impasse over the acceptability of compromise language is compounded by the simple fact that there is, to my knowledge, no compelling evidence that there is a problem requiring a legislative fix.

To a certain extent, this is an exercise that demonstrates why it can be harder to fix a hypothetical problem than a real problem.

Frankly, that we would even be considering an amendment based on the 2001 Judiciary Committee markup language, rather than the revised 2001 conference report language, hardly seems like a step in the right direction. To use an expression that my friend from New York sometimes uses himself, reverting to the earlier language may seem to some a bit like a poke in the eye.

I suspect that this is unintentional on the part of my friend from New York. I wish we could have worked this out, and I thought we did work it out.

But as I look at all the facts and circumstances, including the developments in the actual cases brought and decided over the last few years, I can only conclude that there is even stronger evidence today than there was in 2000 and 2001 that this amendment is simply unnecessary.

While I attempted in good faith to resolve this problem 4 years ago, time seems to have proven that those I who looked askance at this compromise in the first place were correct in their assessment of the lack of necessity for this amendment.

I ask my colleagues to oppose the amendment of my distinguished friend from New York for these reasons. It is important that we get this bankruptcy bill finished. It is extremely important that we get it done. If this amendment is added, it isn't going to get done again, and we will be in the ninth year next year, frankly, probably 2 years from now because we will never get what really has to be done in the best interests of bankruptcy reform.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. SCHUMER. Mr. President, I would like to ask my colleague a question, but, first, I will make a couple of points.

First of all, nothing has changed since we all supported the Schumer-Reid-Hatch amendment of a few years ago. The basic purpose then was not to make sure that cases in bankruptcy court did not come out on the side of those who were victims of violence. It was just impossible to pursue the claims of bankruptcy.

My good friend from Utah cites Maria Vullo. She is a successful lawyer in New York who donated her own time which she estimated at one of our hearings to be worth over $1 million. She believed passionately that those who used violence should be stopped. Not every clinic has it. And, of course, if you go through the bankruptcy proceedings, you will win. Clinics don't have the ability to do that; first, to fight in court on the issue of violence and then to go back to the bankruptcy court.

I say in all due respect to my good friend from Utah, he knew that then, and he knows it now. It is the same issue. The very issue that he says we don't need this law was brought up in 2000 and 2001. My good colleague was then good enough to admit we did need the law even though we couldn't find cases, and even though there were no cases in bankruptcy court where the Randall Terrys of the world prevailed. You would never have the successful suit.

That is why these fanatical groups are insisting that bankruptcy be used.

I make another point to my colleague. If the amendment is unnecessary now, why wasn't it unnecessary then?

I make this point to my colleagues: The merits have not changed. Exactly the situation that prevailed in 2000 and 2001 prevails in 2005.

What has happened is people have done a 180-degree about-face because of a small group in the House who do not represent the mainstream views of the House or of even the Republican Party in the House but who have insisted on not going forward with a bill with this worthy amendment in it. An amendment that was praised, a compromise that was hailed a few years ago is every bit as valid today as it was then.

I know it is difficult and awkward for people to say, well, never mind, but we cannot let this issue just die. The rule of law is too important. Fairness is too important. What is good and beautiful about America is too important.

We will ask our colleagues to stick with their convictions that they have had over the last few years and not do an about-face simply because a small group of industry leaders says we must have this bill no matter what.

Senator HATCH spoke for a long period of time. I wanted to rebut him. He did not want to do it on his time.

The PRESIDING OFFICER. The Senator from New York does control time. The Senator can yield time to the Senator from California, but in doing so the Senator will lose his right to the floor.

Mr. SCHUMER. I yield 10 minutes to my friend and colleague from California, and cosponsor of this legislation, Senator FEINSTEIN.

Mrs. FEINSTEIN. Mr. President, I thank the distinguished Senator from New York.

We are both members of the Judiciary Committee. We had an opportunity to discuss and debate this amendment in the Judiciary Committee.

Senator SCHUMER's amendment is a critical amendment. Essentially, when this body in 1994 passed the Freedom of Access to Clinic Entrances Act, we said that individuals should be able to go into clinics without being obstructed. The law was very clear.

The law also has led to successful criminal and civil judgments against groups that use intimidation and outright violence to prevent people from obtaining or providing reproductive health services.

This law would be seriously damaged if we do not close this loophole that has allowed some antiabortion extremists to use bankruptcy to shield their assets. The Senator from New York mentioned the founder of Operation Rescue, Randall Terry, who said in 1998 after filing for bankruptcy:

> I have filed a chapter 7 petition to discharge my debts to those who would use my money to promote the killing of the unborn.

In my home State of California there was a similar incident involving a man by the name of John Stoos and several other people in 1989 who were sued by the operators of a Sacramento abortion clinic for allegedly blocking the clinic's entrance and harassing patients. A judge ordered Stoos and others to pay nearly $100,000 in attorney's fees incurred by the clinic. As a result, Stoos filed for personal bankruptcy, listing that debt among many he could not pay. These actions are clear evidence of abuse of the bankruptcy system. This bankruptcy bill should stop them.

I hope the Schumer amendment would be accepted by this Senate.

Let me use this time to speak a bit more generally about this bill. I voted for this bill when it left committee. I have decided to vote against this bill in the Senate. I want to say why. In committee, we were asked to withhold all amendments to the floor. We knew the bill was not a perfect bill. We have seen it improved over the years. We knew it was better than the House bill. And with all complicated, difficult bills, the tradition of the Senate has always been the floor debate and discussion. In a majority of times as a product of floor debate and discussion, problems in the bill can be remedied.

We knew there were problems in the bill. For example, I have an amendment which I have withdrawn which says that the credit card companies should, in fact, notify a minimum payer how long it would take that payer of a credit card, if he only paid the minimum amount of interest, to pay off the debt. Senator AKAKA had a similar amendment. It was summarily

defeated. I had an amendment; I had two Republican cosponsors. I learned it would also be summarily defeated. Thanks to Senator SHELBY and Senator SARBANES, the Banking Committee has taken an interest in this and in the future and will take a look at it.

Nonetheless, the fact of the matter is this bill is all for the credit card companies. I know there is credit card fraud. I know that has to be met. I felt the bill was important to pass. However, I also felt the bill should be balanced and that we should see that the consumer is also protected in this process, protected with notice of what a minimum payment means, and also, frankly, protected against high interest rates.

Senator DAYTON moved an amendment which would limit interest rates on credit cards to 30 percent. The amendment was summarily defeated. The fact is with penalties, with other charges, with high interest rates—and many companies have interest rates, believe it or not, well in excess of 30 percent—a minimum payer cannot ever pay the full debt because the interest on the debt, if combined with certain penalties and/or fixed payments, becomes such that it overwhelms the principal. Many people do not know that.

The fact is 40 percent of credit card holders pay off their debt every month; 40 percent make only the minimum payment; and 20 percent are kind of 50/50 in that category. For those 60 percent who are generally people who are not as informed, not as able to pay back their bill, who may have one, two, three, four, five, six different credit cards, because this is a credit economy, credit card companies have been able, with very little interest to the payer of the debt, to solicit huge fees, penalties, and interest rates. This is plain wrong.

If we are unable to correct it, which I had hoped would be corrected by these amendments that have been presented, I cannot vote for this bill as long as these gross injustices remain.

Let's for a moment look at the 30-percent interest rate. It is very high. Inflation is about 2 percent. The interest rate on 3-month Treasury bills is 2.75 percent. The national average lending rate on a 30-year mortgage is 5.59 percent. Yet an amendment to limit interest rates on credit cards to 30 percent went down dramatically.

I mention there are companies that are charging high annual interest rates. Some charge 384 percent, 535 percent. Amazingly, one Delaware-based company has charged 1,095 percent, according to the Minnesota chapter of the National Association of Consumer Bankruptcy Attorneys.

The Washington Post, the Los Angeles Times, other major newspapers have pointed out where fees, rates, and charges have buried debtors. They have pointed out a multitude of cases. A special education teacher from my home State worked a second job to keep up with $2,000 in monthly payments. She collectively went to five banks to try to pay $25,000 in credit card debt. Even though she did not use her cards to buy anything else, her debt doubled to $49,574 by the time she filed for bankruptcy last June. Effectively, interest payments are half of the debt. She will never be able to pay that off.

To push people like this from chapter 7 into chapter 13, when what is the problem is interest rates and penalty fees that truly do victimize an unsuspecting individual—how could this Senate do that, if someone is going to charge a 100-percent interest rate?

One of my own staff members found that simply getting a credit card cash advance resulted in an immediate 3 percent fee which was simply added to the interest rate.

The result is even the most careful credit card users find themselves often swamped, particularly those who can only afford to make a minimum payment, and the fees, charges, and interests pile up, making it virtually impossible to ever pay off the debt.

This amendment would have been a meaningful addition to the bill. It certainly would have added fairness. It certainly would have sent a signal to credit card companies that the sky is not the limit. Yet it was defeated.

Senator SCHUMER's asset protection trust, of which I was a cosponsor, was another indication of where wealthy people could shelter assets and not have to pay back in chapter 13. These are some of the inequities.

In recent years a number of financial and bankruptcy planners have taken advantage of the law of a few States to create what is called an ''asset protection trust.'' These trusts are basically mechanisms for rich people to keep money despite declaring bankruptcy.

They are unfair, and violate the basic principle of this underlying legislation—that bankruptcy should be used judiciously to deal with the economic reality that sometimes people cannot pay their debts, but to prevent abuse of the system.

This loophole is an example of where the law, if not changed, permits, or even encourages, such abuse.

The amendment was simple. It set an upper limit on the amount of money that could be shielded in these asset protection trusts, capping the amount at $125,000.

The bottom line: Without this amendment, wealthy people will be able to preserve significant sums of money in an asset protection trust, effectively retaining their assets while wiping away their debts.

The proposed cap amount, $125,000, is not a small sum. It is more than enough to ensure that the debtor is not left destitute. I believe it is a reasonable amount—it is deliberately based on the now-accepted $125,000 limit for the homestead exemption, which will also remain available to a debtor.

I would also like to say a few words about my concerns about what appears to be a new policy in the Senate.

It appears that the Republican leadership has decided that rather than honoring the 200 plus year tradition of the Senate as a deliberative body, the Senate should be run like the House of Representatives. There appears to be a new process being implemented in which the Senate should no longer seriously consider amendments on the floor to improve bills.

We are now in the middle of the second major piece of legislation where the majority has decided that amendments by the minority will be rejected wholesale regardless of the merits.

It appears that even when serious problems in the underlying legislation are raised and even when the Republican leadership agrees that the problem exists, amendments offered by the minority will be rejected.

In fact, when the Judiciary Committee was marking up the bill, Senators were asked not to offer amendments and instead offer them on the floor. Statements were made by the Acting-Chairman like, ''I know we are going to go through this on the floor and I don't see any reason to keep us here all day and all night''; and, ''[You will] have every opportunity to present these amendments on the floor.''

Yet, upon reaching the floor, Senators have found that their amendments are not being considered on the merits.

It is the Senate's job to carefully debate, carefully consider, and pass the very best laws we can. But now the Senate is being asked to simply pass legislation as drafted, regardless of its content.

This lack consideration and care does a disservice to the Senate and to the Senators who work hard to reach compromises and find common ground. But more importantly, it does a disservice to the American people.

We are here to develop the best policy we can, not to simply play political games and jam through legislation for the sake of expediency.

As I began, I want to be clear. I support bankruptcy reform legislation, and I support many of the provisions in the underlying bill. However, throughout this process many important issues have been raised that identify serious problems that must be addressed. The Senate has been and should remain a deliberative body that seeks to draft the best legislation we can. Unfortunately, that is not what we are doing.

And unfortunately, based on these concerns, I regret that I am no longer able to support the bankruptcy legislation. I do not believe the bill before us is balanced. There remain many serious problems that must be addressed before I am ready to support the legislation. I have decided because of the summary disposition of amendments by the other side, this Democrat Member is going to vote ''no'' in the Senate.

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

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mrs. FEINSTEIN. Mr. President, I ask the time be charged equally on both sides during the quorum call.

The PRESIDING OFFICER. Without objection, the time during the quorum call will be charged evenly to both sides.

The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I yield myself as much time as I may consume from the Republican side of the agenda.

I thank my colleagues for this good debate on an important issue that does not belong on this bill. There are several key reasons, clear reasons why this amendment of the Senator from New York should be rejected. This is an important piece of legislation, the bankruptcy legislation. This amendment brings the most difficult social issue we have of our day into this debate. It does not belong here. It is not the right place to do this. We have plenty of pro-life issues to come before this Senate, and not to tie the bankruptcy bill up would be an important thing to do.

The membership opposes this amendment because, as we learned in previous Congresses, it is a poison pill.

The amendment is meant to kill the overall bankruptcy reform bill. I would hope that is not what the author's intent is. But that is the effect of this amendment. It kills the bill.

If the author of this amendment wants bankruptcy reform to move forward, it is something that needs to move forward. I have voted against bankruptcy reform in the past because I didn't think it was proper. I thought particularly we have problems on homestead provisions that we have been able to get worked out over the years we have been considering this legislation. Now we have that worked out as many other pieces have been refined over the 6 years this has been considered.

Now is not the time to add this most contentious issue into the debate. It is not the proper place, and it is time that we move the bill forward, move it to the House and to the President for signature.

Bankruptcy reform is an important matter. It would be my desire for my colleague not to offer the amendment so that we can focus on the particular critical issue facing our Nation in the form of the need for fundamental bankruptcy reform.

Aside from the abortion issue, I am deeply concerned about what I believe to be a lack of fairness and justice embodied in this amendment. There is a fundamental fairness issue involved with this amendment. No one in this Chamber condones violent crime. I am certain that everyone believes violent crime should be prosecuted to the fullest extent of the law. While the pending amendment is presented as a way to address violent crime, it would primarily and inappropriately intimidate and harm peaceful protesters. In fact, were the Schumer amendment to become law, no crime would even be necessary to trigger its sanctions. Merely violating a Federal or State civil statute, such as a minor trespass, would be enough to place a violator in financial jeopardy.

Historically this legislative body has fashioned criminal and bankruptcy penalties in a manner proportional to the gravity of the offense and the degree of injury and culpability. If enacted, this amendment would be a radical break with this tradition of prudence and fairness. For example, under current law, there are only a few extreme cases where a debtor is prevented from seeking discharge of his or her debts through bankruptcy protection. For example, instances in which discharge of debt is prohibited include intentional financial wrongdoing, such as fraud and embezzlement, or cases where the debtor has created a grave unjustifiable risk to human life, such as injury caused by drunk driving. Those are appropriate.

The Schumer amendment would put a peaceful pro-life protester who, in the course of exercising his or her first amendment rights, simply steps in the wrong place—trespassing—on a par with embezzlers or drunk drivers. Should the price of constitutional freedom be the risk of financial ruin? Amazingly, this amendment says yes. The amendment says that people who protest and who do no physical harm, have no malicious intent should be singled out for harsh treatment.

While I make no excuse for violations of the law, I have to ask again: Should not the gravity of the punishment correspond with the offense? I don't think that is at all the case in this particular amendment.

A literal reading of the Schumer amendment would strip a peaceful protester of bankruptcy protection should he or she simply step in the wrong place while leafleting or even praying the rosary. Whether the fine involved is $10 or $1 million, we are talking about a peaceful individual and families with young children who should not be forced to risk paying this price simply for doing what the Constitution permits.

Fairness and the great tradition of our first amendment freedoms counsel against the adoption of this amendment.

I urge my colleagues to vote against it. It kills the bankruptcy bill. It is against fundamental fairness and freedom for people to exercise their right of free speech.

I suggest the absence of a quorum and ask unanimous consent that the time be equally divided.

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

The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. LAUTENBERG. Mr. President, I rise to support the Schumer amendment to the bankruptcy legislation presently before the Senate.

The amendment provides that debts or judgments arising from acts of violence and threats of violence cannot be discharged in bankruptcy proceedings. While this provision was drafted in previous Congresses to specifically apply to reproductive health service providers and abortion clinics, it has been expanded this year with the help of some of our Republican colleagues.

The amendment now addresses violence and intimidation aimed at blocking access to any type of lawful good or service. The Schumer amendment now applies to anyone who threatens, intimidates, or harms another person in the course of a lawful practice in places like houses of worship, the workplace and restaurants.

Supporters of the bankruptcy bill argue that this amendment should be defeated because any amendment to so-called compromise bankruptcy legislation would upset the apple cart, causing the House of Representatives to reject it.

I cannot understand how this Senate could could fail to pass an amendment that would simply prevent perpetrators of violence from hiding behind our bankruptcy laws. Where is the justice in permitting such a practice?

For the past week, supporters of the bankruptcy legislation have consistently talked about personal responsibility and the need to prevent people from abusing the bankruptcy process.

In fact, the centerpiece of this legislation is a means test that presumes chapter 7 filers are abusing the bankruptcy laws because their monthly income increases by as little as $100.

The Schumer amendment is intended to prevent extremists and fanatics from abusing our bankruptcy laws to shield themselves from paying fines and fees imposed by a court of law after they have endangered someone's livelihood.

These attacks are more common that one might imagine. Since 1977, there have been 7 murders, 17 attempted murders, 41 bombings, 171 arsons, 100 butyric acid attacks, and 655 threats targeting abortion providers alone.

In total, there have been more than 4,000 cases of stalking, burglaries, kidnappings, assaults, anthrax threats, invasions, attempting bombing and acts of vandalism, perpetrated against people who were performing or offering a legal procedure. And in case after case, after the perpetrators of these acts of intimidation and violence are

brought to justice, they hide behind the bankruptcy code to shield themselves from assuming responsibility for their actions.

As Senator SCHUMER has said, this issue is neither pro-choice nor pro-life; it is ''pro-rule-of-law and anti-violence.''

While we have a right to disagree with the law in this country, and a right to try to change the law, no person has the right to take the law into his own hands.

I have followed this issue for a long time. The first blockade of an abortion clinic occurred in Cherry Hill, NJ, in 1987.

The first murder of an abortion provider occurred 12 years ago, on March 10, 1993, when Dr. David Gunn was slain during an antiabortion protest at a Pensacola, FL clinic. Since then, there have been six more murders.

In 1994, responding to a rash of violence against abortion providers around the country, I asked the United States attorney to convene a task force to ensure that all appropriate measures were being taken to protect women and doctors and to prosecute those who threatened them with violence.

Later that year, Congress enacted the Freedom of Access to Clinic Entrances, FACE, Act, which established Federal criminal and financial penalties for those who employ violence and intimidation to prevent persons from obtaining or providing reproductive health services.

Unfortunately, the perpetrators of violence have used our bankruptcy laws to evade responsibility and escape the financial penalties that were part of the FACE Act. For example, former Operation Rescue president Randall Terry has filed for bankruptcy to avoid paying more than $1.6 million in fines and fees that he owes as a result of his illegal actions.

We must not allow those who would take the law into their own hands and commit acts of violence against their fellow citizens to hide behind our laws when it suits their purposes. We must not allow our bankruptcy laws to be abused as a shield for violence.

I encourage my colleagues to support the Schumer amendment.

Mr. SCHUMER. Mr. President, we have 11 minutes on our side. How much time remains left on the other side?

The PRESIDING OFFICER (Mr. BURR). There is 10 minutes remaining on the minority side and 15 minutes on the majority side.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the last 5 minutes be reserved for me and the previous 5 minutes to whoever wants to speak for the other side.

The PRESIDING OFFICER. Without objection, 5 minutes will be reserved on each side to be allocated from that side's time remaining.

Mr. SCHUMER. 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. 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.

Mr. REID. Mr. President, it is my understanding there is 6½ minutes on the Democratic side.

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. I will use a minute and a half of that now.

Mr. President, I am happy today to rise as a cosponsor of the Schumer amendment. This amendment would ensure that debts arising from unlawful acts of violence cannot be discharged from bankruptcy.

America is a nation of laws. One might not always agree with the law or how it is interpreted, but that does not entitle you to willfully violate the law. The right to express disagreement is to seek change through peaceful means. It is never appropriate to resort to violence or intimidation in violation of the law. Here in the Senate we express policy differences through civil discourse and resolve them through the political process, not through violence. We debate in this body passionately but in a manner of respect and civility in an attempt to persuade others of the merits of our position, and that is the purpose of the debate. Those who resort to violence are violating not only our laws but our American principles and values. They are violating what we call the rule of law on which this country was founded.

Unfortunately, some who break the law are using a loophole in the Bankruptcy Code to avoid paying the fines and penalties assessed against them as a result of their illegal activities. This amendment will ensure that individuals who engage in such acts of violence, intimidation, or threats, cannot hide in bankruptcy from the penalties imposed on them from violating the law.

I emphasize that this amendment is not about the right to abortion, nor does it single out anti-abortion protestors. This amendment applies to anyone who violates a law related to the provision of lawful goods and services. It applies to any extremist who will turn to violence to protest lawful activities.

For example, this amendment would apply to animal rights activists who engage in illegal tactics to shut down a lawful animal research center. There are many people who think that using animals for medical research is immoral and wrong, but this does not entitle those people to come in and trash one of those facilities, as has been happening. It would apply to an ecoterrorist who engages in illegal tactics to intimidate car dealerships or timber companies from doing business with people they think they should not do business with. It would apply to an arsonist who starts a fire at a church to deprive worshippers of the right to practice their religion. All of these extremists must be held accountable for their actions, and none should be permitted to discharge their debts in bankruptcy.

It is true that some of the worst abuses of this kind have been antiabortion extremists who have terrorized reproductive health care workers. They have directed thousands of acts of violence against abortion providers, including bombings, arson, death threats, kidnappings, assaults, and murders. When a man by the name of Barnett Slepian, who was a father of four, a husband, was a victim, I was the first person to come to the Senate floor and say that is wrong. When violence occurred at a Planned Parenthood clinic—I believe that is where it was—someplace in the South, I came to the floor immediately to say that one cannot violate the law because they disagree with what a lawful business is doing.

Dr. Slepian was an obstetrician/gynecologist. He provided health care to women and delivered babies and, on occasion, he performed abortions. He was at a downtown clinic, and he worked there specifically because he believed it was important he give his expert advice to people who were poor. Because of this, one night he was in his living room, and someone with a high-powered rifle shot and killed him while he was there with his family.

I did not know this doctor, but I learned after his death that he was an uncle of a woman who worked for me. The woman was from Reno. She was a good employee. Of course, she was heartbroken over the fact that her uncle had been murdered. The person who did this was not only a murderer but should be seen as a terrorist.

What is going on in Iraq today? We have these extremists, these terrorists, who do not like what is going on there, and so they are committing these criminal acts. They are taking the law into their own hands.

The man responsible for killing Dr. Slepian was extradited from France a few years ago where he had fled. His name was James Kopp. Kopp was part of an organized network of violent extremists, including a group that called itself the Army of God. The group and others similar to it have engaged in a long campaign of violence.

In 1994, we passed the Freedom of Access to Clinic Entrances, called FACE, which established Federal criminal and financial penalties for those who employed violence to prevent persons from obtaining or providing reproductive health services. The FACE Act is essential to protecting the lives of women and health care providers.

Unfortunately, some of the people charged under this act are filing for bankruptcy to avoid accountability for their illegal acts of terrorism. As an example, defendants in the so-called Nuremburg files case have tried to nullify years of court proceedings by filing a chapter 7 proceedings.

What are the Nuremburg files? Listen to this one: They posted on a Web site the names, addresses, and license plate numbers of people who worked in these health care facilities. They even posted pictures of their target's families, all members, and they would list them—father, son, mother, brother, whatever it might be—and places where their children waited for the school bus. Doctors who still worked appeared in plain text on the Web site, a person who had been wounded was grayed out; and those who had been murdered, including Dr. Slepian, had a line through their names.

It is intolerable that the groups which incite these heinous acts of violence can discharge their civil penalties in bankruptcy, but that is exactly what happened. If we want to prevent future acts of violence, including clinic violence, it seems to me that we need to have a specific provision in the bankruptcy law to prevent discharge of violence-related debts. That is what this amendment is all about.

I do not support abortion, but this amendment is not about abortion. It is about holding responsible those who commit illegal acts and believe that they are above the law. This amendment is about preserving the rule of law.

I cannot imagine how this amendment is causing a concern or a problem. Are we now to believe that there are people who are telling members of the majority, do not do this, we want to go and commit acts of violence, we want to commit crimes, and do not vote against us because you will prevent us from filing bankruptcy? That is what this is all about. Should not we as a body say that if one goes out and does these terrible acts, where they kill people, they maim people—one of their latest tricks is they figured out this acid which is some kind of a chemical compound, and they walk into these facilities and they throw it all over. It cannot be washed out. It cannot be steamed out. The only thing one can do is tear the facility down. Should they not be held responsible?

I cannot believe we are going to have a bill as important as this bankruptcy bill jeopardized because of the terrorists who are out there waiting to file bankruptcy. That is what this is all about. People are out there wanting to commit crimes, waiting to commit crimes, saying, do not pass this because if you pass it I will not be able to file bankruptcy. I just think it is beyond my ability to comprehend that people who know they are violating the law, they are killing people, they have this Web site that they are soliciting murder.

And we are going to condone this activity under the guise that this is a choice, this is a pro-life/pro-choice issue and we cannot get involved. This is not about abortion. It is about maintaining the law.

I am so disappointed that the majority is going to go along with the ability of people to commit crimes and terror and discharge them in bankruptcy.

The PRESIDING OFFICER. Who yields time? The Senator from New York.

Mr. SCHUMER. Mr. President, what is the status of the time on both sides?

The PRESIDING OFFICER. The majority has 11 minutes remaining. The Senator from New York has the last 5 minutes.

Mr. GRASSLEY. Mr. President, I rise in strong opposition to the Schumer amendment which would make debts incurred in connection with violations of the Freedom of Access to Clinic Entrances Act nondischargeable in bankruptcy. This amendment has been a poison pill to enactment of the bankruptcy bill and must be defeated.

On two previous occasions, CRS performed research for us and told us that FACE debts had never been discharged in bankruptcy. Just recently, I asked CRS to perform an updated search on reported decisions considering the dischargeability of liability incurred in connection with violence at reproductive health clinics by abortion protesters. CRS confirmed that this amendment is not necessary. The CRS memo identified only one reported case, which found the debt to be nondischargeable under the bankruptcy law's discharge exception for willful and malicious injury. So this amendment is not necessary. Even Senator SCHUMER's own witness at the Senate Judiciary Committee hearing on the bankruptcy bill testified that in all the cases that she had litigated, the court had always found that the debts incurred under the FACE Act were nondischargeable in bankruptcy.

My colleagues make a big deal out of the fact that some of us on this side have supported amendments similar to this one before. The truth is, when the Schumer abortion amendment was offered in 1999 to the comprehensive bankruptcy bill, Vice President Gore was campaigning for the Democrat nomination. His opponent, Senator Bradley, was alleging that Vice President Gore was not sufficiently prochoice. Vice President Gore's allies in the Senate were maneuvering to create a tie vote on the Schumer amendment so Gore could ''break the tie'' to improve his political standing.

To avoid this, most Republicans voted in favor for the Schumer amendment. Thus, that vote in the 106th Congress was not a vote on the merits of the Schumer amendment.

The Schumer amendment was included in the 107th Congress bankruptcy bill. But the fact is that in the 107th Congress, the Schumer amendment killed the bankruptcy conference report because the House would not take it. Thus, the Schumer amendment is a poison pill and must be defeated.

Let me reiterate that in two previous memos, CRS concluded that the Schumer amendment is unnecessary because abortion protester debts are already not dischargeable in bankruptcy. We have just updated this research and CRS has confirmed that FACE Act violations are not dischargeable in bankruptcy. The proponent's own witness testified before the Judiciary Committee that none of these debts have ever been discharged in bankruptcy. The reality is that the Schumer amendment is just a political ploy designed to generate opposition to the bankruptcy bill. The Schumer amendment is a poison pill which will kill the bankruptcy bill. This amendment must be defeated, and I urge my colleagues to oppose it.

The PRESIDING OFFICER. Does the Senator from Iowa ask unanimous consent to yield back the remaining time?

Mr. GRASSLEY. Yes.

The PRESIDING OFFICER. The Senator from New York is recognized for his final 5 minutes.

Mr. SCHUMER. Mr. President, in conclusion, I would like to rebut some of the comments of my colleague from Utah who said this amendment was not necessary, and he talked about Maria Vullo, the lawyer who represented the clinic in the Nuremberg files case.

Here is the major point. She did not collect any money in that case. Despite spending $1 million of her own money, pro bono, despite relitigating in six bankruptcy courts, she was unable to collect any dollars. This is the point we are making. Perhaps at the end of the day you will get a nominal victory if you go all around the country chasing these fanatics in bankruptcy court, but you cannot collect. That is why the American Coalition of Life Activists, a violent fringe anti-choice group, actually requires its leaders to be judgment proof.

Here is the bottom line: This amendment, which was supported by so many on the other side, is being dropped, not because it is wrong but for expediency, so there will not have to be a bloody battle in the House between those who are on the Republican side, between those who are more probusiness and those who are vehemently opposed to this amendment. I will not denigrate the pro-life movement by labeling them that way because the pro-life movement cannot be for these violent groups.

This amendment is for the rule of law. This amendment says you cannot use violence against any group to achieve a political end and then, when you are sued civilly, use the bankruptcy courts for protection. That has never been what the bankruptcy courts were intended to be. It is neutral on terms of what issue. Yes, it might be extremists who are against abortion. It also might be extremists on the left side, on the environmental side who burn buildings or houses or cars. Are we going to, as a society, condone that type of activity?

I will tell you, if we defeat this amendment, that is what we are doing. Make no mistake about it, make no mistake about any of the subterfuges. To me, this amendment and the rule of

law and the American way of life that this amendment stands for are more important than the rest of the bankruptcy bill.

The bankruptcy bill, whether you are for it or not, twists the dials a little bit with regard to the balance between creditors and debtors. I assure you that was not on the Founding Fathers' minds when they wrote the Constitution and created the Republic.

What this amendment does goes right to the heart of what America is all about. It says those who use violence to achieve their political goals cannot get a benefit, in this case bankruptcy. It, in my judgment, as I said, is more important than the rest of the bill.

So I ask my colleagues on the other side to rise to the occasion. Do not let arguments of expediency persuade you. That is the slow road to oblivion. That is the tortured path to undoing step by step, bit by bit, as the river creates a canyon, the way of life that we love. No matter how strongly one feels about something, their job is to persuade others to their viewpoint, not to take the law into their own hands and use violence. And if they do, they should not be allowed to use the Bankruptcy Code or anything else to prevent just civil or criminal action against them.

I ask my colleagues to look into their hearts, to examine what this amendment does, and to have the same courage—courage of conviction and courage of a fair compromise—that we showed a few years ago. I urge support of this amendment.

I yield the floor.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to amendment No. 47 offered by the Senator from New York. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 46, nays 53, as follows:

[Rollcall Vote No. 28 Leg.]

YEAS—46

Akaka	Feingold	Murray
Baucus	Feinstein	Nelson (FL)
Bayh	Harkin	Obama
Biden	Inouye	Pryor
Bingaman	Jeffords	Reed
Boxer	Johnson	Reid
Cantwell	Kennedy	Rockefeller
Carper	Kerry	Salazar
Chafee	Kohl	Sarbanes
Clinton	Landrieu	Schumer
Collins	Lautenberg	Snowe
Conrad	Leahy	Specter
Dayton	Levin	Stabenow
Dodd	Lieberman	Wyden
Dorgan	Lincoln	
Durbin	Mikulski	

NAYS—53

Alexander	DeWine	McCain
Allard	Dole	McConnell
Allen	Domenici	Murkowski
Bennett	Ensign	Nelson (NE)
Bond	Enzi	Roberts
Brownback	Frist	Santorum
Bunning	Graham	Sessions
Burns	Grassley	Shelby
Burr	Gregg	Smith
Byrd	Hagel	Stevens
Chambliss	Hatch	Sununu
Coburn	Hutchison	Talent
Cochran	Inhofe	Thomas
Coleman	Isakson	Thune
Cornyn	Kyl	Vitter
Craig	Lott	Voinovich
Crapo	Lugar	Warner
DeMint	Martinez	

NOT VOTING—1

Corzine

The amendment (No. 47) was rejected.

Mr. MCCONNELL. I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH. Mr. President, in a few hours we will be voting on cloture for this bill. I would just like to take a minute or two and remind everyone why it is time to end the debate on this bill.

It has been 8 long years of consideration on this legislation. We have all compromised a great deal. Not everyone got their preferred language or amendments. Not everyone is happy with the current legislation.

But I think everyone would have to agree that we have given thoughtful consideration and fair opportunity to all suggestions on the bill throughout the years of debate.

Over the years, we modified the homestead exemption.

We modified the means test.

We provided for sanctioning attorneys who file abusive claims.

And we hindered creditors who would try to collect through predatory lending practices.

All of these changes, among scores of others, came from my Democratic colleagues.

After all this, just 2 weeks ago, we took 5 more Democratic amendments in the Judiciary Committee markup.

And yet almost everyone of the pending amendments today touches upon the areas where we have previously compromised.

At a certain point, the time comes to move forward with what we have. Given how far we have come on this bill already over the last 8 years, and considering all the compromises that have been made, we may get no bankruptcy bill at all if we try to take more amendments.

The lopsided votes in favor of this bill in the past—with 70, 83, and even 97 votes in this Chamber—reveal that we are left with only a small minority of opposition. The fact is that a large majority of this body recognizes that we are not doing anything radical in this bill.

We simply ask that higher-income filers who can pay their bills, should pay their bills. It is as simple as that. There is no reason to ask the vast majority of bill-paying consumers to pick-up the tab when those with means do not repay their obligations.

After 8 long years, we have compromised every which way we can. The remaining amendments being proposed are just further adjustments of adjustments to adjustments that were already made during this process.

There is simply no reason to continue to holdup this bill through the amendment process. The longer we delay, the greater the chances for mischief. The more we stall this measure, the more likely we open it to political, message amendments that can only act to stall work on this bill.

A time comes when you just have to say enough is enough. Eight years should be long enough to pass one bill.

I urge my colleagues to join me in voting for cloture.

Mr. BAUCUS. Mr. President, I want to explain my decision to oppose closure on the Bankruptcy bill. I have offered an amendment to this bill modeled on legislation I have introduced to set up a permanent health care trust fund for current and former Libby residents, and former workers at the W.R. Grace vermiculite mine in Libby, MT. The trust fund will help pay for medical costs associated with treating asbestos-related disease or illness caused by exposure to deadly tremolite asbestos and other fibers released by Grace's mining operations.

I offered this amendment to this bill because it presented an opportunity to make whole the people of Libby, who have suffered, while preventing a company like W.R. Grace, which has filed for bankruptcy, from emerging from that bankruptcy without setting up a health-care trust fund for its victims.

I have worked very hard to make sure the people of Libby, MT, are protected in any asbestos legislation to come before Congress; to include special provisions in an asbestos bill for Libby residents that take into account the unique kind of health impacts associated with exposure to the deadly asbestos fibers from the W.R. Grace vermiculite mine.

For years, I have been committed to securing a common sense solution for the residents of Libby. I strongly believe that too many people have suffered, and they deserve fair compensation. I will do everything in my power to help Libby make their community whole again and to make sure their long-term health care needs are met. Passing bankruptcy legislation, with consideration of my asbestos amendment is essential. I will fight to get additional protections for Libby residents and then work to pass the bill.

Unfortunately, we have not had an opportunity to vote on this amendment, and it has been judged to be nongermane. The bankruptcy bill is all about responsibility and accountability. This amendment tries to hold W.R. Grace accountable for its actions.

Because we were not able to vote on this amendment, I can not support limiting debate on this bill.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:44 p.m., recessed until 2:15 p.m., and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005—Continued

The PRESIDING OFFICER. Under the previous order, the hour of 2:15 p.m. having arrived, the Senate will proceed to a vote on a motion to invoke cloture on S. 256. Under the previous order, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Calendar No. 14, S. 256, a bill to amend title 11 of the United States Code, and for other purposes.

Bill Frist, Arlen Specter, Chuck Grassley, Judd Gregg, Thad Cochran, R.F. Bennett, Wayne Allard, Lindsey Graham, Jeff Sessions, Trent Lott, Rick Santorum, John Warner, John Thune, Orrin Hatch, Lisa Murkowski, Mel Martinez, Sam Brownback.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant journal clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 69, nays 31, as follows:

[Rollcall Vote No. 29 Leg.]

YEAS—69

Alexander	Conrad	Isakson
Allard	Cornyn	Johnson
Allen	Craig	Kohl
Bennett	Crapo	Kyl
Biden	DeMint	Landrieu
Bond	DeWine	Lieberman
Brownback	Dole	Lincoln
Bunning	Domenici	Lott
Burns	Ensign	Lugar
Burr	Enzi	Martinez
Byrd	Frist	McCain
Carper	Graham	McConnell
Chafee	Grassley	Murkowski
Chambliss	Gregg	Nelson (FL)
Coburn	Hagel	Nelson (NE)
Cochran	Hatch	Pryor
Coleman	Hutchison	Roberts
Collins	Inhofe	Salazar
Santorum	Specter	Thomas
Sessions	Stabenow	Thune
Shelby	Stevens	Vitter
Smith	Sununu	Voinovich
Snowe	Talent	Warner

NAYS—31

Akaka	Durbin	Mikulski
Baucus	Feingold	Murray
Bayh	Feinstein	Obama
Bingaman	Harkin	Reed
Boxer	Inouye	Reid
Cantwell	Jeffords	Rockefeller
Clinton	Kennedy	Sarbanes
Corzine	Kerry	Schumer
Dayton	Lautenberg	Wyden
Dodd	Leahy	
Dorgan	Levin	

The PRESIDING OFFICER. On this vote, the yeas are 69, the nays are 31. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. MCCONNELL. I ask unanimous consent that Senator DOLE be recognized for up to 15 minutes as in morning business, after which Senator JACK REED of Rhode Island be recognized for up to 10 minutes as in morning business.

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

(The remarks of Mrs. DOLE and Mr. REED are printed in today's RECORD under ''Morning Business.'')

The PRESIDING OFFICER (Mr. COLEMAN). The Senator from Illinois.

AMENDMENT NO. 40 WITHDRAWN

Mr. DURBIN. Mr. President, on behalf of Senator PRYOR, I ask unanimous consent amendment No. 40 be withdrawn.

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

Mr. DURBIN. Mr. President, now that we are postcloture, the number of amendments is limited, and the type of amendments will be limited. I have three pending amendments before the Senate relative to the bankruptcy bill.

For those of you who have not followed the debate on this bill, this bill will change the bankruptcy law in America. Today, many people go into bankruptcy court because they have no place to turn. They have more debt than they can possibly pay.

One of the major reasons people reach this point in life, the No. 1 reason people go to bankruptcy court is medical bills. Three-fourths of the people in bankruptcy court with medical bill problems had health insurance when they were diagnosed with their illness. If you think, I don't have to worry about bankruptcy court because I have health insurance, so do these people. What happened? They got sick. The bills started piling up. Maybe they lost their job and their health insurance and couldn't afford to pay the COBRA premium, which people have to pay once they have lost a job and health insurance. They gave up on their health insurance, and the bills started stacking up. It reached the point for these folks where they had nowhere to turn. They faced $50,000, $100,000, or $200,000 in medical bills they could never pay off for the rest of their lives. In desperation, and with some embarrassment, people then went to bankruptcy court and said: I have no place to turn. I just can't do it.

A court says: What do you owe? Give us all our assets. What do you have in checking and savings? How much is your home and your car worth? Furniture, everything—what is it all worth? Where are your debts? We will let you walk out of bankruptcy court with very little left, but your debts will be gone.

That happens to people. More often than not, medical bills drive them there.

There are other reasons. You lose your job. How many people have you met in their fifties in America—I have met many in Illinois—who had a great career and a great job and lost it, then went out looking for a comparable job only to learn they were ''too old for the market''? There they sat, taking a job that paid less, trying to maintain a family and household that was basically financed with a higher salary not that long ago. In desperation, they try to keep things together, and it starts to fall apart. The debts they incurred when they had a good job they cannot handle anymore.

What else happens to people? Some people live on the margins already. Some single mothers trying to raise kids are in a situation where finally something happens to them—a medical bill, an unforeseen circumstance—and they are stuck in bankruptcy court.

The credit industry comes in and says: We have to do something about these payments. We have to make it more difficult for them to walk out of that bankruptcy court having given up their assets with their debts basically behind them. So the law is changed here in this 500-page bill written by the credit card industry, written by the financial industry, to make it more difficult for a person to walk out of court with their debts behind them. They make sure in this bill that it is more likely for many that they will walk out of court still paying, on and on. As little as $165 a month is enough to say that you will never be forgiven in bankruptcy. You will just keep paying and paying. The creditors will keep calling and calling. That is what the credit industry wanted. They worked hard for 9 years. They are going to win this battle.

We came to the Senate floor and said, at least let us carve out some people who really should be treated differently. I am sorry that the marines who were here earlier didn't stick around. I wish they could have, I wish they could have heard the debate on the floor of the Senate when I offered an amendment and said: If you activate a guardsman or a reservist for a year or a year and a half and they go over to serve their country as they promised, leaving behind a restaurant or a small business which falls into bankruptcy while they are gone—and it has happened—shouldn't we give them a break in bankruptcy court? For goodness'