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TITLE: BANKRUPTCY REFORM ACT OF 2001

**SPEAKER: Mr. SESSIONS; Mr. DORGAN; Mr. TORRICELLI; Mr. GRAMM;
Mr. BROWNBACK; Mr. LEAHY; Mr. DURBIN; Mr. HATCH; Mr. GRASSLEY;
Mr. SCHUMER; Mr. KERRY; Mr. BENNETT; Mrs. FEINSTEIN; Mr.
BINGAMAN; Mr. KENNEDY; Mr. SARBANES; Mr. CONRAD; Mr. BOND; Mr.
REID; Mr. LOTT; Mr. DASCHLE**

Selected Text:

The Senator from Illinois, Mr. Durbin.

Amendment No. 17, as modified

Mr. DURBIN . Mr. President, I join the Senator from Vermont in wishing the Presiding Officer a happy birthday and say this great opportunity you have to sit as Presiding Officer of the Senate and listen to these wonderful speeches has to be the greatest gift we can offer you. We wish you the very best in the years to come.

The pending amendment is an amendment to the bankruptcy reform bill relative to the practice of predatory lending. Predators, you may recall from having watched a few movies, are those who prey on other things. In this case, we have people offering credit in a predatory fashion.

Who are these folks? You have heard about them. They are the people who look for the retirees, the widows who are living by themselves in the home they saved up for their entire lives, who are brought into some mortgage scheme or second mortgage scheme and end up signing papers that are, frankly, a very bad deal. They end up paying interest rates far above the market rate. They face the possibility of balloon [*S2025] payments that are impossible for them to make so they can secure a few dollars for perhaps consolidating some other loans or home improvements.

Time after time, these predatory lenders look for the elderly. They look for low-income people. They go to poor neighborhoods and seek out folks with limited knowledge of the law or a limited understanding of English. They have them sign these papers, and literally they watch their lives disappear. Everything they have saved up for in a lifetime ends up disappearing because of these con artists who claim to be creditors offering them money under terms which are not reasonable by any standard in America.

Is this a rare situation? Unfortunately, it is a growing phenomenon in this country. We see these people going forward offering what is known as subprime lending and subprime mortgages.

They argue in the industry that these people are not good credit risks, so you cannot give them the ordinary interest rates and terms; you have to make it a little tougher. I understand that. We do not want to close out the market for people who are on the edges of credit availability. We want to make certain they have access, too.

Believe me, the cases that have been documented time and again in the Senate and the House of Representatives, in State after State, are not those cases. The creditors are not lending to folks on the edge. These are people who are pushing these poor elderly and retired folks over the edge. A lifetime of savings for a home that a widow is living in absolutely vanishes when these con artists get a chance.

Where do they finally get their relief? If not through foreclosure in civil courts, in bankruptcy court. When that elderly widow has lost everything, cannot make any payments whatsoever, and finally goes to bankruptcy court and says, I just cannot do it anymore, guess who is standing first in line to get paid in full? These sharks, these people who time and again have taken advantage of the poor and the elderly across America.

A lot of people have come to me since I offered this amendment and have said: We just got contacted by the finance industry. The banks of this country are worried about your amendment. They are opposed to your amendment. They think you are going to create some real hardship in their industry.

The answer is, yes, I am going to create hardship in their industry with this amendment, hardship for the people who are giving their industry a bad name. If it is a good bank, if it is a good mortgage lender, if it is following the law of our country, they need not fear the Durbin amendment. The Durbin amendment is going after the bad actors and bad players, and the people who are opposing it in so many different ways are trying to shield the people who are violating the law and making these bad loans.

The people who are opposing my amendment and want to table it in a vote later today are those who want to make certain that the people taking advantage of the poorest and most vulnerable Americans are protected in bankruptcy court.

My amendment says explicitly that in order to be stopped from recovering in bankruptcy court, you must have violated the law--a material violation of the law, not something technical--a material violation of the law. I happen to believe that before you can walk into a court, you have to have clean hands, and the clean hands suggest that if I am coming into court and I want to recover under my contract, I have obeyed the law and followed it in all of my dealings.

It sounds pretty basic to me. It is a threshold question that should be asked of anyone in bankruptcy court, but if you listen to the opponents of my amendment, they say: No way.

You may have violated every law on the book to get into bankruptcy court, but once you are there, you are under the protective shield of the U.S. Government. You are able to use our bankruptcy laws and our bankruptcy courts to reach miserable ends when it comes to the poor people who have been exploited.

It is amazing to me that at this stage in this prosperity we have enjoyed in our economy and all the things that have happened in America, we still have Members of the Senate and House of Representatives who are coming to the rescue of these bottom feeders in the credit industry. They are standing here defending them and giving them a chance to continue to exploit some of the poorest people, some of the most vulnerable people, in America.

Some say: Durbin, there you go again; you are exaggerating this; it is not such a big problem. Let me tell you a few things I have learned in the course of preparing this amendment.

A group in Chicago--I represent the State of Illinois--I take a look at their information from time to time. It is called the National Training and Information Center. In September 1999, they took a look at the mortgage foreclosures in my home State. The Chicagoland home loan foreclosures doubled, increasing from 2,074 in 1993 to 3,964 in 1998. In a 5-year period of time, a prosperous time in America, mortgage foreclosures doubled in the Chicagoland area. The greatest percentage was in the suburbs, not in the inner city.

The increase in foreclosures in my State corresponds to the increase in originations by subprime lenders, not home loan originations. Loans by subprime lenders, the people about whom I am talking, increased from 3,137 in 1991 to 50,953 in 1997, a 1,524-percent increase.

Subprime lenders and services were responsible for 30 foreclosures in 1993. This number skyrocketed to 1,417 in 1998, a 4,623-percent increase.

Subprime lenders and services were responsible for 1.4 percent of foreclosures in 1993 and 35.7 percent in 1998.

The people who oppose my amendment say: Let the free market work; let the buyer beware; there are plenty of laws on the books. But these statistics tell the story. The people who are taking advantage of the most vulnerable--the widows, the elderly--are doing quite well, thank you. What do they end up with after they have gone through their nefarious scheme? The home a person has worked a lifetime to own, to live in, to retire in, to feel safe in.

The people who oppose my amendment say we need to protect these subprime lenders. The opponents of my amendment want to ignore the reality of what is happening. Subprime lending increases dramatically, mortgage foreclosures increase dramatically, and these subprime lenders go into bankruptcy courts and take homes away from

Americans, and the people who oppose my amendment on the Senate floor say: Look the other way, this is the market at work, Senator; don't stick your nose into it.

I think this Senate ought to come to the aid of people who don't have the lobbyists sitting in the lobby of the Senate just outside that door. We ought to be considering people who can't afford to bring lobbyists to the Senate. We ought to consider the people who worked hard to make America a great nation, obeyed the laws, paid their taxes, had their small savings account and looked forward to their security and retirement in that little home, and then they were preyed upon and exploited by these people. These people want to walk into our bankruptcy courts and use the laws of the bankruptcy system in order to recover that home and take it away from someone.

Watch the vote on the motion to table the Durbin amendment and you will see a long line of Senators who will stand up and say these subprime lenders deserve the protection of the law. The Durbin amendment says pointblank they will be disqualified from using the bankruptcy court if they have materially violated the law in order to obtain this mortgage. That is what this debate is all about. This is a test of a number of things about the Senate: How many people care about consumers in this place? How many people are dedicated to business interests, regardless of whether they are unethical and unscrupulous?

Mr. GRAMM. Point of order.

Is the Senator suggesting that Members of the Senate are not voting their conscience on this bill? Is the Senator suggesting that there are Members who are voting for special interests instead of what they believe in? If so, that is a violation of the rules of the Senate.

Mr. DURBIN. I would like to respond to the Senator from Texas. Those who want to take the side of the financial industry in opposition to this amendment should be held accountable for [*S2026] the fact that they are turning their backs on consumers. I do not question the motive of any Senator and his vote, but the Senator knows as well as I do how this is lined up: Consumers on one side, banks on the other side.

Let me state what is at stake here are credit practices that no one in the Senate should condone; frankly, no reputable bank or financial institution should condone. If you are a bank or an institution following the law of this Nation, making certain your people issue loans that are reasonable and in compliance with the law, you have nothing to fear from this amendment. But if you are a fly-by-night storefront operation exploiting poor people and the elderly in this country, you bet this amendment makes you nervous, and it should. Because it means that ultimately the bankruptcy court will not be there as your court of last resort.

The subprime mortgage industry offers home mortgage loans to high-risk borrowers--I acknowledge that--loans carrying far greater interest rates and fees than conventional and carrying extremely high profit margins. Yesterday I went through some of the cases

which you would not believe, cases where they took people on a modest Social Security income of \$500 a month, lured them into signing up for second mortgages and mortgages on their home with payments they could never afford to make, with balloon payments down the line of \$40,000 and \$50,000, impossible for these poor people to make, and then when they get in so deeply they couldn't see daylight, they said, we have a new idea, we are going to refinance your original loan. And guess what. They dug a deeper hole for these poor people, and ultimately they lost everything. They went into the bankruptcy court saying, we want you as a judge in bankruptcy, to give us a right to take this home away.

According to the Mortgage Market Statistical Annual for 2000, subprime loan originations increased from \$35 billion in 1994 to \$160 billion in 1999. As a percentage of all mortgage originations, the subprime market share increased from less than 5 percent in 1994 to almost 13 percent in 1999. By 1999, outstanding subprime mortgages amounted to \$370 billion. The data also shows a substantial growth in subprime lending. The number of home purchase and refinance loans that have been reported by lenders specializing in subprime lending increased almost tenfold between 1993 and 1998, from 104,000 to 997,000. The number of subprime refinance loans also increased during that period from 80,000 to 790,000.

The growth of this type of lending should be of concern to every person in America, not just on the issue but because the victims involved are our parents, our grandparents, the neighbor down the block, the widow trying to make a meager living. They are being preyed on by these people.

The growth of the subprime lending industry is of concern first, because of the reprehensible tactics called predatory lending practices which some of the companies use to conduct their business; and second, because of the people, the senior citizens and the low income, the financially vulnerable, who they often target with loans.

According to the 1998 data, low-income borrowers accounted for 41 percent of subprime refinance mortgages. African-American borrowers accounted for 19 percent of all subprime refinance loans.

I would like to give some additional information about the situation in my home State of Illinois and in the city of Chicago. In an April 2000 study released by the Department of Housing and Urban Development, subprime loans were over eight times as likely to be in predominantly black neighborhoods in Chicago than in white neighborhoods. In predominantly black neighborhoods in Chicago, subprime lending accounted for 52 percent of home refinance loans originated during 1998, compared with 6 percent in predominantly white neighborhoods.

Now, subprime somehow sounds as if it is a deal. If it is a subprime loan, it is under conditions, interest rates, and terms far worse than any people would face in the normal course of business. Homeowners in middle-income predominantly black neighborhoods in Chicago are six times as likely as homeowners in middle-income white neighborhoods

to have subprime loans. In 1998, only 8 percent of the borrowers in middle-income white neighborhoods obtained subprime refinance loans; 48 percent of borrowers in middle-income black neighborhoods refinanced in the subprime market.

We had a hearing recently on Capitol Hill in one of the Senate subcommittees of the Governmental Affairs Committee and brought in people and let them tell the story. Imagine the situation with which we were presented. A young woman came in and said: My mother and I decided we would buy a home--an African-American mother and her daughter. She said: I had a nice job but it was our first chance in the history of our family to own a home. She said to the Senators: You can't imagine how exciting it was, the idea we were finally going to have our little home.

I know what it meant to my family when we bought our first home. I know what it means to families across America. This is the American dream. This is your chance. Sadly, she got hooked up with one of these outfits. She wasn't a business major. She didn't have a lawyer to turn to and an accountant to ask questions. She was an average American trying to do the right thing for her mom and herself. She ended up getting into one of these nightmare situations where the home she bought was over-appraised, where she ended up with a mortgage she could never possibly pay, with terms and conditions that, frankly, guaranteed failure. And that is what happened. As a result of that second mortgage on her home, there was a foreclosure that led her to bankruptcy court, and the bankruptcy court basically said the company that ripped her off could take her home away. End of the American dream for someone who was trying to do the right thing.

In 1998, my colleague, Senator Charles Grassley, Republican from Iowa, chaired the Special Committee on Aging, on predatory lending practices. William Brennan, director of the Home Defense Program of Atlanta, GA, Legal Aid Society, put a human face on the issue. He told us the story of Genie McNab, a 70-year-old woman living in Decatur, GA.

Mrs. McNab is retired and lives alone on Social Security retirement benefits. In November of 1996, with the "help" --I use that word advisedly--of a mortgage broker, she obtained a 15-year mortgage loan for \$54,300 from a large national finance company. Her annual rate of interest is 12.85 percent. Under the terms of the mortgage, she will pay \$596 a month until the year 2011, when she will be required to make a final payment of \$47,599. By the time she is done, her \$54,200 loan will have cost \$154,967. When Mrs. McNab turns 83 years old, under the terms of this wonderful deal offered to her, she will be saddled with a balloon payment which will be impossible for her to make. She will face foreclosure. She will be forced to consider bankruptcy. And when she walks into the bankruptcy court, if the Durbin amendment is not adopted, the person who fleeced her out of her home and her life savings, with a big grin on his face and a lawyer at his side, is going to recover. He is going to take away everything this poor lady has. She will face the loss of her home and her financial security, not to mention her dignity and her sense of well-being.

Ironically, Mrs. McNab paid a mortgage broker \$700 to find this wonderful arrangement, a mortgage broker who also collected a \$1,100 fee from the mortgage lender. Sadly, Mrs. McNab is the typical target of the high-cost mortgage lender, an elderly person living alone on a fixed income. We can have all the hearings we want on Capitol Hill in the Select Committee on Aging, we can talk about the greatest generation ever that served in World War II, we can talk about our respect for our seniors--and we should. But this amendment will be a test of respect for senior citizens who were the victims of so many of these lenders.

This lady, living alone on a fixed income, was just the target these companies look for. The death of a spouse, the loss of a spouse's income, a large medical bill, an expensive home repair, mounting credit card debt, and many of these people are pushed right over the edge, right into bankruptcy court.

These are real life circumstances that make Mrs. McNab and others an irresistible target for these loan sharks and for members of the subprime mortgage industry. [*S2027]

According to a former career employee of the industry who testified before the Senate Special Committee on Aging, he told the story about what they are looking for when they go out trying to find people to sign up for these loans. Incidentally, the man was so confident that he had to testify anonymously, behind a screen. He was afraid some of the companies that were involved in some of these practices would figure out who he is. So anonymously he testified before the Senate behind a screen so no one would see him, and here is what he said about his experience in the subprime mortgage industry:

My perfect customer would be an uneducated woman who is living on a fixed income--hopefully from her deceased husband's pension and Social Security--who has her house paid off, is living off of credit cards, but having a difficult time keeping up with payments, and who must make a car payment in addition to her credit card payments.

That is the perfect target. That is what he is looking for. This industry professional candidly acknowledged that unscrupulous lenders specifically marketed their loans to elderly widows, blue-collar workers, people who have not attended college, people on fixed incomes, non-English-speaking people, and people who have significant equity in their homes. These are people who have worked a lifetime and made the mortgage payments, finally burned the mortgage in a little family celebration, sitting in that home looking forward to comfortable years, and in come these sharks swimming around in the waters of their home. When it is all over, they are devoured in bankruptcy court. We are talking about reforming this court.

They targeted another such person in the District of Columbia, Washington DC, Helen Ferguson. She came before the Senate Aging Committee, Senator Grassley's committee. She was 76 years old when she testified. She told us as a result of predatory lending practices, she was about to lose her home. In 1991, Mrs. Helen Ferguson had a total monthly income of \$504 from Social Security. With the help of her family, she made a

\$229 monthly mortgage payment on her house--certainly a modest lifestyle by any measure. However, on her fixed income she could not keep up with needed home repairs. She began hearing and seeing these radio and TV ads for low-interest home improvement loans, so she called one. Mrs. Ferguson thought she had signed up for a \$25,000 loan. In reality, this lender collected over \$5,000 in fees and settlement charges from her on a \$15,000 loan. The interest rate he charged her? 17 percent. Her mortgage payments went up to \$400 a month, almost twice what they were before.

Over the next few years, the lender repeatedly tried to convince Mrs. Ferguson the answer to her concerns was to take out more loans. He called her--even called her sister at home and at work, trying to encourage them to sign up for more loans--what a nice gesture. He sent Christmas cards to the family, and letters expressing real concern about the problems they were facing.

In March of 1993, Mrs. Ferguson finally gave in to this lender, borrowing money to make home repairs. By March of 1994, she couldn't keep up with the mortgage payments. She signed up for a loan with another lender, unaware that it had a variable interest rate and terms that would cause her payments to rise to \$600, eventually \$723 a month. Remember, this lady started off back in 1991 with a \$229 monthly mortgage payment. She is now up to \$723 a month, thanks to the helping hand and assistance of these subprime lenders who are looking at this great target--Mrs. Ferguson's home. For this loan, this next loan, she paid another \$5,000 in broker's fees. She is putting an additional mortgage on this little home, and \$5,000 of the new mortgage is going straight to the broker; it isn't going back to her, more than 14 percent in total fees and settlement charges on the front end of this subprime mortgage.

The first lender also continued to solicit her. She eventually signed up for more loans. She could not get out from under. They kept saying one more loan and she would be just fine. Each time, the lender persuaded her that refinancing would enable her to meet her monthly payments. Mrs. Ferguson was the target of a predatory loan practice known as loan flipping. The Durbin amendment specifically cites that type of practice as a violation, a material violation of the law that should make certain they cannot go to bankruptcy court and take Mrs. Ferguson's home away from her after they have been engaged in this kind of conduct for over a decade. She was the target of this practice of loan flipping, and in such cases, lenders purposely structure the loans with monthly payments they know the homeowner cannot afford so that at the point of default, it provides the lender with additional points and fees. They make money on these every single time, and in the case of some of Mrs. Ferguson's loans, not only did the lender prepare two sets of documents and rush the signing, but the lender's representatives took with them all the papers from the mortgage closing and mailed them to her only after the 3-day rescission period was expired, and the check for home repairs was spent.

You have heard about that. If you make a bad deal, you have 3 days to change your mind. They took the papers away at the closing and said they would mail them to her. She got them 3 days later. They knew what they were doing.

Some opposed say Mrs. Ferguson just needs a good lawyer. A good lawyer for a lady making \$500 a month on Social Security, who has seen her monthly mortgage go from \$229 to \$723? She has to go find a good lawyer to fight these folks?

That is what they think is the recourse here, that is the remedy. They are going to argue we do not need the Durbin amendment; Mrs. Ferguson can get her day in court. Let her come down on K Street in Washington, DC, and find a nice law firm to take care of her. We know better than that. People such as Mrs. Ferguson around America are going to be those who don't ever want to have been seen in a courtroom. They come into bankruptcy court ashamed.

After a lifetime of saving and sacrifice, they are forced into this predicament, and the people opposed to my amendment tell us once they get to bankruptcy court let the buyer beware. Let the people take her home if they want.

Eventually, Mrs. Ferguson was obligated to make monthly payments of more than \$800, although her income was still \$504 a month, and the lenders knew it. That is another provision in the Durbin amendment. If they knowingly make loans to people who cannot afford to repay them, they have violated the law. It is a material violation of the law to drag these people into debt so deeply they can never get out again and to know it walking in the front door.

In 5 years, the debt on her home increased from \$20,000 to \$85,000. For some wealthy people in America that may not sound like much, but for a lady living on \$500 a month, it is a mountain she will never be able to climb. She felt helpless and overwhelmed. She contacted AARP. She didn't know where to turn. She realized these lenders had violated the Federal law in what they had done.

Lump-sum balloon payments on short-term loans, loan flipping, the extension of credit with the complete disregard for a borrower's ability to repay--these are not the only abusive mortgage practices. Lenders on these second mortgages sometime include harsh repayment penalties in the loan terms, rollover fees, charges into the loan, or negatively amortize the loan payments so the principal actually increases over time.

You can never catch up with it. It just keeps growing, all of which is prohibited by law, although many ordinary homeowners do not know what the law says.

Some of these homeowners will not make it to a lawyer or other source of help before financial meltdown occurs. When they realize what has happened, these consumers are often on the brink of foreclosure and bankruptcy.

There are some protections built into current law. I have no quarrel with this. But you cannot call these protections "ample" when they permit a gross injustice. There exist out there lenders who illegally trap families into insurmountable debt, force the families into bankruptcy, and then actually continue to pursue their greed by staking their claim in bankruptcy proceedings.

The debate on the bankruptcy reform bill before us started I guess about 5 [*S2028] years ago. The argument from the people who wanted to change the law is that too many people were coming to bankruptcy court and filing for bankruptcy and they really shouldn't, they should pay back their debt. They argued that the people who were filing for bankruptcy had forgotten the moral stigma of declaring bankruptcy in America. Yet when I look at this situation, where is the moral stigma? Shouldn't the moral stigma be on the conscience of these lenders who have dragged these poor unsuspecting people into a situation where they have no hope and nowhere else to turn? When it comes to that moral stigma, it will be interesting on the vote on the Durbin amendment as to whether the people believe, in voting in the Senate, there is any moral culpability on the part of those who have taken advantage so many times.

Yesterday, Senator Hatch said that my amendment "will adversely affect the availability of credit to certain consumers, many of whom may be low-income and minorities whom this amendment purports to protect. Moreover, the secondary market for such mortgages will also be affected thereby placing an upward pressure on the pricing of such loans."

Well, if Senator Hatch really feels that way, then he should be joining me in supporting this amendment. This amendment will not affect available credit for anyone. Nor will it affect the secondary market. The only ones affected by this amendment are the low-life lenders who are breaking the law, and ruining people's lives in the process. They are the only ones who should be concerned. Because they will no longer be able to profit from their unscrupulous practices.

And the finance industry ought to think twice about harboring and protecting these people. It doesn't give their industry a good name or a good reputation.

Senator Hatch also said yesterday that my amendment "does not require any finding that such a violation was the cause of the debtor going into bankruptcy. Now that's just not good law. That's not the way we should be making law. Nor does it require that a violation of the Home Ownership and Equity Protection Act had to have been found for this draconian remedy to take place."

Mr. HATCH . Mr. President, will the Senator yield?

Mr. DURBIN. I am happy to yield for a question.

Mr. HATCH. Could the Senator give me some indication when he is willing to go to a vote on this amendment?

Mr. DURBIN. I am hoping to in just a few moments.

Mr. HATCH. When the Senator has concluded, I will move to table.

Mr. DURBIN. I only yielded for the purpose of a question.

Mr. HATCH. I understand. I am just wondering if we can have some idea when we can go to a vote, and then I would be able to give people some sort of notice.

Mr. DURBIN. I think that is reasonable. I would say no more than 20 minutes.

Mr. HATCH. On your amendment, and then Senator Gramm.

Mr. GRAMM. I think I can do it in 10 minutes.

Mr. HATCH. Then about 10 until 12; is that all right? I will make a motion to table. Could I ask unanimous consent?

Mr. GRAMM. Could we divide the time so the Senator would have his time and I would have mine? I sense that the Senator is somewhat caught up in this and would like to speak. And I want to be sure I get the opportunity.

Mr. DURBIN. The Senator from Texas is correct, I am caught up in this. I think we have 40 minutes remaining. I will take 15, if the Senator from Texas would like to take 15. How is that?

Mr. GRAMM. That is all right.

Mr. HATCH. If I could move to table at 10 until 12, and let everybody know, is that OK?

Mr. DURBIN. I want to make sure I understand what the Senator is saying. If we could have the time between now and 11:50 evenly divided, that would be fine.

Mr. HATCH. I ask unanimous consent that be the case, and I will move to table at the conclusion of that time.

No second degree will be in order.

Mr. DURBIN. That is right.

Mr. HATCH. Before the vote--in other words, we will divide the time up until 10 until 12, equally divided with no further amendments before the vote, and I will move to table at that time, and we will have a vote.

The PRESIDING OFFICER (Mr. Allard). Is there objection?

Mr. DURBIN. The point made by the staff is well taken. If the motion does not prevail, the amendment will still be pending and open for debate and amendment; is that correct?

Mr. HATCH. That is right.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DURBIN. I thank the Senator from Utah.

What is interesting from the parliamentary side is, once you have made a motion to table, it is not debatable and it all comes to an end.

I will make a few comments in closing, and Senator Gramm will have his opportunity, and the Senate will vote on whether to table the Durbin amendment.

For those who have not heard the Durbin amendment, it says if you are going to go to bankruptcy court and claim protection to try to pursue a mortgage foreclosure, you have to walk into bankruptcy court with clean hands. You cannot be an unscrupulous, illegal lender taking advantage and exploiting poor people, elderly, and widows, and walk into bankruptcy court and say I want the protection of the law.

The people who oppose it will say folks just have to come to understand the conditions of these mortgages; they have to learn a little bit about the law; they have to understand this is an industry that is out to make a profit, too.

I think there is truth to that. I think people have to come into these transactions with some basic understanding of the law. But think about the people we are talking about here. These are 70- and 80-year-old retirees who are losing their homes to these loan sharks who know the law inside and out. These are people with limited understanding of the law, maybe limited education, and maybe limited understanding of the English language. These are the victims. These are the targets. And to argue that these are the people who should understand the great law of America is to suggest that each one of us knows what the backs of our monthly statements from the credit card companies really mean.

I am a lawyer. I haven't flipped over to see the faint type and small letters on the back side of a page to determine the conditions of my credit card. How many times have you stopped to read it? I haven't. I am not sure I could understand it if I did. That is the reality. I am a lawyer; these folks are not. These are people who have done the right thing in America, and they are the victims.

Senator Hatch also said yesterday that my amendment "does not require any finding that such a violation was the cause of the debtor going into bankruptcy. Now that's just not good law. That's not the way we should be making law. Nor does it require that a violation of the Home Ownership and Equity Protection Act had to have been found for this draconian remedy to take place."

Now let me get this straight. If a lender breaks the law, if it's been demonstrated that they clearly violated the Truth-in-Lending Act, the portion dealing with predatory mortgages

and burdened a family with an outrageous, morally indefensible loan, if they have done all that, then the bankrupted family still has to prove that is why they went bankrupt.

Think about that. After they have lost their homes to this unscrupulous lender, some of the critics of this amendment say the burden is still on the borrower: You have to prove I was unscrupulous. You have to prove this lender did illegal things. If they can't, then the lawbreaker can still sit down at the table and take the family's assets.

I can think of no better example than that of what a bad law really looks like. My amendment addresses it.

Yesterday, we learned from Jodie Bernstein, Director of the FTC Bureau of Consumer Protection that a lending arm of Citigroup "hid essential information from consumers, misrepresented loan terms, flipped loans repeatedly offering to consolidate debt [*S2029] into home loans and packed optional fees to raise the costs of the loans." And that the "primarily victimized" ... were the most vulnerable, hardworking people who had to borrow to meet emergency needs and often had no other access to capital.

The FTC lawsuit comes after almost 3 years of investigation. Well we have an opportunity to help curb these predatory lending practices today by passing my amendment.

Why do we need my amendment to deal with predatory lending practices? Because of: the statistics I mentioned earlier; because of victims of predatory lending like Ms. McNab and Ms. Ferguson; and because of suits like that filed by the FTC against a lending arm of Citigroup--predatory lending is an epidemic.

We can end this epidemic with this amendment. Current law is not sufficient to deal with it. If current law were enough, we wouldn't be standing here today; we wouldn't have seen the dramatic increase in these loans nor the dramatic increase in mortgage foreclosures directly attributable to these loans.

The problem of predatory financial practices in the high-cost mortgage industry is relevant to bankruptcy because it is driving vulnerable people into bankruptcy.

These people are not entering bankruptcy in order to abuse the system, they are filing bankruptcy because the reprehensible tactics of unscrupulous lenders have driven them into insolvency and threatens their homes, cars, and other necessities.

The question is whether my colleagues in the Senate want to vote to protect these victims by voting for the Durbin amendment.

My amendment prohibits a high-cost mortgage lender that extended credit in violation of the provisions of the Truth in Lending Act from collecting its claim in bankruptcy.

For people, such as Genie McNab, Helen Ferguson, Goldie Johnson, and the Mason family, about whom I talked yesterday, if they go to the bankruptcy court seeking last-resort help for the financial distress that an unscrupulous lender has caused them, the claim of the predatory home lender will not be allowed if the Durbin amendment passes. If those who move to table my amendment--if Senator Hatch or Senator Gramm prevail--these predatory lenders, guilty of abusive practices, will have the protection of the bankruptcy court. If my amendment passes, they will not.

My amendment is narrowly drawn. It simply says that a creditor who violates the law cannot then ask for the law to protect them in bankruptcy court. I do not think my colleagues, in their effort to create a bankruptcy system more favorable to creditors, want to protect these unscrupulous people in the process.

Congress has seen fit to pass laws to protect consumers from some of the egregious practices of predatory lenders, including the Home Ownership Equity Protection Act and the Truth in Lending Act.

And I might say, just briefly, my first exposure to Capitol Hill came as a college student in this town. I worked for a Senator from Illinois whose name was Paul Douglas. He served from 1948 to 1966. He was an extraordinary man who fought for consumers during his entire career. Maybe some of that has rubbed off in the way I view politics.

But one of things he pushed for his entire career--and he did not serve long enough to see happen--was the passage of the Truth In Lending Act, which said that instead of "buyer beware," the consumer should be informed. I think that is a good law for America. People who are abusing that law, a law that has been the law of America now for 33 years, should not have the protection of bankruptcy law when they go to court.

If this bankruptcy legislation is enacted into law, it will force all debtors, including those who fall below median income, to jump through all sorts of new hoops so we can be satisfied the debtor is not abusing the bankruptcy system. Cumbersome and burdensome new requirements are being placed on all debtors to weed out the abusers of the system.

In this case, we are not talking about debtors who are acting illegally; we are simply talking about abusive creditors whom I believe are acting illegally and should be held accountable.

My amendment does address their illegal practices. We don't live in a perfect world. We live in a world where predatory lending is all too common and growing in America. Think about how it has grown. Now put it in the context of a slowed-down economy, perhaps a recession--people finding they are losing their jobs; they don't have as much income, but their debts are growing. People will then, in desperation, turn to second mortgages for repairs at home or to overcome a family crisis. These will be the new class and the new array of victims of these predatory lending practices. Those are the ones about whom I am most concerned. If this Durbin amendment does not pass, you will see these numbers continue to increase.

We know many of the victims of predatory lending end up in bankruptcy court. This Congress should not allow these people to be victimized twice--first by the predatory lenders, and second, in the bankruptcy court.

Close the loophole that now exists. Shut the bankruptcy courthouse doors to creditors who illegally prey on the most vulnerable in our society, including older Americans, minorities, and low-income families. If the lender has failed to follow the law with the requirements of the Truth in Lending Act for high-cost second mortgages, the lender should have absolutely no claim against the bankruptcy estate. Bankruptcy courts always consider creditors' claims and whether they are fraudulent or not. They make this decision before they can go forward and pursue them in the bankruptcy court. All I am saying is, they should also say if they have violated the law in illegally offering these mortgages, they cannot use bankruptcy court.

My amendment is not aimed at all subprime lenders. If they are following the law, they have nothing to fear. If they are not following the law, they are going to hate the Durbin amendment. Indeed, it is aimed at the worst and most predatory of these subprime lenders.

My provision is aimed only at practices that are already illegal and, as the amendment says, materially illegal. It does not deal with technical or immaterial violations of the Truth in Lending Act.

Disallowing the claims of predatory lenders and bankruptcy cases will not end these predatory practices altogether. Yet it is a valuable step to curb creditor abuse in a situation where the lender bears primary responsibility for the deterioration of a consumer's financial situation.

I have supported bankruptcy reform laws. I hope I can support this one. But if we are going to take a no-amendment strategy on the floor of the Senate, if we will not hold abusive and unscrupulous creditors accountable for their activity, you cannot say this is a balanced bill. It is tipped to make sure the credit industry always wins and the consumer always loses.

This Congress, this Senate, represents not only bankers and lenders, it represents ordinary American families, retirees, people who vote, and people who care. We have to make certain the amendments we consider, the bankruptcy law we pass, remembers those people who cannot afford a lobbyist, those people who, frankly, have found themselves at a tragedy they never envisioned in their lives. They have to be remembered on the floor of the Senate.

I urge my colleagues on both sides of the aisle to think twice about this. The last time I offered this amendment, one Republican Senator voted against it who later told me: I wish I would have known what was in there. I wish I would have read some of the stories

I heard about in my State about predatory lending. That Senator is going to reconsider the vote that is cast today.

I hope some of my friends on the Republican side will not take an automatic reaction against every amendment. This is a good-faith amendment. And when you go home and hear about these practices in your home State, and about families who are exploited, you will be able to say--if you vote for the Durbin amendment--I did what I could to stop these people who are taking advantage and exploiting these poor people across America. But if you vote down this amendment--business as usual, what a banner day for the subprime loan industry, for the sharks on the street who will go out looking-- [*S2030] as this person said here in closed testimony, anonymously--for that elderly woman who is on Social Security, who has a home with a value to it that you can extend into a loan she can never pay back, so that the subprime lender will realize his version of the American dream--he will own the home; it will be the home of the person who saved their entire life, hoping they could retire there in peace and tranquility.

Mr. President, I yield the floor.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM . Mr. President, as always, our colleague has done an excellent job. He begins by telling us that only people who ruin people's lives could be opposed to the amendment. He tells us the amendment has to do with people who won World War II. He tells us the sharks on the street are the subprime lenders who are affected. And then he tells us it is a choice between those who respond to special interests and his choice in defending the individual, people who do not have lobbyists.

I think we have heard an excellent speech, but it has no relevance to the amendment that is before us.

The amendment before us, paradoxically, would hurt the very people our colleague appears to champion. I wonder how many Members of the Senate are members of families who have received a subprime loan.

As I mentioned earlier, when I was a boy, my mama bought a home on Dogwood Avenue in Columbus, GA, for \$9,300. She borrowed the money from a subprime lender. She paid 4.5 percent interest. The going market rate was 3 percent. She paid a premium of 50 percent. What incredible exploitation. The problem is, there is another side to that story.

She was a practical nurse. She did not have a full-time job. She worked on call. She had three children. Banks did not make loans to people like my mother. As a result of that loan, at a 50-percent premium, so far as I am aware, she was the first person in her family, from Adam and Eve, ever to own her own home. It profoundly affected her life, and it affected my life too. None of her children have ever failed to own their own home.

So our colleague would have us believe that because you are paying a premium, because you have no established credit, or because you have troubled credit, that somehow this kind of lending is illegitimate, or in today's terms, it is predatory.

The Senator from Illinois's amendment has nothing to do with predatory lending. Is our colleague not aware that Fannie Mae and Freddie Mac are now moving into subprime lending, that the premium that people with no credit ratings or poor credit ratings are paying is declining because of increased competition? Is our colleague suggesting that because every lender in America opposes this amendment, they are, by definition, people who ruin other people's lives?

Let me explain this amendment. When you cut through all of the wonderful rhetoric and every horror story ever recorded, where hundreds of laws have been broken and where remedy is available and is being undertaken, in every case that was cited by our colleague the lender violated dozens of Federal statutes that have nothing to do with this amendment.

What this amendment says, basically, is the following: If in any material way you violate roughly a dozen provisions of the Truth in Lending Act, the loan is not enforceable and lenders can't collect.

Let me give three examples of what constitutes a violation or would be subject to a bankruptcy judge's determination as being a material violation. You are now required under truth in lending to give written notice to a borrower that you are going to give them information over the telephone. If you failed to do that in writing 3 days before you actually gave the information and judged to be in violation, you would not be able to collect on the loan.

You are required before a transaction is entered into to give 3 days' notice. What if you gave 2 days' notice? You would be subject to not being able to collect a loan. You are required to provide the notice in a certain typeset. Under the amendment of the Senator from Illinois, if you were judged by a bankruptcy judge to have typeset that was too small, then the loan would be uncollectible.

Now what do you think is going to happen if these provisions become law? Thousands of reputable lenders who are making loans to people who otherwise could not own their own home will get out of the mortgage-making business. Millions of people who could have the dream of home ownership would lose it because of this amendment.

Our colleague tells us that remedy is needed. It is as if he didn't know we have just undertaken, with every financial regulator, promulgation of new regulations related to so-called predatory lending. One of the areas they are rulemaking on is balloon payments, the very thing about which he talks.

Over and over again, basically what we are being asked to do is something that will hurt not the lender--there are plenty of prime loans to be made but the people who do not have established credit or who have marred credit. The net result is that millions of people will not be able to get loans.

There is one other problem. There are very strict penalties for violating the provisions of law referred to in this amendment. You can be fined \$1 million a day. You can have your bank charter terminated. You can have the directors and officers removed. You can have an injunction. Those are all penalties imposed on the bank.

Imagine if we actually had a provision of law which said that if an error is made--and there is nothing about intent in this amendment--then the loan is forgiven.

Can you imagine a situation where we are going to pit the borrower and the lender against each other, where the borrower would have an incentive not to respond, not to send in information, to try to find a way to produce an error so the loan would have to be forgiven? The net result is that while Fannie Mae and Freddie Mac are now getting into subprime lending, these kinds of provisions would drive them out. These provisions would end up driving people who want to own their own home into the hands of the very unscrupulous lenders about which our colleague talks.

We have heard a wonderful speech. It talks about horror stories that have existed and do exist. We have legislated over and over to deal with those problems. The idea of saying that because an error was made which was unintentional in areas related to type size, notification in advance of telephone discussions, notification prior to a transaction, that those kinds of changes could render the loan uncollectible would mean thousands of lending institutions that today are making home ownership possible would get out of that kind of lending. That is why every lender in America is opposed to this amendment.

I urge my colleagues to let the Federal Reserve and our bank regulators, who are looking right at this moment at predatory lending, come up with regulations that make sense and will help more than they hurt. I am moved, and I know anybody is moved who listened to the speech in advocating this amendment. But I urge my colleagues to get beyond the speech and look at the amendment.

Can you imagine putting lenders in a situation where technical errors, unintentionally made, could result in a loan's not being collectible? Banks in cities such as my hometown of College Station would get out of subprime lending under those circumstances in droves. And the cost of the loans that would be made would go up.

The problem our colleague talks about is real. The emotion he presents is real and well intended. The remedy he proposes makes all of the problems worse. It drives out not the bad lender but the good lender. It drives out not the loan shark but the legitimate lender who is getting into this area of lending and driving down interest rates and helping people own their own home.

I wish we could pass a law that would say that everybody had good credit, that everybody had established patterns of behavior paying back debt, and that somehow that could change behavior. Such a law could not be passed and would not be reasonable. It would violate human nature.

To pass a law that basically says you can't collect a loan based on an unintentional error is to assault the whole foundation of the credit system of the [*S2031] United States of America and greatly undercut the ability of moderate-income people, people who have checkered credit ratings, people who have no credit ratings, from ever getting a loan.

I urge my colleagues to support tabling this amendment. I yield the remainder of my time to Senator Hatch.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH . Mr. President, how much time do we have?

The PRESIDING OFFICER. One minute.

Mr. HATCH. I ask unanimous consent that I have 1 additional minute.

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

Mr. HATCH . Mr. President, the Home Ownership and Equity Protection Act, HOEPA, already gives borrowers numerous protections and built-in "super-remedies" including the consumer's right to rescind the loan, actual and statutory damages, class action law suits, attorneys fees and costs. This amendment imposes a drastic and unnecessary new penalty on lenders by taking away their right to get paid in bankruptcy--and thus gives the debtor a "free house"--in the event of a violation of HOEPA. This amendment will create litigation within litigation. Also, the amendment as written would make any secured loan, whether or not subject to HOEPA, even if fully compliant with all other banking laws, subject to the draconian remedies of this amendment for a violation of the Home Ownership and Equity Protection Act.

This provides a major disincentive, as the distinguished Senator from Texas, the chairman of the Banking Committee, has made the case, for making loans to people on the margin, taking the American dream of home ownership out of reach for them. I join with the distinguished Senator from Texas in making it clear that this amendment does precisely the opposite.

That is what our very effective colleague, with all of the horror stories he mentioned, has been advocating. Frankly, I hope we vote this amendment down because it will be a disaster in bankruptcy law. I think it will be a disaster for those folks who currently benefit from fair lending. Where there is unfair lending, I have no doubt the laws will take care of that. This amendment will work exactly to the contrary.

Mr. President, I will move to table the amendment following the closing statement of Senator Durbin.

The PRESIDING OFFICER. The time of the Senator from Utah has expired. There remains 41 seconds for the Senator from Illinois.

Mr. DURBIN . Mr. President, this amendment says that if you have materially violated the law, if you have exploited the poor victims in America who can lose their homes because of predatory lending, you cannot have the protection of the bankruptcy court. Senator Grassley from Iowa, who is on the floor, held hearings on this in State after State.

This is a scourge on retired people and people on fixed incomes. Will we come to their rescue? Watch the vote.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH . Mr. President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion to table.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FITZGERALD (When his name was called). Present.

The result was announced--yeas 50, nays 49, as follows:

Rollcall Vote No. 18 Leg.

YEAS--50

NAYS--49

ANSWERED "PRESENT"--1

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

Mr. SCHUMER . Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The senior assistant bill clerk read as follows:

The Senator from New York Mr. Schumer proposes an amendment numbered 25.

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

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

The amendment is as follows:

At the end of subtitle A of title II, add the following:

Section 363 of title 11, United States Code, is amended by adding at the end the following:

"(p) Notwithstanding subsection (f), the sale by a trustee or transfer under a plan of reorganization of any interest in a consumer credit transaction that is subject to the Truth In Lending Act (15 U.S.C. 1601 et seq.), or a consumer credit contract as defined by the Federal Trade Commission Preservation of Claims Trade Regulation, is subject to all claims and defenses which the consumer could assert against the debtor.".

Amend the table of contents accordingly.

Mr. KERRY . Mr. President, I ask my colleague if he will yield for a question?

Mr. SCHUMER. I am happy to yield to my colleague.

Mr. KERRY. I ask unanimous consent I be recognized after the Senator has completed his amendment for the purposes of submitting an amendment.

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

Mr. BENNETT . Mr. President, reserving the right to object.

Mr. KERRY. I believe it was ordered.

The PRESIDING OFFICER. The Senator from Utah, I believe you are a little tardy.

Mr. KERRY. I thank the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER . Mr. President, I am offering a very limited amendment to the bankruptcy code relating to subprime lenders that engage in predatory lending practices and then declare bankruptcy as a way to avoid liability for their role in destroying the lives of decent, hard-working American families.

Let me state, while I supported the amendment of my good friend from Illinois, this is a much narrower amendment. In fact, it conforms to what the Senator from Texas has said.

The PRESIDING OFFICER. The Senator will suspend. Let's see if we can get order in the Senate Chamber.

Mr. SCHUMER. Thank you, Mr. President.

The PRESIDING OFFICER. Will our guests and all others be in order, please. The Senator from New York.

Mr. SCHUMER . Mr. President, my good friend from Texas, Senator Gramm, had mentioned that the previous amendment went way beyond the scope of the bankruptcy bill dealing with RESAP and TILA. This amendment does not. It limits things strictly to the bankruptcy code and it is an amendment that is needed to ensure that the bankruptcy code is not used to exacerbate the effects of illegal predatory lending practices.

In the past decade we have had remarkable prosperity. More than half of [*S2032] all Americans invested in the stock market. Unemployment figures hit all-time lows. Despite a recent slowing, more families than ever own their own homes.

While we have made enormous progress towards providing all of our citizens with the opportunity to achieve the American dream of home ownership, the invidious practice of predatory lending is stripping hard-working individuals and families of their savings, and it is sinking them into debt and devastating them financially. For many, it has turned the American dream into the American nightmare.

Nowhere is the problem more prevalent than in my home State of New York. Now there are some who would argue, despite the evidence to the contrary, that there is no such thing as predatory lending, but I know we all know better. We know the costs that predatory lending has caused to people. When borrowers encounter a predatory lender, they are manipulated and deceived through a barrage of aggressive and misleading tactics, stripped of the equity in their homes, robbed of their life savings, led into foreclosure, often forced into bankruptcy, and, of course, the predators as a matter of practice target the most vulnerable: unsophisticated first-time home buyers, elderly, minority community, low-income neighborhoods.

We have a new problem with these predatory lenders. That is what this amendment seeks to avoid. In recent months, several large subprime lenders have obtained orders from

bankruptcy courts, providing for the sale of their loans or the servicing rights associated with them under section 363 of the bankruptcy code. Consumers who have attempted to challenge these loans or their servicing obligations based on violations of fair lending laws have been told by the purchasers of these loans they were sold free and clear of any consumer claims and defenses. The fact that innocent borrowers can be left in the lurch is flatout wrong.

Here you have the situation where a predatory lender has come in, gotten a loan, and then declared bankruptcy, shielding that predatory lender from a claim that the innocent homeowner is making. That is wrong. All this amendment does, staying within the confines of the bankruptcy code, not dealing with banking issues--I am a member of the Banking Committee but I agree that is the place where we should deal with those issues--is seek to prevent the bankruptcy code from shielding these lenders from the rightful claims of innocent borrowers who have their life savings at stake.

It is heartbreaking and maddening to hear how decent, hard-working people have had their lives destroyed because of predatory lenders when they sought little more than to obtain their piece of the rock, the American dream--home ownership. It is frustrating when the bankruptcy code is used to help these predatory lenders hide from the law.

By adopting this amendment, we can take a very small but important step against predatory lending. We will prevent predatory lenders from being able to use bankruptcy as a means by which to shield themselves from liability and cut off consumer claims and defenses.

Let me repeat that because that is the nub of this limited but important amendment which I hope we will accept without controversy. We will prevent predatory lenders from being able to use the bankruptcy code as a means by which to shield themselves from liability and cut off consumer claims and defenses. And we will protect consumers from those who seek to purchase predatory loans with the knowledge that the consumer's right has been undermined.

In short, we can send a powerful message that we are committed to protecting individuals and their families from those who rob them of their dreams and then seek to cloak themselves behind the veil of the bankruptcy law.

I sincerely hope we can accept this amendment. It is fair. It is limited to the bankruptcy code. It was intended to and it makes the code immune from the practices of predatory lenders that the code was never intended to protect from the homeowners they rip off.

I yield the floor.

The PRESIDING OFFICER. Is there further debate on the amendment of the Senator from New York?

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

The PRESIDING OFFICER. Does the Senator from New York seek the yeas and nays?

Mr. SCHUMER. I will be happy, before I do, to yield to my colleague from Iowa.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Let me state the situation for the Senator from New York. We can have the yeas and nays, but we cannot have a vote on this right away.

Mr. SCHUMER. That is OK. Unless the Senator from Iowa would accept this amendment?

Mr. GRASSLEY. We are not prepared to make that decision yet.

Mr. SCHUMER. I will be happy to ask for the yeas and nays and delay the vote until a time auspicious to the floor manager.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. GRASSLEY . Mr. President, I agree to temporarily lay aside the amendment of the Senator from New York so we can proceed to the amendment of the Senator from Massachusetts.

Mr. SCHUMER. If the Senator from Iowa will yield, as long as we get the yeas and nays on this amendment in due course.

The PRESIDING OFFICER. We had the sufficient second.

Mr. GRASSLEY. The point is we can assure the Senator from New York the yeas and nays on his amendment. We can't assure the Senator from New York when we are going to vote on the amendment.

Mr. SCHUMER. That is fine.

Mr. LOTT. In light of the agreement, Mr. President, there will be no further votes tonight. The Senate will be considering the bill over the next couple of days, hopefully tomorrow as well as Monday, so that amendments can be offered and debated. The next votes will occur beginning at 11 a.m. on Tuesday.

In addition, the lockbox votes are scheduled to occur at 2:45 p.m. on Tuesday. I urge Senators who have amendments to schedule floor time with the managers. Again, I hope there is no desire to try to drag this out through the week and not complete it. I do not think that would be fair to anybody. We have other work to do. Senator Daschle has assured me, as he just said, that he understands and wants to join in getting this done by next Thursday night or Friday morning.

As we assess the situation, if it becomes necessary, I will be prepared to file cloture on Monday or Tuesday so we can finish this not later than Thursday night or Friday.

I yield the floor.