

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

The Senator from Delaware is recognized.

Mr. ROTH. I thank the Chair.

(The remarks of Mr. ROTH pertaining to the introduction of S. 2453 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. ROTH. Mr. President, I yield back the floor.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

UNANIMOUS CONSENT REQUEST—
H.R. 4250

Mr. DASCHLE. Mr. President, I ask unanimous consent that when the Senate completes its legislative business today, it then proceed to the consideration of Calendar No. 505, H.R. 4250, the House-passed HMO reform bill, that only relevant amendments be in order, and that the bill become the pending business every day thereafter upon completion of legislative business.

Mr. ROTH. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DASCHLE. Mr. President, the hour is again upon us, as it was last night. I suggested last night that we move to a second shift, that at approximately 7 o'clock every night we take up legislation our Republican colleagues say we don't have time for during the day.

I am very disappointed, once again, that our Republican colleagues have objected to doing that. There is absolutely no reason why, with less than 6 weeks left in the session, we leave this Chamber at 10 minutes to 7. There is no reason for that. How many businesses would survive with an incredible amount of production in front of them if they were to say: We are going to take off work early, we are not going to work a second shift, we are not going to work as if we are in a state of emergency, we are going to treat the situation as business as usual?

Mr. President, that is what we are doing with the schedule right now. It is remarkable to me that with little time left in the session, our Republican colleagues are content to go home and in a sense tell the American people: Look, we don't have time to consider your problems. We don't have time to consider the importance of HMO reform or to pass a Patients' Bill of Rights. We don't care; we are going home.

Mr. President, that ought not be the message we send the American people. So that is why we have suggested working a second shift. That is why we have suggested coming to the Senate floor at this hour each evening to pick up where we left off the night before, to recognize that we will never be able to address this and other serious problems unless we are willing to stay here and do our work. We have worked hard to bring the Senate to the point of pass-

ing a meaningful Patients' Bill of Rights. More than 170 organizations wait for us to act tonight. Millions and millions of people who have high expectations about the possibility of realistically dealing with this problem wait for us to act tonight.

I am disappointed, disappointed, No. 1, that our Republican colleagues again would rather go home than do their work, disappointed that legislation which has now passed in the House languishes in the Senate without any hope of passing unless we stay here tonight or tomorrow night or the next night. And I am disappointed by what it means in terms of the real prospects for accomplishment, the real prospects for getting something done, the real chance that we can leave and close down the 105th Congress feeling good about having addressed one of the most serious problems facing the American people today.

There are too many insurance companies making decisions for doctors. There are too many women who are being turned out of hospitals too early. There are too many patients who are not being given the opportunity to choose their doctor. There are too many people whose doctors prescribe a medicine only to be overturned by an insurance company.

Mr. President, it goes on and on. The problem we have is that unless we act, unless we are willing to do our work, unless we take this second shift, we will never have the opportunity to bring this important issue to closure.

Obviously, there is one other way to do it, and that is to eat up the day throughout the day. We have already indicated that if we can't take a second shift approach, then we have no other recourse but to offer this legislation in the form of an amendment on any vehicle that comes along. Whatever bill may be pending, we will have no other option but to offer it as an amendment, and we will do that just as we have done it before. We will offer it on a bill that will require our colleagues to vote.

So it is not a question of avoiding the vote. We will either do it in a constructive way on a second shift or we will do it in a confrontational way during the day on the first shift. But we are going to do it. We have said that in the remaining days of this session we must have a vote on minimum wage, we must have a vote on a Patients' Bill of Rights, we must have a vote on campaign finance reform, we must have a vote on pay equity, and we must have a vote on a series of amendments that will improve the crisis in agriculture today. Those are votes we must have, and we must find a way with which to accommodate each other's priorities to allow that to happen.

Again, let me express my disappointment, my sorrow, my frustration at our Republican colleagues' unwillingness to cooperate with us.

Mr. KENNEDY. Will the Senator yield?

Mr. DASCHLE. I would be happy to yield to the Senator from Massachusetts.

Mr. KENNEDY. As the Senator has pointed out, it is 7 o'clock this evening. We had last evening, we will have tomorrow evening. There is no reason we can't go from 7 to 10 or 10:30. The Senator remembers the times where we have had these double sessions. They are not a very unusual process and procedure. I will include in the RECORD tomorrow the instances when we have had these, generally at the end of sessions, but they have been a two-track process by which we deal with certain measures during the day and others during the course of the evening.

Does the Senator agree with me, for example, on the Patients' Bill of Rights that if we took Tuesday and Wednesday and Thursday evenings and did it from 7 to 10, 10:30 probably this week, three different evenings, there would be a good opportunity where we could probably finish that legislation, or perhaps take one or more evenings of next week to address the issues which the Senator has talked about. We could have a good debate on the question of minimum wage—whether it has been inflationary, whether there has been loss of employment, the impact on small employment, the various kinds of arguments that have been made—and we would be able to dispose of that in a fair and reasonable time, as well as the agriculture and farm issues, pay equity, and other issues?

Does the Senator believe, if we knew now that we were going to do this, the membership would become engaged in this legislation, particularly if we had notice that we were going to consider various legislation with due notice, in 2 or 3 nights we would consider X legislation, which is sort of a time-honored way that we have proceeded here? Is that the kind of arrangement that the Senator is looking for so that the membership would have notice of the legislation and we could have that kind of debate during the course of the evenings? Does the Senator think there is any other business that is more important for us to be involved in at this time than those issues which people have expressed an interest and concern about such as the Patients' Bill of Rights issue?

Mr. DASCHLE. I appreciate very much the question of the Senator from Massachusetts. The answer is, "No."

I know the Senator, who is a real student of history and has a wealth of experience, can go back to those occasions over many, many years when we have found nighttime debates to be the best debates because there are no interruptions. Why? Because Senators don't have to be in their offices with appointments and phone calls. They can be here on the Senate floor. If we are here, we get more interaction.

There have been some extraordinary debates on the floor of the U.S. Senate after 7 o'clock at night. And the reason for that is because, oftentimes, we do

not have so many other tugs and pulls on our schedules.

So, first of all, the Senator is right when he comments about the historical precedent for this approach. Second, he is correct that not only is it a common Senate practice, but actually the quality of the debate oftentimes is enhanced. Third, unless we do it this way, I fear that we really are not going to have the opportunity to address the issues, as the Senator from Massachusetts has pointed out, that have the highest priority when you ask the American people what we should be addressing.

So from the perspective of priority, from the perspective of quality, from the perspective of history, the Senator from Massachusetts is correct.

Mr. KENNEDY. I thank the Senator. Would he not agree with me that we have a general understanding that Thursday nights are the late night in the Senate? We do that with the idea that we hope we can finish various measures that may go on over to Friday out of consideration to some of those Senators who live in different parts, some distance away from the Nation's Capital, to try at least to accommodate some of their interests.

So the idea that we have a night session is not really unique or special. Members are here during the period of the week. They are on notice now. We have just come back from a good break in the period of August, but we have a limited time that is available. I must say, I fail to find an adequate response by the Republican leadership to the Senator's eminently fair and reasonable proposal. It would seem to me we ought to at least try it for a week, try it for a week or two and find out how we are proceeding. We could consider the Patients' Bill of Rights, for example, a measure of enormous importance to the millions of families in this country. We have been denied that opportunity to have the debate. We have always been told we cannot have that debate because we are not going to take up a lot of the Senate's time.

The way I understand the leader's proposal is we might be able to do that in the evening time until we reach a conclusion on that so we would not interfere with the appropriations legislation.

What is possibly the justification not to do it? Are we saying our own personal requirements are of greater importance than trying to deal with the business of America's families—whether they are in South Dakota or in Massachusetts—who are very, very much affected by what we fail to do here in reaching some resolution on the Patients' Bill of Rights?

I do not know whether the leader had an opportunity to see the list of the various parts of the Patients' Bill of Rights bill that I had on the floor a short time ago, but I know the Senator is very familiar with them. Doesn't he agree that probably 17 or 18 topic areas are about it with regard to the Pa-

tients' Bill of Rights, and probably even some of those areas could be accommodated by individual Members on both sides who are really interested in trying to reach a resolution? We could deal with these other measures—whether women are going to be in clinical trials; whether we are going to have appeals procedures; whether we are going to have gag rules—and the various other protections the Senator mentioned earlier.

Doesn't the Senator feel we could work that through in a reasonable period of time if we involved the Senate in debate during these weekday nights?

Mr. DASCHLE. The Senator has asked a couple of very good questions. The first question he asked is why we are quitting work at an hour that could easily accommodate debate on important issues? I think the answer is, we all appreciate a family-friendly environment. We all enjoy being able to go home to our families. By and large, in the last couple of years, we have been able to do that. We have had a family-friendly legislative session that has accommodated personal needs. I think that is understandable, and for the most part, I think I have supported it.

I think there comes a time, though, when you get to this period at the end of the Congress—not the end of a session, we are talking about the end of a Congress. We have just a few weeks left, and our work has to take priority.

As the Senator noted, usually Thursday nights have been nights where we work late. What we are suggesting is that we at least take Tuesday, Wednesday and Thursday nights, for the balance of the time that remains in this session, and use that time productively. Let's take 3 or 4 hours and see what we can accomplish—particularly on something as important as the Patients' Bill of Rights.

The second question is about the degree to which we want to be able to offer amendments. I heard the Senator so compellingly speak about other bills that have required hundreds of amendments, in some cases well over 100 amendments for bills of great import. We are not even asking for that, as the Senator has noted. I think his chart points that out.

There are categories for which there are legitimate differences of opinion. We want to be able to offer amendments in those areas, to be able to have a good debate and discuss them. But to say you are going to be forced into this three-amendment limit with no ability to talk about all the very serious concerns is just unacceptable and does not do justice to the issue. They say we don't have time for a full debate. We have 3 hours of time. They say we have to limit ourselves to three amendments, even though other bills have taken 150 amendments—we have the time. We have the interest. What is holding them up? No one can really answer that for us. Obviously that is the perplexing question. The bill has passed in the House. Why not debate it here in the Senate as well?

Mr. KENNEDY. I thank the leader for, again, his leadership in this important area. Next time there is objection to the proposal—the Republican leadership says we can't afford the time for this; we can't afford the time to debate it—it is going to ring very hollow after we have seen the very reasonable request of the leader to debate those issues this evening. The Senator from South Dakota has introduced the legislation. He is here tonight to debate it, and I welcome the chance to join with him in debating that. We are here ready to go on this legislation. We could do it this evening or any night this week. It is not satisfactory enough for the American people, just to say, as the Republican leadership has, "No, we are not going to do this, and we are going to refuse to permit this debate and discussion." That is not really in the great traditions of this body. This body was supposed to deal with the public interest, the unfinished agenda.

There is nothing more important than protecting American families from decisions being made by insurance companies rather than health professionals. There is nothing more important, in terms of the health care of these families, before the Senate this year. I think it is grossly unfair.

So I commend, again, the leader for bringing this up. I know the leader will bring up the amendment. Then we will hear from the other side, "Oh, my goodness, we can't do that; we can't do this. It's impossible to do it." We could have done it this evening; probably last night and the other nights this week. I certainly join in supporting his efforts to insist that we are going to debate these, and we are going to reach resolution on these matters before we conclude.

I thank the Senator.

Mr. DASCHLE. I thank the Senator from Massachusetts for his thoughtful comments and for his willingness to engage in this colloquy.

I think the legislative history ought to demonstrate that there are those of us who truly want this issue resolved. We really are prepared to put in the time and effort to come to closure on what is the most important health question facing this Congress, and that is, how do we deal with the array of problems we are facing in managed care today.

No one has put more time and effort and leadership into this question than the distinguished Senator from Massachusetts. I am grateful for the partnership and extraordinary effort he has demonstrated and put forth in bringing us to this point.

Mr. President, unless there are further comments, I yield the floor, and 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. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

UNANIMOUS-CONSENT AGREEMENT—AMENDMENT NO. 3554 TO S. 2237

Mr. LOTT. Mr. President, we have had a good deal of discussion about how to proceed tomorrow with regard to campaign finance reform, and I think we have something worked out here that is acceptable to all sides. I hoped there would be more time for Senator MCCAIN and others to discuss the issue tomorrow, but there are some conflicts that we are trying to recognize and accommodate.

So I ask unanimous consent that at 10 a.m. on Thursday, the Senate resume the pending McCain amendment, and the time between 10 a.m. and 12 noon be equally divided in the usual form for debate only. I further ask unanimous consent that at 12 noon Senator FEINGOLD be recognized to offer a motion to table the pending amendment.

I further ask unanimous consent that if the amendment is not tabled, the time prior to 1:45 p.m. on Thursday be equally divided in the usual form for debate only, and notwithstanding rule XXII, the cloture vote occur at 1:45 p.m. on Thursday.

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

CONSUMER BANKRUPTCY REFORM ACT OF 1998—MOTION TO PROCEED

Mr. LOTT. Mr. President, I also just discussed with Senator DASCHLE the possibilities of working out a procedure that we could take up the bankruptcy reform, allow for amendments to be offered, and get some sort of understanding about what those amendments would be and the time that might be involved. There are a number of Senators who are interested in this legislation on both sides of the aisle—Senator GRASSLEY obviously, Senator HATCH, Senator DURBIN; Senator KENNEDY has an amendment he wants to offer.

I had not seen any movement earlier than this afternoon toward working something out, but I believe now that there will be a good-faith effort to see if we can work out some sort of agreement that we will come together on tomorrow. But so that we can get the matter laid down in the proper way, and so that there can be protections for all concerned until we get an agreement worked out, I want to go ahead and do this procedure. But if we get an agreement worked out, obviously I would move to vitiate it. I really would like to get bankruptcy reform done, but I think we need some sort of reasonable agreement in order to accomplish that and in order to not go forward with the cloture vote.

So I understand that there is no further need for debate on the pending motion, and I ask the Chair to put the question.

The PRESIDING OFFICER. The question is on agreeing to the motion. The motion was agreed to.

CONSUMER BANKRUPTCY REFORM ACT OF 1998

The PRESIDING OFFICER. The clerk will report the bill.

The bill clerk read as follows:

A bill (S. 1301) to amend title 11, United States Code, to provide for consumer protection, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) *SHORT TITLE.*—This Act may be cited as the “Consumer Bankruptcy Reform Act of 1998”.

(b) *TABLE OF CONTENTS.*—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—NEEDS-BASED BANKRUPTCY

Sec. 101. Conversion.

Sec. 102. Dismissal or conversion.

TITLE II—ENHANCED PROCEDURAL PROTECTIONS FOR CONSUMERS

Sec. 201. Allowance of claims or interests.

Sec. 202. Exceptions to discharge.

Sec. 203. Effect of discharge.

Sec. 204. Automatic stay.

Sec. 205. Discharge.

Sec. 206. Discouraging predatory lending practices.

TITLE III—IMPROVED PROCEDURES FOR EFFICIENT ADMINISTRATION OF THE BANKRUPTCY SYSTEM

Sec. 301. Notice of alternatives.

Sec. 302. Fair treatment of secured creditors under chapter 13.

Sec. 303. Discouragement of bad faith repeat filings.

Sec. 304. Timely filing and confirmation of plans under chapter 13.

Sec. 305. Application of the code debtor stay only when the stay protects the debtor.

Sec. 306. Improved bankruptcy statistics.

Sec. 307. Audit procedures.

Sec. 308. Creditor representation at first meeting of creditors.

Sec. 309. Fair notice for creditors in chapter 7 and 13 cases.

Sec. 310. Stopping abusive conversions from chapter 13.

Sec. 311. Prompt relief from stay in individual cases.

Sec. 312. Dismissal for failure to timely file schedules or provide required information.

Sec. 313. Adequate time for preparation for a hearing on confirmation of the plan.

Sec. 314. Discharge under chapter 13.

Sec. 315. Nondischargeable debts.

Sec. 316. Credit extensions on the eve of bankruptcy presumed nondischargeable.

Sec. 317. Definition of household goods and antiques.

Sec. 318. Relief from stay when the debtor does not complete intended surrender of consumer debt collateral.

Sec. 319. Adequate protection of lessors and purchase money secured creditors.

Sec. 320. Limitation.

Sec. 321. Miscellaneous improvements.

Sec. 322. Bankruptcy judgeships.

Sec. 323. Preferred payment of child support in chapter 7 proceedings.

Sec. 324. Preferred payment of child support in chapter 13 proceedings.

Sec. 325. Payment of child support required to obtain a discharge in chapter 13 proceedings.

Sec. 326. Child support and alimony collection.

Sec. 327. Nondischargeability of certain debts for alimony, maintenance, and support.

Sec. 328. Enforcement of child and spousal support.

Sec. 329. Dependent child defined.

TITLE IV—TECHNICAL CORRECTIONS

Sec. 401. Definitions.

Sec. 402. Adjustment of dollar amounts.

Sec. 403. Extension of time.

Sec. 404. Who may be a debtor.

Sec. 405. Penalty for persons who negligently or fraudulently prepare bankruptcy petitions.

Sec. 406. Limitation on compensation of professional persons.

Sec. 407. Special tax provisions.

Sec. 408. Effect of conversion.

Sec. 409. Automatic stay.

Sec. 410. Amendment to table of sections.

Sec. 411. Allowance of administrative expenses.

Sec. 412. Priorities.

Sec. 413. Exemptions.

Sec. 414. Exceptions to discharge.

Sec. 415. Effect of discharge.

Sec. 416. Protection against discriminatory treatment.

Sec. 417. Property of the estate.

Sec. 418. Limitations on avoiding powers.

Sec. 419. Preferences.

Sec. 420. Postpetition transactions.

Sec. 421. Technical amendment.

Sec. 422. Setoff.

Sec. 423. Disposition of property of the estate.

Sec. 424. General provisions.

Sec. 425. Appointment of elected trustee.

Sec. 426. Abandonment of railroad line.

Sec. 427. Contents of plan.

Sec. 428. Discharge under chapter 12.

Sec. 429. Extensions.

Sec. 430. Bankruptcy cases and proceedings.

Sec. 431. Knowing disregard of bankruptcy law or rule.

Sec. 432. Effective date; application of amendments.

TITLE I—NEEDS-BASED BANKRUPTCY

SEC. 101. CONVERSION.

Section 706(c) of title 11, United States Code, is amended by inserting “or consents to” after “requests”.

SEC. 102. DISMISSAL OR CONVERSION.

(a) *IN GENERAL.*—Section 707 of title 11, United States Code, is amended—

(1) by striking the section heading and inserting the following:

“§ 707. Dismissal of a case or conversion to a case under chapter 13”;

and

(2) in subsection (b)—

(A) by inserting “(1)” after “(b)”;

(B) in paragraph (1), as redesignated by subparagraph (A) of this paragraph—

(i) in the first sentence—

(I) by striking “but not” and inserting “or”;

(II) by inserting “, or, with the debtor’s consent, convert such a case to a case under chapter 13 of this title,” after “consumer debts”;

(III) by striking “substantial abuse” and inserting “abuse”;

and

(ii) by striking the last sentence and inserting the following:

“(2) In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter, the court shall consider whether—

“(A) under section 1325(b)(1), on the basis of the current income of the debtor, the debtor could pay an amount greater than or equal to 20 percent of unsecured claims that are not considered to be priority claims (as determined under subchapter I of chapter 5); or