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Senate

The Senate met at 11 a.m. and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, one hundred and eighty-four years ago today at dawn, Francis Scott Key saw the Stars and Stripes over Fort McHenry and wrote the stirring words of our national anthem that have moved our hearts to patriotism ever since. "O say, does that star spangled banner yet wave, o'er the land of the free and the home of the brave?" Yes, thankfully it does. As our flag flies over the Capitol this morning, we commit ourselves anew to serve You by doing the strategic work of government and by leading our Nation through the present crisis in a way that satisfies You.

Dear Father, it is good to know that You are not surprised by the needs we bring to You. You know them before we bring them to You. Help us to see that prayer is how You call us to do what You think is best rather than just a call for You to assist us with what we already have decided. Help us to wait for You, to listen intently to You, and to gain strength to carry out Your best for us, personally and for our Nation. In the Name of our Lord and Savior. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT of Mississippi, is recognized.

SCHEDULE

Mr. LOTT. Mr. President, this morning the Senate will begin debate in relation to the motion to proceed to S. 1981, the Truth in Employment Act, with the time between now and 1 p.m. equally divided between Senators

HUTCHINSON and KENNEDY or their designees. I see that Senator HUTCHINSON is on the floor and prepared to go forward and already has his charts on display here. I appreciate the work that he has done in this area.

At 1 p.m. the Senate will resume consideration of the Interior appropriations bill. It is the majority leader's hope that the Interior bill will be finished the first part of this week. Last week there were other issues that were debated, that were attached to the Interior appropriations bill, and cloture votes that were also voted on. But I think this week it is important that we stay focused on the Interior appropriations bill, this afternoon and Tuesday and Wednesday, if necessary, to try to get it completed. That is an important part of us doing the people's business.

Yes, there are a lot of distractions, but in the meantime the Senate must continue to go forward with the things that have to be done before we can go out at the end of this session so that our Members can go home and be with their constituents. So the Interior bill will be our principal focus this week. Senators who have amendments are encouraged to come to the floor. Don't keep shoving them off and saying, "I will offer them later," "I will offer them Tuesday," "I will offer them Wednesday." You will wind up being here at 10 o'clock Wednesday night having to offer and debate your amendments. I hope that Senators will come forward and offer amendments if they have them.

At 5 p.m., under a previous order, the Senate will resume debate in relation to the Truth in Employment Act until 5:30. At that time the Senate will proceed to a vote on cloture on a motion to proceed to the employment bill.

Also at that time there could be a vote or votes on or in relation to amendments on the Interior appropriations bill. We do not have that locked in yet, but we would like to get some work done, and there is a likelihood

that there will be a second vote following the vote that is already scheduled at 5:30. Further votes could occur, as I said, during this evening. And Members should expect that we will have to go into the evening almost every night this week.

In addition, on Friday we did get a unanimous consent agreement with regard to how we would bring up and debate and vote on the bankruptcy reform bill. I thank Senators on both sides for working late into the night Thursday night and during the morning Friday, that allowed us to craft this unanimous consent agreement. We will bring that up the first opportunity we have—certainly only after consultation with the Democratic leader. But if we could finish the Interior bill at a reasonable time Wednesday, we could very well go to the bankruptcy bill either Wednesday night or Thursday, but it will depend on how things go between now and then.

Also, I understand that the Banking Committee did report out, by a wide margin, the Financial Services Act last week. I had indicated to the chairman, Chairman D'AMATO, that if they reported it out on a broad bipartisan vote, we would look for an opportunity to have a vote on that also. I don't know if that would come before next week or even the next week, but bankruptcy reform and the Financial Services Act would be two very large accomplishments, if we could get these done before we go out at the end of the session.

So, again, I hope Senators will be prepared to work hard, offer their amendments, let us have our votes, and let us make some progress so we can show the American people, despite the distractions, we are doing our work.

I yield the floor.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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TRUTH IN EMPLOYMENT ACT

The PRESIDING OFFICER (Mr. SESSIONS). Under the previous order, the time until 1 p.m. shall be equally divided between the Senator from Arkansas, Mr. HUTCHINSON, and the Senator from Massachusetts, Mr. KENNEDY, or his designee, for debate relating to the Motion to Proceed to S. 1981.

The Senator from Arkansas.

Mr. HUTCHINSON. Mr. President, I rise to speak on the S. 1981 legislation. This legislation will enable thousands of businesses in Arkansas and across the Nation to avoid the insidious and unscrupulous practice known as salting which is literally crippling thousands of small businesses across this country.

The Truth in Employment Act inserts a provision in the National Labor Relations Act establishing that an employer is not required to hire a person seeking employment for the primary purpose of furthering the objectives of an organization other than that of the employer. This measure is not intended to undermine the legitimate rights or protections currently in law for workers in this country enabling them to organize. Employers will gain no ability to discriminate against union membership or activities. This bill only seeks to stop the destructive practice of salting. In fact, I will just read the last provision in the bill itself, which guarantees the protections for workers to organize, because the argument will be made, opponents of this legislation will say, that this is somehow trying to undermine the right of workers to organize.

So this provision says:

Nothing in the bill shall affect the rights and responsibilities under this Act of any employee who is or was a bona fide employee applicant, including the right to self-organization, to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid protection.

So this bill is clearly not designed to harm workers or to undermine their ability to organize. That provision passed the House of Representatives unanimously, incidentally. I believe it has broad support in the Senate as well. But there is a practice that is becoming all too common across this country, that is both immoral and insidious and is not a legitimate organizing tactic, and it needs to be outlawed. The bill does not change the definition of "employee." It does not overturn the decisions of the U.S. Supreme Court.

Mr. President, I rise today to speak on an issue that I think is of common sense and fairness. Would any person intentionally bring wanton destruction upon his or her own home? Would a homeowner spend hard-earned money for a colony of termites and let them loose in his or her house, leaving them free to gnaw away at the equity he or she had spent years building up in a home or property? Certainly no one

would commit such an irrational attack of self-destruction. No one would willfully and deliberately bring thousands of dollars of damage on himself. Instead, the homeowner would take every precaution to preserve the structure of his home, keeping out ruinous influences. Yet, today, in a similar situation, small business owners nationwide are prevented from defending their own companies from pernicious attacks known as salting.

What is salting? Paid and unpaid union agents infiltrate nonunion businesses under the pretense—the pretense of seeking employment. And then, at that point, employers are caught in a dilemma, facing charges if they refuse union labor and facing charges if they hire these salts. So if they don't hire, unfair labor practices are filed, discrimination claims are filed against the employer. If they do hire them, they then face, in effect, termites in their own business, eating away at the solvency of their own enterprise. Once on the job, these salts set about sabotaging the company through workplace disruptions and a battery of frivolous charges to the Equal Employment Opportunity Commission, the National Labor Relations Board, or by creating OSHA violations and then reporting those violations to OSHA.

Employers who try to fire them face yet another litany of false charges. Defending against these charges costs money in legal fees, costs time in lost productivity and costs a company's reputation through negative publicity. Yet, to add insult to injury, employers are often forced to pay large damage awards or settlements because they cannot afford the high legal fees needed for justice to be served.

Employers have little or no defense against these relentless—relentless—assaults. Instead, they are forced to invite destruction into their companies and can only stand by, it seems, helplessly as years of hard work and investment are devoured before their eyes.

In my home State of Arkansas, George Smith, the president of Little Rock Electrical Contractors, has been the victim of salting campaigns. Let me just tell you his story.

It is a family-owned business and a merit shop contractor, hiring both union and nonunion labor. Mr. Smith never expected to face charges of unfair labor practices from people he didn't even hire.

At a company site in Louisiana, two men drove up to Little Rock and asked if the company was taking applications. They were told no, and they drove off. Five months later, Mr. Smith was notified that charges of discrimination had been filed against him by the NLRB. He subsequently hired a labor attorney who assured him that he could win, as the charges had no merit whatsoever, that justice would be served.

Unfortunately, the cost of the 2-day hearing would be \$15,000 in order to

have justice served. And since the unions would appeal if Mr. Smith won, additional costs of up to \$8,000 could be almost guaranteed.

On the other hand, the cost of settlement with these two nonemployees who had filed the claim was \$3,000 for each man. So, in the end, Mr. Smith chose the less expensive option. I quote what he said:

The reason that we paid was real simple. It was pure mathematics. [If] it cost me \$23,000 to win and \$6,000 to lose: I can't afford to win.

To rub salt into the wounds, so to speak, copies of these settlement checks appeared on one of his work-sites in North Carolina with the statement saying that this was the result of employer interference with employee rights.

Mr. Smith, a hard-working American trying to run an honest business, lost both money and company stature. But this assault was not unique. In 1 year, Little Rock Electrical has faced 72 such charges to the tune of \$80,000 in legal fees.

Mr. President, that is wrong. That is not justice, it is an injustice. This problem is not unique to Arkansas companies. It is happening all across America, from Cape Elizabeth, ME, where Cindy and Don Mailman, owners of Bay Electric Company, suffered 14 erroneous, meritless charges, and \$100,000 in legal fees over 4 years; to Modesto, CA, where Jim Blayblock of Blayblock Electric faced an intense barrage of salting; to Delano, MN, where Terrance Korthof of Wright Electric has lost \$150,000 in legal fees and \$200,000 to \$300,000 in wasted time for 15 baseless charges; to Austin, TX, where Randy Pomikahl's company, Randall Electric, has been targeted.

My point is, from the East Coast to the West Coast, from the Canadian border to Texas in the South we see these salting campaigns. Salts are operating across the country not only in electrical companies, but in steel companies, mechanical companies, building companies, and I predict it is going to be expanded and proliferate. We are going to see it targeting small business in every industry unless we address it legislatively. Mr. President, it is very much a national problem.

I have on the floor of the Senate this morning a chart that illustrates how this is a national problem. Here are some examples of salting cases around the country. Carmel, IN, Gaylor Electric faced 96 charges. Ultimately, the courts dismissed all 96. All 96 of these charges were dismissed without merit, but it cost Gaylor Electric \$250,000 annually to defend themselves against this salting campaign.

Union, MO, 48 charges were filed, 47 were dismissed, one was settled for \$200. But in legal fees, \$150,000 to defend their company against these frivolous charges.

In Clearfield, PA, the R.D. Goss Company had 15 to 20 charges. All but one of those charges were dismissed, but it