

in my statement opposing it, I laid out three primary reasons I voted no. The first is that I was not convinced that the asset purchase program was the right way to do this. Apparently, he didn't think so either because that is not what he did.

The second is that it would lead to increased lobbying for handouts and bailouts by any industry facing financial trouble. Now we are seeing that. We are seeing the auto industry coming in, some insurance companies and others coming in. It is kind of a new way of life: If you are not successful, don't worry about it because you have the Federal Government there to help you.

The third is that we were handing over, as I read it—and I don't blame Secretary Paulson for this because I suppose if this is what he wanted, somebody else was willing to put it together. He was not the one, I suppose, who drafted it. But it gave one person, in this case Secretary Paulson, the sole authority over \$700 billion.

I have a hard time with big numbers, putting them into perspective that is understandable. But it is my understanding that there are 139 million American families who file tax returns. If you do your math, this would be \$5,000 per family. We are talking about any family out there who files taxes. This is a huge thing. So it does require extraordinary thought in addressing it.

As I stated at the time, my vote was against the Paulson plan, not against taking action to provide necessary confidence in financial markets. I do know and agree that there is a problem out there. I am not convinced that is the way to address it.

We critics were right. On October 14, in a significant shift, Treasury outlined a plan to directly purchase equity stakes in major financial institutions. The Wall Street Journal noted that "critics . . . say Treasury should have formulated a comprehensive plan earlier in the crisis." This past week, Secretary Paulson announced that he has completed a remarkable about-face, as summarized by the November 13 Investors Business Daily front-page headline which read: "Major Reversal, Treasury Won't Buy Bad Mortgage Debt." This is a complete reversal. Why did Paulson reverse course? Last Thursday's Los Angeles Times provides the answer:

Treasury Secretary Henry M. Paulson's decision to abandon plans to buy troubled bank assets shows that he has come to two conclusions about what was once the chief focus of the government's \$700-billion bailout: The first is that it wouldn't work.

That is kind of full circle. This is what we thought at the time, and this is where we are today. I know many have serious concerns about how Secretary Paulson has executed the financial rescue program, and I share those concerns. Congress completely abdicated its responsibility by signing a truly blank check.

If we look at this and if we read it, there is nothing in there that says we

have to do this. Never before in the history of America has anyone—elected or, in this case, unelected—been given a blank check or a check in the amount of \$700 billion to do with as he wishes. It has never happened before. It is unprecedented. But that is exactly what happened.

Now we are faced with a lameduck session. We can do something about resolving this problem now, and that is supporting and passing the legislation I introduced this morning. It is officially introduced. I believe I requested it be sent to the Senate Banking Committee. I am sure there are several there who want to resolve this problem before we recess.

My concern is this: The way it is set up by law, there is \$350 billion already out there, and he has been spending that money. Frankly, I don't know how much has already been spent. There was an article in the Wall Street Journal a couple of days ago that said all but \$60 billion has been spent. That may be true; it may not be true. I have no way of knowing. That alone is enough concern that a senior Member of the Senate doesn't even know how much of the taxpayers' money has been spent or what percentage of the \$350 billion has been spent.

We have a second \$350 billion to make up the \$700 billion that will come, but it is rather nebulous, it is rather vague as to how that would be put into the hands of Secretary Paulson. My interpretation is that he would indicate, yes, we do need to have the second \$350 billion, and if there was not a resolution to stop that, to preclude that from happening, then he would be able to do that.

My concern is that we will stall around and do nothing. We will adjourn and not come back until January. That would give him the opportunity of stating his intention, what he wants to do, and then have 15 days go by when we are not even in session. I think the only way to do this is to do it the way we are planning to do it now; that is, to bite the bullet.

I know it is difficult. It is difficult for members of any body, particularly the Senate. This legislation, as I recall, passed 75 to 24. Those of us who are among the 24, who voted against it, are fine in terms of doing something such as this, but at least a third of those who voted for it would have to say he didn't do what he said he would do, he didn't buy the troubled assets. Therefore, that gives me reason to change. I can't help but think that at least half or even more of those who voted for this legislation would find themselves in that position. When we look at where we are today and see that there is something that can be done, I think it is necessary that we go ahead and do it. One of the things that is going on now—and this bothers me a little bit—is that there is an argument going on right now between some of the committees—the Finance Committee and the Banking Committee—as to who has ju-

risdiction. Then there is a debate as to whether a special inspector general should be appointed, and they have talked about some names. If they do that, confirmation probably would not take place for another couple months. By that time, all the money is gone. So we are sitting around twiddling our thumbs doing nothing. Our last shot to do something is to do something while we are here. This lameduck session, I suspect, is only going to last 3 or 4 days. So we have that length of time to stop this from happening.

If the American people are concerned about this, concerned as I am and as many Members of this body are, that this was done without the consideration it should have had, this amount of money, \$700 billion is out there now in the hands of one person to do with as he wishes, that is not good Government and it needs to be stopped. We can stop it by the passage of the legislation I introduced this morning.

Again, it will do only two things. It will preclude and freeze any further expenditure by the Secretary of the Treasury and, second, it would preclude the second \$350 billion from coming up for consideration. In other words, that would stay in the Treasury. I think this is the only chance we have to get it done. We better do it now or it is going to be too late and we will be out of here and it will be history by the time we come back at the end of January.

With that happy note, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. CARDIN). Without objection, it is so ordered. The Senator from Virginia is recognized.

ATROPHY OF THE BALANCE OF POWERS

Mr. WEBB. Mr. President, in the 2 years since I have been privileged to be in this body, I have spoken frequently about my concerns with respect to the balance of power between the executive branch and the legislative branch and the atrophy of the powers and the influence of the Congress. There are two issues that are before us this week that I think illuminate the dangers of that atrophy.

The first is in respect to the powers we gave to the Secretary of Treasury in our vote at the beginning of October, before we went into recess, as he addressed the issues of the bailout. Many Senators, including myself, wrote letters of concern immediately after this bailout was proposed, noting that it was unprecedented for one individual in the executive branch of Government to be given the broad discretion the present Secretary of the Treasury has been given.

I voted to support this bailout, as did most of my colleagues, as we were assured, not only by members of the administration, but also with a great deal of hesitation by members of our own party in the Senate, that this was an essential act to avert an international calamity in the financial markets. We were told by the Secretary of the Treasury that we needed to reinforce the good will and the concerns people had by allowing him to take certain actions. We ensured oversight over the Secretary of the Treasury, but he still retained the total discretion that has been used over the past several weeks.

At the same time, we all know now—it has been said several times already this afternoon—the decisions that were made, as to where this money has been going, were not in line with the reassurances that were given this body when the legislation was brought forward. There has been a great deal of inconsistency coming from the Secretary of Treasury, and it has created a mood of unpredictability that we have seen reflected in the markets and in the confidence of investors.

I would agree with the concept that was recently put forward by the Senator from Oklahoma about slowing down the amount of money that is available to be spent under this bailout. I also would propose, in examining legislation to that effect, that we as a body revisit the whole idea of giving this kind of power to one individual in the executive branch.

There are plenty of precedents in history which create a small body of honest brokers, perhaps three individuals who collectively can make decisions for the good of the country and who would not be burdened by conflict of interests because of their own background, either real or imagined, or the burden that goes with the discretion of one individual. I hope to place something to that effect before this body relatively soon. I hope other Members of the Congress will consider that idea as well.

The second issue with respect to the abrogation of power by the legislative branch to the executive branch concerns the relationship that we are now about to finalize with Iraq. We have seen it reported in the media today that the Iraqi Cabinet has given a near unanimous agreement to a strategic framework agreement—which is very little discussed, and a status of forces agreement—which has been much debated, that ostensibly would define the future relationship between the United States and Iraq.

I find it more than ironic, and I have mentioned it several times on this floor, that the Congress has not been invited to participate in this process. The Iraqi Cabinet is going to present this agreement to the Iraqi Parliament for a vote. The Congress of the United States is hardly even getting a look.

If you turn to article II, section 2 of the U.S. Constitution, it says the President:

... shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur. . . .

The question is, Is this a treaty? It is going to define the long-term relationship between the United States and Iraq in a situation where we are going to have military bases of some sort in Iraq and a security relationship with Iraq. That sounds quite a bit like a treaty to me.

The administration has been claiming this is simply an executive agreement and, as a result, the Secretary of State can sign this; the Congress can be consulted but does not have to have a vote. But let us remember, at the end of this year, on December 31, the legal authority for the United States to be operating in Iraq ends under international law with the expiration of the U.N. mandate. So under what authority, legal authority, will we be operating in Iraq? An executive agreement is only constitutional when it is implementing a law. So what law or constitutional authority will this executive agreement be implementing?

The members of the administration, when I raised this issue nearly 8 months ago, claimed that the 2002 authorization to go to war in Iraq was their legal authorization to negotiate an executive agreement looking to the future relationships in Iraq. I have strong questions about that. First, if the 2002 authorization to go to war would be good in terms of an executive agreement to define our future relationship, then why did we even need the U.N. mandate in the first place? The second is, the 2002 authorization to go to war in Iraq took place at a time when the present Government of Iraq did not even exist.

So I would state my strong belief, again, that the Congress needs to assert its constitutional authority on this matter. The Congress needs to concur with the strategic framework agreement in order for us as a nation under the Constitution to properly define our relationship with a government and a country where we are going to have military forces in place, and where we are going to have security guarantees.

In that regard, I conclude by stating my strong hope that the incoming administration, under President-elect Obama, will, early on, take a comprehensive diplomatic approach to all the issues that affect the United States in that particularly troublesome spot in the world. We should be fostering the right kind of diplomatic environment with other countries such as Russia and China that have interests in this region. We should be exploring ways to formally and aggressively explore our relationships with countries such as Iran. We need to put the whole issue of Afghanistan, Pakistan, Iraq, and other countries in the Middle East on the table early on and forcibly. Reality indicates and history proves that the longer the new administration

waits, the more strongly they are going to be embedded in the policies that have preceded them, and the more difficult it is going to be to put a comprehensive approach to the future into place. I strongly hope this administration, at an early time, will take a comprehensive approach to this region.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KYL. I ask unanimous consent that the order for the quorum call be rescinded.

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

AUTOMAKER BAILOUT

Mr. KYL. Mr. President, I wish to address a matter that is supposedly before us, although to my knowledge there is not yet a bill on the floor that we can read and, therefore, debate. But I think the general concept of some kind of a so-called bailout for the auto companies is the reason why we have come back to Washington in this so-called lameduck session. I wish to address that and talk about the best way forward to assist the companies involved as opposed to what I understand the concept of this punitive legislation to be.

Let me begin by saying that ordinarily in the Congress we have hearings. We develop legislation on big matters. We try to do it in a bipartisan way. We then mark up the bill in committee by discussing it, amending it, rewriting it. Then it comes to the floor of the Senate where we debate it and can amend it again and ultimately pass it to the other body.

That is not what is happening today. We are told there is going to be legislation presented at some point to provide \$25 billion to the three U.S. automakers. Beyond that, we know nothing. What I want to do is talk about the concept of it, and later we can talk about how the bill will actually get here, whether we can seek to amend it, and whatever else might be appropriate to try to conclude work on this matter.

Obviously, everyone is hurting these days. The car companies aren't the only folks who are hurting. Every family is hurting, especially as we have leveraged our debts. We have home mortgage debt, credit card debt, perhaps car loan debt. All of us are tightening our belts, because we appreciate the fact we have to get that debt down. That is happening in the business sector as well. One of the reasons Congress passed the so-called TARP legislation, the stabilization package that was designed to assist financial institutions, was because in some respects the financial institutions are the blood that courses through the entire economy. They provide the cash; in many cases, the credit. Unfortunately, our country runs on credit. You don't buy anything