the Federal property. One Senator put a hold on Martha Johnson's nomination. The result was there was not someone to run the General Services Administration for almost a year; I believe it was 10 months. Then, when we finally invoked cloture after great length, the vote on this nomination was 96 to 0. Not even the person who put the hold on for almost a year voted no. Everybody voted yes. The result was a Federal agency that desperately needed leadership did not have leadership for almost a year. Why? Because one Senator said: I am going to put a hold on this nomination because of some building someplace. They were upset about something. The result is that everybody pays. All the American taxpayers pay because we did not have the leadership in an agency that desperately needed the leadership. That is just an example.

It has been so unbelievably disappointing to see what is going on in the Chamber with all of these issues. I am almost inclined to think we should go through one by one and have 93 unanimous consent requests. Perhaps I will do that tomorrow or the next day. I know others will as well.

I guess if you object to everything, including having government work the way it is supposed to work, effectively and efficiently on behalf of the taxpayers in these agencies that need leadership—I do not quite understand why you come to the Senate if you believe the only answer is no. It does not need to be someone who decides the only answer is no in every circumstance.

Mr. President, I ask unanimous consent to speak for 5 minutes in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

FINANCIAL REGULATORY REFORM

Mr. DORGAN. Mr. President, this morning I was looking at something I have had on my desk for a long while. I was thinking about words and words that matter because there have been a lot of words recently about the issue of financial reform or Wall Street reform, how it is done, when it is done, whether it is done. I was thinking about the use of words and that words do not mean what they used to mean.

I went back, because I have kept this on my desk for a long time, to something that was sent out widely across the country. It was from something called GOPAC. It was kind of the start or at least the genesis of the collapse of comity and the use of good language and so on. This was sent out widely around the country to several thousand people. It said: We have heard all these candidates across the country say: I wish I could speak like Newt—meaning Newt Gingrich. I wish I could speak like Newt.

Then it said in the language that it sent out to people: You can speak like Newt Gingrich. It said: We have actually done a lot of work developing polling on contrasting words, and if you would like to speak like Newt Gingrich, here is some help for you.

Here are words. Then they sent this out. It says:

> Apply these words to your opponent, to their record, to their proposals, their party.

They have a long list of words: sick, lie, betray, traitors, pathetic, threaten, corruption, punish, corrupt, cheat, steal, abuse of power. Use these words when you describe your opponents.

They said: Here are the positive words you should use when you talk about yourself: pro-flag, pro-children, pro-environment, liberty, principal, pioneer, truth, moral, courage, family. And the list goes on.

I thought when I received this a long while ago how unbelievably pathetic it was that there were merchants of destructive politics marketing this trash around the country. Yet they were and have for a long time. It is the case that they use pollsters to do this, to tell everyone what kinds of words exist that will motivate both negatively and describe your opponents—sick, pathetic, lie, betray—and what words would positively motivate your supporters. I was thinking about that, and I dug that out just because in recent days and weeks we have seen examples of language that matters and instructions by people of how to use language, even though it does not apply, to describe your position.

I was interested in seeing the results of a pollster who described the way to attack financial reform. Again, it was not in the same way of the GOPAC polling to find the most destructive way you could describe something, but it was similar in the sense of, how would you construct something, notwithstanding the facts—how would you construct something to make an impression about something no matter what the facts might be.

This is from some polling work that was done. It says:

> Frankly, the single best way to kill any legislation is to link it to the big bank bailout.

The words that would matter are these: No matter what the circumstances are, the single best way to kill any legislation is to link it to the big bank bailout. Words that work: ''taxpayer-funded bailouts,'' ''reward bad behavior,'' ''taxpayers should not be held responsible,'' ''if a business is going to fail, no matter how big, let it fail.'' If these words sound familiar, it is because you have heard them all on the floor of the Senate in recent days and you have heard them on television a lot in recent days. It is the issue of, how do you develop language that motivates people, notwithstanding the set of facts.

''It is not reform''—again quoting from the polling work—''it's the stop big bank bailout bill.'' That is important. This is not a reform bill; it is to stop the big bank bailout.

What we have here is the battle of polling. How can you describe words that work, language that works, notwithstanding the set of facts you might be discussing?

Ultimately, if we are going to effectively deal with Wall Street reform, reforming our financial system, it is not going to be with a battle of pollsters; it is not going to be regurgitating what one reads—here is how you motivate someone using these words. It is going to be that we think through what happened and then understand what do we do to make sure this cannot and does not happen again.

We hear a lot of talk about the need for bipartisanship. I would love to see that. I would love to see bipartisanship on specifically the kinds of remedies that have teeth, that are effective, and that are going to prohibit that which has happened to this country from ever happening again. That will not be done, in my judgment, by deciding to step back a ways and use a light touch. I am for the right touch; I am not for a light touch. I have seen the light touch for a decade now, or at least a substantial portion of the last decade.

We have had agencies, the SEC, and others in a deep Rip Van Winkle sleep. In fact, we had people come to the SEC who noticed what some folks were doing to bilk taxpayers and investors and nobody did anything. I was here when new regulators came to town and said: You know what. We are going to be willfully blind for a while. It is a new day.

The fact is, regulation is not a four-letter word. The free market system works, but it works when there is a referee. The referees with the striped shirts and whistles are needed to call the fouls because there are fouls from time to time in the free market system. That is why we have regulatory capability and authority.

So the question of what kind of financial reform or Wall Street reform is developed is not going to be about the language of financial reform—which is what this is about, a document that has been distributed and that I heard quoted many times now in recent days. It is not going to be about the language but about the specific set of policies that will prevent what happened to this country from ever happening again.

I will come and talk about some of that, but I did want to say I was thinking about the issue of the use of words, and I find it pretty interesting to listen to the use of specific words and to listen to the menu of the language of financial reform that comes from the pollsters and then comes straight out of the mouths of others very quickly.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. CORKER. Mr. President, I ask unanimous consent to speak as in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

FINANCIAL REFORM

Mr. CORKER. Mr. President, I thank my friend from North Dakota, because I, too, for what it is worth, have been very distressed about the conversations around financial reform. I don't think either side of the aisle deserves a badge of honor as it relates to the way this has been discussed. I agree with him that this is something way beyond using poll-tested language and should, in fact, be dealt with in a serious manner. So although I didn't hear all the Senator's comments, I agree with him that we ought to deal with this in a serious way.

Mr. President, you and I have had a number of conversations over the last weekend regarding financial reform. We have had a lot of conversations over the last year regarding financial reform. As I have watched the public discussions over the last several days, I have been greatly distressed. As a matter of fact, I spoke this morning to a large number of businessmen in Nashville, TN, and, candidly, became so angry thinking about the way this debate has evolved that I had to think about coming here today and controlling that and using that in a productive way.

I have noticed throughout the day that maybe the rhetoric has changed a little, and I know that my friend and colleague from Virginia and my friend and colleague from Connecticut had a press conference earlier today to talk about some of the issues that are being talked about rhetorically. Let's face it, what is happening right now—and it is unfortunate for the American people—is that both sides of the aisle are trying to herd up folks with language that in many ways I don't think does justice to this issue, which is very important, is very difficult, and something that is very much needed in our country.

There has been a lot of discussion about this funding mechanism—this $50 billion bailout fund, if you will. Those are someone else's words, by the way, not mine. The American people are probably tuning in, and in some cases they are wondering how we are jumping into the middle of this on the Senate floor without a lot of free dialogue.

The fact is, we have a financial reg bill that I hope comes before us soon that will deal with orderly liquidation so that when a large institution fails, it actually fails. I think that is what the American people would like to see happen. So there has to be a mechanism in place.

If a firm is systematically important to our country, there needs to be the tools in place to make sure it actually goes out of business. I don't think people in Tennessee like seeing that when a community bank fails it actually goes out of business, but when a large Wall Street firm fails we prop it up.

I wish the Senator from Virginia, who happens to be presiding, were on the floor so we could have a colloquy on this because the fact is, this is something that needs to be dealt with in legislation. We need to know we have a process where we deal with derivatives and we don't have a lot of people building up a lot of bad money, instead of doing it on a daily basis and they end up in a situation where there are huge obligations. We need to deal with some of the issues of consumer protection.

So, Mr. President, there has been a lot of discussion about how we create something called debtor-in-possession financing, so that when the FDIC comes in and seizes one of these large firms that fails, it has the money to keep the lights on and to make payroll and those kinds of things while it is selling off the assets of the firm.

The fund that has been discussed in this bill—and that is going to be changed, I know, and I am fine with that and think that is perfectly good—but this fund that has been set up is anything but a bailout. It has been set up in essence to provide upfront funding by the industry so that when these companies are seized, there is money available to make payroll and to wind it down while the pieces are being sold off.

Now, a lot of people have said this is a Republican idea. There is no question this is something that Sheila Bair has proposed. The FDIC wants to see a prefund. The Treasury would like to see a postfund; they would like to see it come after the fact.

At this point I want to digress for one second and say I hope the reason that Treasury wants a postfund is not because, in lieu of having a prefund of $50 billion from these large institutions, they want to see a bank taxed. As a matter of fact, I am going to be surprised if after Republicans argue against a prefund and it is changed, and the administration comes back and Chairman DODD comes back and we end up with postfunding—both of which do the same thing, I might add, and both of them work—but it will be interesting to see whether that argument basically leads to Treasury then having the ability to come back and do a bank tax. I think at the end of the day that is something they have been wanting to achieve.

So it is interesting how this debate is evolving. But let me go back to this prefund. At the end of the day, I think what all of us would like to see happen is to see these institutions go out of business. So do we put the money upfront to take them out of business or do we put it up on the back end where, in essence, what is happening is we are borrowing money from the taxpayers?

Would we rather the industry put up the money so the taxpayers are not at risk or would we rather that not happen and during a downtime, when it is procyclical, we actually get the firms to put up the money after the fact?

I think both of those, by the way, are nice arguments to have, and I think they should have been debated in the committee, and we can debate it on the Senate floor. But at the end of the day, to make the total debate about whether it is pre or post—neither of which are central to the argument because both work—it really doesn't matter. Either way we have to have some moneys available as working capital to shut down a firm. We can borrow it from the taxpayers, although I don't know if the taxpayers would like that very much. We can do it after the fact, as I have said, or we can put it in upfront by the industry. Either way it is going to be paid back by industry.

I will say that in the Dodd bill today there is postfunding; that if there are any shortfalls the industry will pay that back. So, again, it is kind of a debate that ends up being silly. The fact is, I know it is going to be changed. The essence of the bill, though, is the fact that we want to make sure these firms unwind and they go out of business.

Let me just talk about some of the arguments that are being made: Prefunding of resolution creates a system where certain participants are effectively designated as a protected class as a result of them paying into the fund.

I think that is ludicrous. That is a ludicrous argument. Now, what we could do, if it would make everybody happy, is instead of getting large firms to pay, we could get community banks to pay too. I don't think there would be many people who would be interested in that, but if we want to get everybody in the country and get the community banks in Tennessee—I am not interested in that, and I don't think the Senator from Virginia is interested in that—but if we want to do that, we can ensure nobody is part of the protected class. So I find that to be a ludicrous argument.

There is another argument: This allows such firms competitive funding advantage over smaller institutions such as community banks.

So, in other words, if we are saying these large firms, if they fail, are going to go out of business, and it is going to be more painful than bankruptcy, that somehow they are protected or have a competitive advantage, I find that to be kind of ludicrous, and I hope that argument is not used again. It probably will be, but I hope it would not.

Here is one I read recently: The fund is a signal to credit markets that the U.S. Government stands ready to prop up, bail out, and insulate large financial firms. Now that is an interesting one. The fact is, we are talking about orderly liquidation.

The existence of the fund allows managers of large financial institutions to conduct riskier practices, therefore counterparties will not feel obliged to perform due diligence because, in the event of stress, there is such a financial slush fund available to bail out unsecured and short-term creditors.

You have to be kidding me. That is absolutely the opposite of what is intended.