

they like seeing. Those are the questions, and those are the concerns of the American people. My colleagues know my second opinion on the health care bill that we were told by NANCY PELOSI: You have to pass it before you get to find out what is in it.

Thank you, Mr. President. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

ORDER OF PROCEDURE

Mr. CORKER. Mr. President, could I make an inquiry as to the time remaining? I see Senator HUTCHISON is here.

The ACTING PRESIDENT pro tempore. The Republican side has 8 minutes 27 seconds.

Mr. CORKER. I need about 4 minutes, but if the Senator from Texas wishes to go first, that is fine.

Mrs. HUTCHISON. Then I will split the remaining time, unless—is there any further time? What is the order of business after the 8 minutes?

The ACTING PRESIDENT pro tempore. After the expiration of morning business, the Senate will proceed to executive session.

Mr. CORKER. I understand we might extend, with permission, for 10 more minutes, is that correct?

The ACTING PRESIDENT pro tempore. That is correct. If there is unanimous consent, that is correct.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent to extend morning business for 10 minutes, and that the added time be split between Senator CORKER and myself; and if a Member of the majority comes forward, we will certainly agree to allow the equal time.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Mrs. HUTCHISON. Mr. President, if there were 4 minutes and we added 10, I would have 9 minutes and Senator CORKER would have 9 minutes?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mrs. HUTCHISON. Mr. President, I thank the Senator from Tennessee.

FINANCIAL REGULATORY REFORM

Mrs. HUTCHISON. Mr. President, I rise today to speak on financial regulatory reform. During the current economic downturn, we have seen far too many Americans lose their jobs, homes, and their savings. Today, 15 million of our citizens are still out of work, and national unemployment continues to hover near 10 percent.

It is this uncertain climate in which we consider financial reform legislation. The crisis is going to remain in the forefront of our national consciousness for years to come, mainly due to the immense government intervention that was pushed through over the past year and a half, attempting to stabilize our frozen credit markets but instead accumulating massive debt that

threatens to harm our economy much worse than the original problems.

The current legislation continues the government's failed "too big to fail" policy. Too big to fail perverts free market capitalism and suggests that entities can privatize their profits, yet socialize their risks, and taxpayers foot the bill. The American taxpayer should not be forced to pay the gambling debts of risky bets made by large financial institutions.

Republicans and Democrats alike agree that we must end too big to fail, but the bill that is being proposed does not do that. Chairman DODD's bill provides both the FDIC and the Treasury Department emergency authority to provide broad debt guarantees in times of "economic distress" to "struggling firms." As written, it is foreseeable that the FDIC or Treasury could step in to prop up a firm under any circumstance, all without seeking to resolve and unwind the firm.

The chairman's bill authorizes continued emergency lending authority for the Federal Reserve, but conceivably only for large banks. Under the Dodd bill, the Federal Reserve would retain supervisory authority over bank holding companies with assets over \$50 billion. The Federal Reserve supervision essentially predesignates the firms that are too big to fail. These banks would have the implicit backing of the government and the taxpayers and, with it, the competitive advantage, giving it access to cheaper credit from lenders expecting to be made whole. This puts our Nation's community and independent banks at a severe competitive disadvantage.

I will offer an amendment, if this bill comes to the floor, to permit community banks to remain under the supervision of the Federal Reserve. If the Fed supervises only the largest firms, it will gear monetary policy toward these large financial institutions, effectively leaving out the voice and real-time experience of community bankers in my State and across the country.

While the large financial institutions were making bad bets on subprime mortgage markets, community banks were making home and business loans to local customers. Local community banks provide the lending and deposit services for our Nation's small businesses so they can operate, invest, create jobs, and drive our economy. It is this business lending that will help create jobs and grow our economy.

Tom Hoenig, President of the Federal Reserve Bank of Kansas City, said recently that our Nation's largest banks would be well served to take lessons from our community banks. Why? Because community banks have been committed to providing the credit and services needed for small business. They know their customers, and they can make good, solid loans that are supportable.

In Texas, Richard Fisher, President of the Dallas Federal Reserve Bank,

said the provision in the bill would leave the Dallas Federal Reserve jurisdiction with only one or two bank holding companies, down from 36 member banks, for \$74 billion in assets that he now has supervisory authority over. The Fed should know the needs and the economic conditions throughout the country, not just New York and Washington, DC.

It is precisely the ability to foster bottom-up growth through small businesses that sets community banks apart from other financial institutions. Unlike the big financial institutions we see in the headlines for bailouts and bonuses, community banks don't have a systemic risk to our financial system and they are not identified as primary contributors to our latest crisis.

However, community banks would soon be subjected to a considerable amount of new costs and regulatory burdens as a result of this legislation. Community banks are already regulated. They are well regulated. Adding additional layers of Federal bureaucracy with limitless authority would be a burden that would only serve to hamper the ability of community banks to effectively provide depository and lending services to America's consumers and small businesses.

Community banks should not be punished as a result of this legislation. We should preserve and enhance our dual banking system, not impose additional Federal regulations that stifle their ability to serve their communities.

I am also concerned about the direction of the regulation of over-the-counter derivatives. In the wake of the collapse of the mortgage market where the use of derivatives and even derivatives of derivatives helped cause great losses to banks and nearly brought our economy to its knees, it is important that Federal regulators have a greater understanding of this derivatives market. We have Members on both sides of the aisle who are negotiating these terms. Republicans and Democrats have the same goal. We want to end too big to fail. We want to end bailouts. We want to assure that our community banks still have the capability to serve Main Street customers.

The bill before us that is not being brought to the floor because it did not have any input from the Republican side does not achieve those goals. So we are now meeting in small groups. We are meeting with the Secretary of the Treasury and others within the administration to try to come to terms that would do the right thing and meet the goal that we all agree is the goal. That is what is going on right now in the Senate.

It is my great hope—and I see my colleague from Tennessee who is also on the Banking Committee with me, and he too is a part of the negotiations and wants to bring this bill to the floor—we can do something good for our economy. Passing the bill or letting it come to the floor and roll out of here in its present form would not

achieve that objective. So I welcome my colleague from Tennessee, who has been a major player in this debate. He has been a major reason that we are coming to a point at which I think we can have a successful bipartisan bill.

I will say that our chairman and ranking member, Chairman DODD and Senator SHELBY, have been meeting for weeks to try to come to terms. So I think everyone is sincere at this point that we want a bipartisan bill. Financial regulation is not political. The consequences of passing a bad bill are huge for our country, for every American. We can do this.

I welcome the comments of my colleague from Tennessee and I look forward to his continuing leadership so we can have a bill that will help the consumers in our country, stabilize our economy and, most of all, will bring the unemployment rate down from 10 percent so that more Americans can go to work.

Thank you, Mr. President, and I yield the floor.

The ACTING PRESIDENT pro tempore, The Senator from Tennessee.

Mr. CORKER. Mr. President, typically when we come to the floor to speak, we don't like to wait for another Senator who wants to speak; we want to speak and go back to what we were doing, but today I am so glad I had the opportunity to hear the remarks of the Senator from Texas.

Both of the Federal Reserve leaders in Kansas City and Dallas have added tremendously to this debate. No one has been more of a supporter for community banks than the Senator from Texas. I could not agree more with everything the Senator said regarding the Fed keeping community banks. My sense is that by the time the bill comes to the floor, it will either have that in it, or let me say to my colleague right now that I will cosponsor the amendment the Senator brings forth, because I think the Senator is absolutely right, that the Federal Reserve should keep the smaller State-chartered Fed members. The fact is this rearranging the deck chairs serves no purpose, so I could not agree more.

I also agree with the Senator regarding derivatives. I notice the Senator from Texas has a microphone if she wishes to comment. I am going to speak based on what the Senator said on derivatives, but if it is OK, I would like the Senator from Texas to be able to respond.

Mrs. HUTCHISON. Mr. President, I appreciate the remarks of the Senator from Tennessee and, of course, I welcome his cosponsorship of the amendment. It is essential. I couldn't support this bill if we shut the Fed off from Tennessee and Texas and California. Then we might as well all move to New York.

New York doesn't want any more people, I am sure. They are well populated. But most of all, I want to make sure that the Main Street bankers and the small businesses of all of our

States are known to the Fed, and the way they are known to the Fed, of course, as the Senator knows, is that their local Federal Reserve bank knows their issues and problems and needs, because they have the ability to serve those banks, which is not allowed in the bill before us.

I thank the Senator from Tennessee for his leadership. I look forward to coming up with something we can all support.

Mr. CORKER. Mr. President, that brings me back to where I want to be. The fact is, there are a lot of people coming to the floor and a lot of things are being said in the press. First, I think we are going to end up with a bipartisan bill before the actual vote to proceed takes place. I believe that is being led by Senators DODD and SHELBY. They are the point people. You cannot have eight negotiators. I believe that is where we are headed. So when I hear a lot of the rhetoric on the floor and other places, I think it is just rhetoric; but at the end of the day, I think we will end up with a solid bipartisan bill. I hope it is one I can support. Obviously, I am giving input on that.

That leads me to this. There have been folks who have come to the floor talking about the Republicans supporting Wall Street by not supporting the Dodd bill in its present form. That is ridiculous. What is happening—some reporter made comments yesterday about Republicans and that I slammed the Dodd bill. That is not true. I was emphatic about two things: One, Republicans are not representing Wall Street. Candidly, when I look at the bill—and my friend from Delaware will actually agree with this—there is not much in this bill that is very offensive to Wall Street, to be candid.

This bill focuses on three topics. What I have said to my colleagues is this: Whenever we have regulations, the big guys get bigger, right? The small guys are the ones who bear the brunt of regulation. What we are all trying to do, as Senator HUTCHISON laid out, on our side of the aisle is make sure this legislation deals appropriately with community bankers and manufacturers in Iowa, Texas, and other places. In fact, there are issues with the bill that we need to work out.

Candidly, to say that Republicans are representing Wall Street could not be further from the truth. There is not much in this bill that is very offensive to Wall Street, to be candid. I am not saying we should go out of our way to be offensive, but anybody who looks at what this bill says would know there is not much in the bill that is that offensive. The fact is, we are putting derivatives on clearinghouses, which I hope happens. I think that is a good thing. I think we need to get as much of that done as possible, where if somebody's money is bad, they have to put money up that day. It alleviates some of the systemic risk. We deal with resolving a firm that fails. I think that is appropriate.

Hopefully, we will get consumer protection back into the middle of the road. By the way, that is a section of the bill that, if it is not handled properly, won't affect the JPMorgans and Citigroups and Banks of America. It will affect community bankers. All we are trying to do on our side—and this is what I was emphatic about yesterday—is trying to make sure this bill is in balance. I think we can do that.

Look, there is not much in this bill that is particularly offensive to Wall Street. To say that those of us who want to get it right for everybody else in the country are defending Wall Street was way off the mark, not true.

Second, there are many things in the bill that are good. There are some things that aren't so good that I think are being worked out right now. That is typically what happens when we have a bipartisan discussion. Each side brings their particular strengths to a bill. We all represent different points of view and, when we work together, we end up with a good bill.

One of the things that troubles me—and I was very emphatic about it yesterday, and will be again today and tomorrow, as I have been for a long time—is that this bill doesn't even deal with underwriting. At the end of the day, at the bottom of this upside down pyramid, the crisis began because we had a lot of mortgages in this country that should have never been written in the first place. Then we had firms that were way overleveraged that were doing that. Then we spread the pain through \$600 trillion in notional value around the world. It started with the fact that a lot of loans were written that should not have been written. I don't think this bill even addresses that. I think that is a little bit of an issue.

If we come to the floor with a template that deals with consumer protection, systemic risk, and derivatives, I hope my colleagues on the other side of the aisle will join in with many Members on this side of the aisle to correct that. At the end of the day, if we continue to write loans that should not be written, and we continue to securitize them, and if we continue to spread them around the world, we have not done much in this legislation. So I have been emphatic about that, and I have wanted these two pieces of the legislation to balance as it relates to the rest of the country, making sure our underwriting is done appropriately. Do I believe those are things that are important? Yes. Do I think we are going to address those? I hope so on the underwriting, but I am not sure. I cannot tell if people are willing to make sure that Americans across this country have to live in a semidisciplined way as it relates to mortgages. I hope we get there because I think it is important.

In closing, in spite of all the rhetoric about bailouts and not bailouts and Wall Street and not Wall Street, I think what is happening in rooms and

offices around the Hill is that negotiations are taking place that will get us to a place where we at least have a template, a piece of legislation that can be embraced in the beginning in a bipartisan way, and then what I hope will happen—I know my friend from Delaware will be highly engaged in this, because he has been focused on this for a long time—what I hope happens, after we get the base template together, is that we have a vigorous debate on the floor about where we need to go from there. There are other pieces—I would consider them to be central—but I am OK with legislation coming to the floor where we have a balance between resolution, derivatives, and consumer protection. Then let's go from there and have the kind of debate I think our country would love to see us have in public, focused not on rhetoric—because we have plenty of substance on this issue—but on substance, and let's do something that will stand the test of time. I think we are going to do that. As a matter of fact—and I know my time is up—I think this bill has the opportunity in the next few days, and once we begin debate on the floor, which I hope will happen in a bipartisan way—I think this bill is potentially the beginning of us being able to function in an appropriate way in this body. That is what I hope happens.

That is why for weeks and months I have been saying that I think at the end of the day we are going to end up with a bipartisan bill. I hope it has some important elements in it, such as the ones I mentioned, that will allow me to support it. Whether that happens—and I hope it happens—or not, I hope we have a vigorous debate and end up with a good product.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

EXECUTIVE SESSION

NOMINATION OF CHRISTOPHER SCHROEDER TO BE AN ASSISTANT ATTORNEY GENERAL

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The legislative clerk read the nomination of Christopher Schroeder, of North Carolina, to be an Assistant Attorney General.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. KAUFMAN. Mr. President, I rise today to express my support for Chris Schroeder's nomination to be Assistant Attorney General for the Office of Legal Policy in the Department of Justice.

Before I go any further, I want to state for the record that Chris Schroe-

der is a long-time colleague and great friend. Not only did we work together for Senator BIDEN, but for the past 20 years we have co-taught a course on the Congress at Duke Law School—a course that for many of those years was cosponsored by the law school and the Stanford School of Public Policy.

Chris is currently the Charles S. Murphy Professor of Law and Professor of Public Policy Studies at Duke, as well as director of Duke's Program in Public Law.

Chris was born in Springfield, OH, received his B.A. from Princeton University, a master of Divinity from Yale, and his J.D. from the University of California at Berkeley, where he was editor in chief of the California Law Review.

He is married to Katherine T. Bartlett, former dean and current A. Kenneth Pye Professor at Duke Law School. Chris and Kate have three wonderful children.

During his legal career, Chris has excelled in private practice, government service, and academics.

Following his graduation from law school, Chris practiced law in San Francisco, gaining valuable experience in a wide variety of both State and Federal practice.

In 1979, he became a law professor at Duke, where he has been a respected and prolific scholar, an invaluable administrator, and a committed and effective teacher.

He has authored and edited several books, including a leading casebook on environmental law, "Environmental Regulation: Law, Science and Policy," now in its sixth edition.

He also has published countless articles in law reviews and journals, on an impressive range of topics, including environmental law, federalism, Federal courts, executive and legislative power, and national security.

Chris's teaching is just as broad and deep as his scholarship. Over the course of his career, he has taught environmental law, constitutional law, comparative constitutional law, administrative law, civil liberties and national security, Federal policymaking, the Congress, government, business and public policy, an environmental litigation clinic, toxic substances regulation, land use planning, water law, philosophy of environmental protection, property, and civil procedure.

Chris is a true renaissance man. I can personally attest to the quality of Chris's teaching, having co-taught with him for 20 years. Here in the Senate, we have many former students doing excellent staff work on both sides of the aisle.

Chris has also contributed his legal and policy expertise to practical problems affecting the health and safety of the community. He served on National Academy of Science and Institute of Medicine committees to evaluate the use of human intentional dosage studies by the EPA and the adequacy of the U.S. drug safety system.

Duke has also recognized Chris's considerable administrative skills. In addition to serving as co-chair of the Center for the Study of the Congress, with me, and the director of Program in Public Law, Chris has chaired the school's appointments committee, served on the dean's selection committee, and served as a member of the university's judicial board.

In the 1990s, while at Duke, he took several leaves of absence for positions in public service. As a result, he has considerable experience in government, which will stand him in good stead at the Office of Legal Policy.

He has served in several capacities in the Senate, including as special nominations counsel and then he was the No. 1 staffer as chief counsel for the Judiciary Committee.

He also held numerous positions in the Department of Justice, including counselor to the Assistant Attorney General of the Office of Legal Counsel, Deputy Assistant Attorney General, and acting Assistant Attorney General.

In short, Chris Schroeder has the experience, the intellect, and the judgment necessary to be a superb leader of the Office of Legal Policy.

Just as important, he has the character and integrity to help the Attorney General continue to restore the public faith in the Department of Justice.

The Office of Legal Policy, OLP, has a wide range of important responsibilities within the Department of Justice. Let me read from the description on the DOJ Web site:

The major functions of the Office of Legal Policy are to:

- Develop strategies and programs to implement legislative, programmatic and policy initiatives;

- serve as a liaison to the Executive Office of the President and other agencies on policy matters;

- conduct policy reviews of legislation and other proposals and support and coordinate Departmental efforts to advance the Administration's legislative and policy agenda;

- assure policy consistency and coordination of Departmental initiatives, briefing materials and policy statements;

- provide support and policy expertise in conjunction with other components to implement effectively major departmental and administration initiatives in the criminal and civil justice areas; assist the President and the Attorney General in filling all Article III and certain Article I judicial vacancies; coordinate regulatory development and the review of all proposed and final rules developed by all Department components; To serve as liaison to the Office of Management and Budget and other agencies on regulatory matters; Track and coordinate departmental implementation of statutory responsibilities and reporting requirements.

In sum, OLP is responsible for developing the high-priority policy initiatives of the Department of Justice. The Assistant Attorney General for OLP serves as the primary policy adviser to the Attorney General. OLP is the place within the Department where critical long-term planning gets done. OLP also handles special projects that implicate the interests of multiple Department components and coordinates the regulatory development and review of all