during the first few years of the life of the child;

Whereas the most effective solution for preventing Shaken Baby Syndrome is to prevent the abuse, and it is clear that the minimal costs of education and prevention programs may avert enormous medical and disability costs and immeasurable amounts of grief for many families;

Whereas prevention programs have demonstrated that educating new parents about the danger of shaking young children and how to protect their children from injury can significantly reduce the number of cases of Shaken Baby Syndrome;

Whereas education programs raise awareness and provide critically important information about Shaken Baby Syndrome to parents, caregivers, childcare providers, child protection employees, law enforcement personnel, health care professionals, and legal representatives;

Whereas National Shaken Baby Syndrome Awareness Week and efforts to prevent child abuse, including Shaken Baby Syndrome, are supported by groups across the United States, including groups formed by parents and relatives of children who have been injured or killed by shaking, whose mission is to educate the general public and professionals about Shaken Baby Syndrome and to increase support for victims and their families within the health care and criminal justice systems;

Whereas 20 States have enacted legislation related to preventing and increasing awareness of Shaken Baby Syndrome;

Whereas the Senate has designated the third week of April as ''National Shaken Baby Syndrome Awareness Week'' each year since 2005; and

Whereas the Senate strongly supports efforts to protect children from abuse and neglect: Now, therefore, be it

Resolved, That the Senate—

(1) designates the third week of April 2010 as ''National Shaken Baby Syndrome Awareness Week'';

(2) commends hospitals, childcare councils, schools, community groups, and other organizations that are—

(A) working to increase awareness of the danger of shaking young children;

(B) educating parents and caregivers on how they can help protect children from injuries caused by abusive shaking; and

(C) helping families cope effectively with the challenges of child-rearing and other stresses in their lives; and

(3) encourages the people of the United States—

(A) to remember the victims of Shaken Baby Syndrome; and

(B) to participate in educational programs to help prevent Shaken Baby Syndrome.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. DORGAN. Madam President, I ask unanimous consent that the Senate proceed to executive session to consider en bloc Calendar Nos. 790, 791, 792, and 793; that the nominations be confirmed en bloc; the motions to reconsider be laid upon the table en bloc; that no further motions be in order; that any statements related to the nominations be printed in the RECORD; and that the President be immediately notified of the Senate's action.

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

The nominations considered and confirmed en bloc are as follows:

IN THE COAST GUARD

The following named individual for appointment as Commandant of the United States Coast Guard and to the grade indicated under title 14, U.S.C., Section 44:

To be admiral

Vice Adm. Robert J. Papp, Jr.

The following named officer for appointment as Vice Commandant of the United States Coast Guard and to the grade indicated under title 14, U.S.C., Section 47:

To be vice admiral

Rear Adm. Sally Brice-O'Hara

The following named officer for appointment as Commander, Pacific Area of the United States Coast Guard and to the grade indicated under title 14, U.S.C., section 50:

To be vice admiral

Rear Adm. Manson K. Brown

The following named officer for appointment as Commander, Atlantic Area of the United States Coast Guard and to the grade indicated under title 14, U.S.C., section 50:

To be vice admiral

Rear Adm. Robert C. Parker

LEGISLATIVE SESSION

Mr. DORGAN. I ask unanimous consent that the Senate resume legislative session.

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

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the majority leader, pursuant to Public Law 111–148, appoints the following individuals to serve as members of the Commission on Key National Indicators: Dr. Ikram Khan of Nevada (for a term of 3 years) and Dr. Dean Ornish of California (for a term of 2 years).

MORNING BUSINESS

Mr. DORGAN. I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

Mr. DORGAN. Let me ask, if I might, I know Senator MURRAY and Senator SESSIONS are here. I do not know in what order they would want to go, and I believe about 10 minutes each or so.

I ask unanimous consent that Senator SESSIONS be recognized, followed by Senator MURRAY, and I be recognized following the presentation of Senator MURRAY.

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

The Senator from Alabama.

FINANCIAL REGULATORY REFORM

Mr. SESSIONS. Madam President, we are talking about financial reform. There is a lot of attention and a lot of the Members of the Senate are trying to keep up with it and trying to make sure we create a reform package that effectively deals with corporations that have so mismanaged their business that they need to be dissolved or broken up or liquidated, as is normally the case when a company in America cannot pay its bills.

This happens every day for smaller companies. It becomes a bit more complicated, sometimes a great deal more complicated, when the corporations get bigger and bigger and bigger. The way our corporations are normally dissolved, if they are financially insolvent and cannot operate, has always been bankruptcy court.

There are bankruptcy judges all over America. It is a Federal court system. Bankruptcy is referred to in the U.S. Constitution. It has worked very well. I guess what I am concerned about is, some of the provisions that are in the proposed legislation that is floating about would alter that traditional idea in ways that may be unwise.

Senator LEAHY, the chairman of the Judiciary Committee, I am the ranking Republican on that committee, and I have talked about this a little bit. It is getting to a point where we need to figure out what is happening here. The matter is highlighted by a letter from the Judicial Conference of the United States—Mr. James Duff, the Presiding Secretary, of the Judicial Conference of the United States. Chairman LEAHY asked them their opinions on some of the proposals for dissolution of companies, the orderly liquidation of companies.

The Judicial Conference responded in a letter that was received by Senator LEAHY, and I do believe it raises important questions. I truly do. I am a person who spent a lot of time practicing law, both as U.S. attorney and in private practice in Federal court, and have some appreciation for how bankruptcy courts operate. I would say, we ought to pay attention to what the Judicial Conference says to us. It is a kind of correspondence they take seriously. They do not lightly send off letters to the Senate. This was in response to a question. So this is what Mr. Duff replies on behalf of the Judicial Conference, in reply to Senator LEAHY:

> As you noted, Title II would create an ''Orderly Liquidation Authority Panel'' within the Bankruptcy Court for the District of Delaware for the limited purpose of ruling on petitions from the Secretary of the Treasury for authorization to appoint the Federal Deposit Insurance Corporation (FDIC) as the receiver for a failed financial firm.

Then it goes on to say:

> This is a substantial change to the bankruptcy law because it would create a new structure within the bankruptcy courts and remove a class of cases from the jurisdiction of the Bankruptcy Code. The legislation, by assigning to the FDIC the responsibility for resolving the affairs of an insolvent firm, appears to provide a substitute for a bankruptcy proceeding.

You see, when people loan money to a corporation, people buy stock in a corporation, they buy bonds of a corporation or otherwise loan them money, they have an expectation that if that company fails to prosper and pay what they owe, that company at least will be hauled into bankruptcy court and they will have an opportunity to present their claims and to receive whatever fair proportion of the money that is still left in the company as their payment.

It may be 10 cents on a dollar, it may be 90 cents on a dollar or whatever you get. They understand that bankruptcy judges have the authority to try to allow the company to continue to operate, to stay or stop people from filing lawsuits against the company and collecting debts, to allow the company a while to see if they cannot pay off more debtors by continuing to operate than shutting them down.

But if they see the company is so badly in financial crisis that it is going to collapse anyway, they come in and shut it down before they can rip off more people. So that is what bankruptcy courts do every day. So this letter indicates that by assigning the FDIC responsibility for resolving these affairs, it provides a substitute for bankruptcy, which is denying the lawful expectations of people who loan money to or bought stock in these corporations.

They go on to say:

> We note, however, that the legislation will result in the transition of at least some bankruptcy cases to FDIC receivership in situations where a firm is already in bankruptcy, either voluntarily or involuntarily.

In other words, it appears that legislation would allow a case to be taken out of bankruptcy that was already in the bankruptcy court.

It goes on to say:

> The legislation does not envision objection, participation, or input from the bankruptcy creditors (whose rights will be affected) in the course of appointing the FDIC as receiver. Indeed, the legislation deals in a sealed manner; [secret manner, apparently] only the Secretary and the affected financial firm would be noticed and given the opportunity of a hearing.

That will have major impacts on a stockholder or bondholder or a creditor of a corporation. The FDIC is going to meet with this big company, this big bank, and work out a deal and not even tell the people who loaned the corporation money in good faith and have certain legal rights, at least they always had previously. These rights, somehow, will be extinguished or cut off.

It goes on to say:

> The financial position of affected creditors may have been changed within the context of the firm's bankruptcy case in such a way that the creditors' rights might have changed dramatically. Any resulting due process challenges would impose significant burdens on the courts to resolve novel issues for which the bill provides no guidance.

They go on to say:

> In addition, we note that petitions under this title involving financial firms would be filed in a single judicial district. The Judicial Conference favors distribution of cases to ensure that court facilities are readily accessible to litigants and other participants in the judicial process.

Under the current proposal all of these cases are going to be tried in Delaware. I do not know if we have enough judges in Delaware.

They go on to say this:

> With respect to the limited review [that means appellate] to be conducted by the panel created in section 202, [of the proposed legislation] we note that the authority may exceed what is constitutionally permitted to a non-Article III entity.

What does that mean? That means some of these powers are judicial powers given only to Federal district courts presided over by senatorially confirmed, presidentially-appointed, lifetime Federal judges. We can't just give them off to somebody else to decide. It is just not constitutional. We don't have the powers in the Congress, or the President doesn't have the powers to take over judicial roles.

They continue:

> A previous statute was held unconstitutional because it conferred on the bankruptcy courts the authority to decide matters reserved for Article III courts.

It goes on to talk about that.

Let me tell my colleagues what CEOs don't like. Do we want to be tough on CEOs? I will give some suggestions.

If they can't run their companies and they can't pay their bondholders, can't pay their debtors, their stock has become worthless. People invested in their companies believing they were legitimate, believing the representations of their financial condition, and it turned out to be false. They do not want to be in a court where they raise their hands and have to give testimony under oath. They don't want to be in that position.

The way the law has been thought of and is worked out to handle these cases is to have a Federal bankruptcy judge preside over this process. There are bankruptcy rules about what the judge can and cannot do. Each entity that has an interest in the matter can have lawyers. The stockholders can have lawyers. The bondholders can have lawyers. The creditors can have lawyers. The workers can have lawyers. The employees can have lawyers. The guys have to come in under oath. They have to bring their financial statements. If they lie, they go to jail for perjury. This is a powerful thing. A lot of these big wheels don't want to subject themselves to it. I would say, if we want to be tough on these companies, don't create some FDIC buddy group that has been supervising them and sees their role as trying to work with them. Have a real judge.

We can create a system where we select experienced judges, create some special procedures for larger bankruptcy cases. We should consider that.

My one comment before I wrap up is, we should listen to the Judicial Conference and recognize there is a danger to the rule of law to legitimate expectations of creditors and stockholders by this new change, this unexpected change in the law. We should allow classical procedures to work. If we need to improve them and make some special provisions for dissolution of corporations to help bankruptcy judges do the job better, I would certainly favor that. That would allow us to function in a lawful way, a principled way, and not allow people to meet in private and secret, as we have seen happened recently, and dissolve their cases in a matter that is not open and free to the entire public, as would happen in bankruptcy court.

I ask unanimous consent to have printed in the RECORD the letter from the Judicial Conference.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JUDICIAL CONFERENCE
OF THE UNITED STATES,
Washington, DC, April 12, 2010.

Hon. PATRICK J. LEAHY,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing in response to your letter of March 25, 2010, seeking the views of the Judiciary with regard to provisions relating to bankruptcy that are contained in the financial regulation bill recently approved by the Senate Committee on Banking, Housing, and Urban Affairs. We appreciate your soliciting the views of the courts on this matter. You identified several of the issues that are of concern to the courts, and I will address each of those.

As you noted, Title II would create an ''Orderly Liquidation Authority Panel'' within the Bankruptcy Court for the District of Delaware for the limited purpose of ruling on petitions from the Secretary of the Treasury for authorization to appoint the Federal Deposit Insurance Corporation (FDIC) as the receiver for a failing financial firm. This is a substantial change to bankruptcy law because it would create a new structure within the bankruptcy courts and remove a class of cases from the jurisdiction of the Bankruptcy Code. The legislation, by assigning to the FDIC the responsibility for resolving the affairs of an insolvent firm, appears to provide a substitute for a bankruptcy proceeding. The Judicial Conference has not adopted a position with regard to the removal from bankruptcy court jurisdiction of the class of financial firms identified in this legislation.

We note, however, that the legislation will result in the transition of at least some bankruptcy cases to FDIC receivership in situations where a firm is already in bankruptcy, either voluntarily or involuntarily. Section 203(c)(4)(A) provides that a pending bankruptcy case would be evidence of a firm's financial status for purposes of triggering the Treasury Secretary's authority to seek to appoint the FDIC as receiver. The bill does not specify how the transition from a bankruptcy proceeding to an administrative proceeding would be effected. Further, the bill does not specify the effect of the transfer on prior rulings of the court. For example, would any stays or other rulings continue in effect or be dissolved upon the transfer to the FDIC? This could be especially problematic if creditors have changed position based upon rulings in the course of the bankruptcy proceeding. The legislation does not envision objection, participation, or input from the bankruptcy creditors (whose rights will be affected) in the course of appointing the FDIC as receiver. Indeed, the legislation proposes to deal with this petition in a sealed manner; only the Secretary and the affected financial firm would be noticed and given the opportunity of a hearing. The financial position of affected creditors may have been changed within the context of the firm's bankruptcy case in such a way that the creditors' rights might have changed dramatically. Any resulting due process challenges would impose a significant burden on the courts to resolve novel issues, for which the bill provides no guidance.

In addition, we note that petitions under this title involving financial firms would be filed in a single judicial district. The Judicial Conference favors distribution of cases to ensure that court facilities are reasonably accessible to litigants and other participants in the judicial process. Although we are aware that a large number of companies are incorporated in Delaware, it is not clear that Delaware would necessarily be a convenient location for many of the affected companies, nor indeed the proper venue for that petition, absent changes to title 28, United States Code.

We also note that the legislation requires the designation of more bankruptcy judges for the panel than are permanently authorized for Delaware under existing law. The District of Delaware is authorized one permanent bankruptcy judge and five temporary judgeships. If Congress were to choose not to extend these judgeships or convert them to permanent status, it would be impossible to implement section 202's requirement to appoint three judges to the Orderly Liquidation Authority Panel from the District of Delaware.

With respect to the limited review to be conducted by the panel created in section 202, we note that the authority may exceed what is constitutionally permitted to a non-Article III entity. A previous statute was held unconstitutional because it conferred on the bankruptcy courts the authority to decide matters that are reserved for Article III courts. Northern Pipeline Const. Co. v. Marathon Pipe Line Co., 458 U.S. 50 (1982). The review of the Secretary's decision in this instance appears to resemble more closely appeals of agency decisions under the Administrative Procedure Act than a bankruptcy petition and, therefore, appears more appropriate for an Article III court. Moreover, the affirmation of the Secretary's petition to designate the Federal Deposit Insurance Corporation as a receiver effectively removes a case from the application of bankruptcy law. Accordingly, it seems anomalous to subject this petition to review by a bankruptcy court.

Your letter particularly questioned whether the time limit of 24 hours for a decision by the panel would be sufficient or realistic. The Judicial Conference has consistently opposed the imposition of time limits for judicial decisions beyond those already set forth in the Speedy Trial Act or section 1657 of title 28. We appreciate that a matter affecting the operation of the national economy warrants a prompt resolution. We note that the courts, recognizing this concern, have already demonstrated an ability to move swiftly in resolving bankruptcy petitions involving large corporations with broad impact on the national economy. In each of these instances, the initial determinations were made by a single judge. The resulting appeals in some cases were also adjudicated on an expedited basis without a statutory requirement to do so.

Requiring a panel of three judges to assemble, conduct a hearing, and craft a written opinion within 24 hours presents practical difficulties that may be insurmountable. Although §202(b)(1)(A)(iii) could be read to limit the court's review to the question of whether the covered financial company is in default or danger of default, the Secretary is required to submit to the panel "all relevant findings and the recommendation made pursuant to section 203(a)," which specifies consideration of multiple factors (repeated in subsection (b) of that section as the basis for the Secretary's petition). Even with the full cooperation of the financial firm affected by the proceeding, which is not a predicate for the consideration of a petition, it would appear difficult to hear and consider the evidence and prepare a well-reasoned opinion addressing each reason supporting the decision of the panel within 24 hours. Even assuming that factors other than the solvency of the firm would be excluded from this special panel's review, it may well be that the subject financial firm or one of its creditors would seek judicial review of one of the prior administrative evaluations of the statutory factors, either in the course of the hearing conducted by the Orderly Liquidation Authority Panel or in another court. Such challenges would also make it difficult to meet the proposed timeline. It is possible that the facts of a particular case may be so clear that a decision could be rendered within 24 hours, but the statutory requirement of such speed seems inconsistent with the thoughtful deliberation that would be appropriate for a decision of such great significance.

Although it is to be hoped that only a small number of large financial firms would ever become subject to this legislation, each of the petitions would involve large volumes of evidence regarding complex financial arrangements. Thus, the legislation could result in a large proportion of the judicial resources of a single bankruptcy court being devoted exclusively to review of the Secretary's petitions. Further, the bill provides that the Secretary may re-file a petition to correct deficiencies in response to an initial decision, thus extending the time in which the court's resources would be diverted from other judicial business. The District of Delaware is one of the busiest bankruptcy courts in the nation; to draw the court's limited judicial resources away from the fair and timely adjudication of those bankruptcy cases to process petitions under this bill would be inequitable and unjust to the debtors and creditors in those pending cases. If, as seems possible given recent economic developments, the failure of one firm weakens other firms in the financial services sector, the demand could exceed the court's resources. This consideration alone counsels against the assignment of all such cases to a single court.

Finally, we note that both the Administrative Office of the United States Courts (AO) and the Government Accountability Office (GAO) are directed to conduct studies which will evaluate: (i) the effectiveness of Chapter 7 or Chapter 11 of the Bankruptcy Code in facilitating the orderly liquidation or reorganization of financial companies; (ii) ways to maximize the efficiency and effectiveness of the Panel; and (iii) ways to make the orderly liquidation process under the Bankruptcy Code for financial companies more effective.

With respect to those firms that are to be treated under Chapters 7 and 11 of the Bankruptcy Code, the vagueness of, and/or lack of criteria for determining "effectiveness" will hamper the ability of the AO and GAO to produce meaningful reports. Some would regard rapid payment of even small portions of claims as an effective resolution, while others would prefer a delayed payment of a greater share of a claim. There would also be significant disagreements between creditors holding different types of secured or unsecured claims as to the most effective resolution of an insolvent firm. Some would argue that effectiveness should be measured by the impact of the resolution on the larger economy, regardless of the impact on the creditors of the particular firm. Without clearer guidance for the studies, both agencies will be required repeatedly to expend resources on the development of reports that may not provide the information Congress is seeking.

Thank you for seeking the views of the Judiciary regarding this legislation and for your consideration of them. If we may be of assistance to you in this or any other matter, please do not hesitate to contact our Office of Legislative Affairs at (202) 502–1700.

Sincerely,

JAMES C. DUFF,
Secretary.

Mr. SESSIONS. I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. As we prepare to consider legislation that includes some of the strongest reforms of Wall Street ever, it is important that we not lose sight of exactly what is on the line for the American people; that we will not allow complicated financial products and terminology to distract from the fact that this is a debate about fairness, about family finances, and protecting against another economic collapse; that we remember for Wall Street lobbyists, this may be complex, but for the American people it is pretty simple. For them this is a debate about whether they can walk into a bank and sign up for a mortgage or apply for a credit card or start a retirement plan.

Are the rules on their side when they do that, or are they with the big banks on Wall Street? For far too long, the financial rules of the road have favored big banks and credit card companies and Wall Street. For far too long they have abused those rules. Whether it was gambling with the money in our pension funds or making bets they could not cover or peddling mortgages to people they knew could never pay, Wall Street made expensive choices that came at the expense of working families. Wall Street used its "anything goes" rules to create a situation where everybody else paid, and Wall Street created a system that put their own short-term profits before the long-term interests of this country.

The simple truth is, it is time to end this system that puts Wall Street before Main Street. It is time to put families back in control of their own finances. It is time to focus on making sure the rules protect those sitting around the dinner table, not those sitting around the board room table. To do that, we have to pass strong Wall Street reform that cannot be ignored. Those reforms, I believe, have to include three core principles: a strong, independent consumer protection agency; an end to taxpayer bailouts; and tools to ensure that Americans have the financial know-how that empowers them to make smart choices about their own finances and helps them avoid making the same poor decisions that helped create this crisis.

First and foremost, Wall Street needs a watchdog. Right now what we have is a patchwork of Federal agencies, none of which are tasked with focusing solely on consumer protection. What we have is confusion and duplication and an abdication of responsibility. What we have, quite simply, is not working. What we need is a single, strong, independent agency, a cop on the beat whose sole function is to protect consumers, a cop on the street who will expose big bank ripoffs and end unfair fees and curb out-of-control credit card and mortgage rates. We need a cop on the street that ensures when one makes important financial decisions, the terms are clear. The risks are laid out on the table, and the banks and other financial companies offering them are being upfront. What we need is one agency with one mission looking out for one group of people, and that is American families.

Secondly, Wall Street reform must spell an end to the taxpayer-financed bailout. There is nothing that makes me or my constituents in Washington State angrier than the fact that Wall Street ran up this huge bill, and we had to pick up the tab. Wall Street reform has to end that once and for all. It has to be a death sentence for banks that engage in reckless practices, and it must make them pay for their funeral arrangements, if they do.

Third, reform has to address the fact that Wall Street is not alone in deserving blame for this crisis. Therefore, it must not be the only target of reform. We cannot ignore the fact that millions of Americans walked into sometimes predatory home loan agencies all across the country, unprepared to make big, important financial decisions. We have to acknowledge that too many Americans put too little thought into signing on the dotted line. Those bad decisions had a huge impact. That is why I have been working so hard to pass a bill I introduced called the Financial and Economic Literacy Improvement Act.

That legislation would change the way we approach educating Americans about managing their own finances and making good decisions about housing and employment and retirement. We add a fourth R to the basics of reading and writing and arithmetic. That is resource management. It gives Americans, young and old, the basic financial skills to heed warnings in the fine print they are signing and avoid mounting debt. I believe if we are going to avoid many of the mistakes that led to this crisis, we need a similar component in the bill we work on next week.

We all know the old adage that sunlight is the best disinfectant. With all of the reforms I have been talking about today, we have the potential to bring a whole lot of sunlight to Wall Street. But as we have seen in the lead up to this crisis and with Wall Street's response now to our reform effort so far, they don't like to do their work in the sunlight. They like to do it in back rooms. I have heard they have had some company recently in those back rooms. I have heard that over the last several days, some of our colleagues on the other side have been huddling with Wall Street lobbyists to figure out how they can kill this bill that is coming to us. They want to figure out how they can preserve the status quo and what they have today. They want to talk their way out of change. They have been calling out to special interests in Washington and bankers back on Wall Street and big money donors. In fact, just about everyone has been invited to those meetings except, of course, the American people. That is because the vast majority of Americans, including the hard-working families in my State who were hurt by this crisis through no fault of their own, want to see the strong Wall Street reforms I have talked about today passed. They want to hold Wall Street accountable for years of irresponsibility and taxpayer-funded bailouts. And more than anything, they want to make sure we never go through this again.

There is still a widely held view on Wall Street—and with too many still in DC—that the voices of the people can somehow be drowned out with big money and even bigger fabrications. Wall Street still thinks they can get away with highway robbery because, for all too long, they have. They think they can get away with telling the American people that more regulation is bad, when the absence of regulation is largely what got us into this mess.

They think people will be satisfied with watered-down rules that Wall Street can then simply step aside or go around or ignore. They think they can pull a fast one on Main Street. They are flatout wrong. I know that because I grew up literally on Main Street in Bothell, WA, working for my dad's 5-and-10-cent store with my six brothers and sisters.

I know they are wrong because Main Street is where I got my values, values such as the product of your work is what you can actually show in the till at the end of the day; that if that money was short, you dealt with the consequences. If it was more than you expected, you knew that more difficult days could lie ahead; values like a good transaction was one that was good for your business and for your customer; that personal responsibility meant owning up to your mistakes and making them right; that one business relied on all the others on the same street; and, importantly, that our customers were not prey and businesses were not predators, and an honest business was a successful one.

Those are the values I learned on Main Street growing up. Believe me, those same values are still strong for our country today. They exist in small towns such as the one in which I grew up and in big cities in every one of our States.

Next week, when we bring a strong Wall Street reform bill to the floor, everyone in the Senate is going to hear from people who still hold values like that very dear. I am sure they will tell us in no uncertain terms: It is time to end Wall Street's excesses. It is time to bring some sanity back into the system, to protect our consumers, to end bailouts and back-room deals, to restore personal responsibility and bring back accountability.

I am hopeful we will all listen because there certainly is a lot on the line for the American people. They deserve all of our support.

I yield the floor.

The PRESIDING OFFICER (Mr. BURRIS). The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, I ask unanimous consent to speak in morning business for 20 minutes.

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

Mr. DORGAN. Mr. President, my colleague from the State of Washington just talked about Wall Street reform. It is such an important subject. It is the case that all of us who have lived through these last several years will understand when the history books record these years that we have lived and existed and struggled through a period that is the deepest recession since the Great Depression.

Mr. President, 15 million to 17 million people wake in the morning, now as I speak, jobless, get dressed, and go out to look for a job. Most do not find it. It has been a tough time. Yet those who read the newspaper and understand the difficulty of those who are losing homes, losing jobs, losing hope, also read the business pages and see that one of the heads of the largest investment banks last year was paid $25 million in salary. One of the folks who was one of the largest income earners in this country earned $3 billion running a hedge fund. That is $3 billion, by the way. That is almost $10 million a day.

So they see record profits from the biggest financial interests in this country—many of whom pursued policies that steered us right into the ditch. They wonder what is the deal here. The people at the top, the ones who caused most of the problem—the ones many of which would have gone broke had the Federal Government not come in with some funding to try to provide some stability—they are now at record profits, paying record bonuses. The folks at the bottom are out struggling to find a job because they have been laid off.

So it always comes back to something I have described often and it seems to never change and it is even more aggressive now. Bob Wills and His Texas Playboys, in the 1930s, had a verse in one of their songs: ''The little bee sucks the blossom, but the big bee gets the honey.'' The little guy picks the cotton, but the big guy gets the money.

So it is and so has it always been but even more aggressive now. The same newspaper talks about the trouble given the workers of this country and the families of this country by the big financial institutions having steered this country into the deepest recession since the Great Depression; even as in the same newspaper they read about the largess, the record profits and record bonuses.

So the question is, What do we do about that? We are going to bring a financial reform bill, a Wall Street reform bill, to the floor of the Senate. I wish to talk a bit about that and say we need to review, just for a moment, the unbelievable cesspool of greed that existed—not everywhere but in some places—and at levels that steered this country into very dangerous territory.

Yes, new things, new instruments we had never heard of before: credit default swaps, naked credit default swaps. Some might say: What is a credit default swap? And, for God's sake, what is a naked credit default swap? How do you get a credit default swap naked? Well, let me take you not just to default swaps, let me take you back about a year and a half ago to a time when the futures market in oil was like a Roman candle and went up to $147 a barrel—$147 for a barrel of oil in day trading—just like a Roman candle and then went back down.

That market was broken. A bunch of speculators—they did not want to buy any oil. They have never hauled around a can or a case or a barrel of oil. They just wanted to speculate on the futures market. So they broke that market, ran it way up. Well, that is one symptom of financial systems that are broken and do not work.

Credit default swaps. We have been hearing recently about the SEC decision to file a criminal complaint against a large investment bank, Goldman Sachs. What we have discovered with the interworkings of this scheme that was created is, I think, based on my knowledge of it, that the development of—excuse me, it was a civil case by the SEC, not a criminal case, and that is an important distinction, but, nonetheless, it is a civil complaint against Goldman Sachs. My understanding is, there was created some billions of dollars of naked credit default swaps that had no insurable interest in anything of value. These were people who were betting on what might happen to the price of bonds.

Bonds selected by a person whom I have spoken about on the floor of the Senate previously over the last couple years, a man named John Paulson, who, in 2007, was the highest income earner on Wall Street—he earned $3.6 billion. That is $300 million a month or $10 million a day. How would you like to come home and your spouse says: How are you doing? How are we doing? And he says: Well, we are doing pretty good, $10 million every day.

So my understanding of the SEC complaint is they set up a system where Mr. Paulson could short what I believe were naked credit default swaps and others took the long position and you had rating agencies rating these things apparently with high ratings, until they discovered what they truly were and then the ratings collapsed. Mr. Paulson made a bunch of money and everybody else got duped out of their money.

Well, that is a short description and probably not even a very good description, but it is close enough to understand what has been going on in this country: betting—not investing—betting on credit default swaps, naked swaps that have no insurable interest in anything, no value on either side. You just put together a contract and say: I am going to bet you this issue happens, this stock goes up, this bond goes down. Let's have a wager. Well, you do not have to own anything. Let's just have a bet.

That is not an investment; that is a flatout wager. We have places where you should do that. If you want to do that, you can go to Las Vegas, and they say what goes on there stays there. Who knows. You can go to Atlantic City. We have places where you can do that. But those places are not places where you do activities that are equivalent to what we now see having been done in the middle of some of the investment banks and financial institutions in this country.

I have spoken many times on the floor about this, and I am going to repeat some things I have said just because, as I talk about what needs to be done in a couple cases on this reform bill, we need to understand what happened and how unbelievably ignorant it was.

The subprime loan scandal—everybody was involved in that. When I say ''everybody,'' I am talking about all the biggest financial institutions because they were securitizing mortgages and selling them upstream to hedge funds, investment banks, and you name it—all making huge bonus profits, all kinds of fees, and starting with the broker who could place big mortgages for people who could not afford it; and right on up the line, they were all making big money.

So here is an advertisement we all listened to in the last decade during this unbelievable carnival of greed. This was the biggest mortgage company in our country, the biggest mortgage bank in America—now bankrupt, of course, now gone—although the head of this company left with a couple hundred million dollars, I am told. So he got out pretty well-heeled, now under investigation. But here was their ad on television and radio.

It says: Do you have less than perfect credit? Do you have late mortgage payments? Have you been denied by other lenders? Call us. We want to lend you money. Unbelievable. The biggest mortgage bank in the country says: Are you a bad credit risk? Hey, call us. We have money for you.

Zoom Credit, another mortgage company. Here is their advertisement: Credit approval is just seconds away. Get on the fast track. With the speed of light, Zoom Credit will preapprove you for a car loan, a home loan, a credit card. Even if your credit is in the tank, Zoom Credit is like money in the bank. Zoom Credit specializes in credit repair and debt consolidation too. Bankruptcy, slow credit, no credit—who cares? Come to us. We want to give you a loan.

Ignorant? Sounds like it to me. Greedy? It appears to me it is.

Millennia Mortgage: 12 months with no mortgage payment. That is right. We will give you the money to make your first 12 payments if you call in the next 7 days. We pay it for you. Our loan program may reduce your current monthly payment by 50 percent, allow you no payments for the first 12 months. Let us give you a loan. You do not have to make any payments for a year.

Sound strange? It does to me. How about the mortgages that say: Do you know what, you don't want to pay any principle? No problem. You don't want to pay any interest? No problem. You pay nothing—no interest, no principle. And, by the way, if you don't want us to check on your income—that is called a no-documentation loan—we will give you a no-doc loan with no interest payments and no principle payments. We will put it all on the back side. Do you know what you should do? Go ahead and do that because you can flip that house. If you can't make the payments a couple years later, when we are going to reset your interest rate at 12 percent—or whatever ridiculous amount they were going to do—you can sell that house and make the money because the price of that house is always going to go up.

So it went all across this country, right at the bottom, with teaser rates. The result was, a whole lot of folks were talked into mortgages they could not afford. The loan folks, the brokers, who were putting out these mortgages, were making a lot of money. They were securitizing them, selling them up. There were fees being paid to everyone, and everybody was making a lot of money—very fat and happy.

By the way, it has not changed. If you go to the Internet, you can find on the Internet, today, EasyLoanForYou: Get the loan you seek. Fast. Hassle-free. Our lenders will preapprove your loan regardless of your credit score or history.

Go to the Internet. See if it has stopped.

Here is an Internet solicitation: Bad Credit Personal Loans. How about that? Is that unbelievable? I wonder what college they teach this in. You start a company called Bad Credit Personal Loans. It says: Previous bankruptcy? No credit? Previous bad credit? Recent job loss? Recent divorce? Need a larger loan amount? Well, click here now. For gosh sake, take advantage of what we are offering. If you are a bad person, we want to give you money.

Speedy Bad Credit Loans—same thing. Bad credit? No problem. No credit? No problem. Bankruptcy? No problem. Come to us.

Well, is it a surprise that a lot of greedy people and a lot of the biggest institutions in this country whose names you recognize instantly loaded up on this nonsense? They loaded up—loaded to the gills. Why? Because they were all making massive amounts of money by buying and selling and trading these securities. Yes, not just the securities, not just securitization of loans but credit default swaps and CDOs and you name it. It was a carnival and a field day.

So that has all happened in the last 10 years—and even much worse. But let me end it there to say, we are now talking about: What do we do about all this? This kind of behavior steered the country right into the ditch. We lost $15 trillion when the economy hit rock bottom. Something like $12 trillion has been lent, spent or pledged by the Federal Government to prop up private companies—many of them that were doing exactly as I have just described. This has been a very difficult time. So the question now is, What do we do about this? Do we just decide, do you know what, it is OK? We are not going to do anything about this?

I just mentioned naked credit default swaps. I do not know the number in this country, but in England they estimate, of their credit default swaps, 80 percent of them are so-called naked; that is, they have no insurable interest on any side of the transaction. It is simply making a wager. When you have banks that make wagers just as if they are using a roulette wheel or a blackjack table or a craps table, they just as well ought to put that in the lobby, except my feeling is, it is fundamentally antithetical to everything we know about sound, thoughtful finance in this country to have allowed this to have happened—we did allow it—and now to continue to allow it to happen.

So I wish to take you back 11 years to the floor of the Senate because I have been through this before in something called financial modernization. It was 11 years ago now, actually: financial modernization. This is not the first time we have had substantial legislation on the floor of the Senate to address the issue of finances and the financial system. We had something called financial modernization on the floor of the Senate, and it was the piece of legislation—big piece of legislation—that pooled everything together. It said you can create one, big, huge holding company and bring everything in together—the investment banks, the commercial banks, FDIC-insured banks, the securities trading—bring them all together as one, big, happy family, one big pyramid. It will be just fine because it will make us more competitive with the European financial institutions, and it is going to be great. I said I think that is nuts. What are we doing?

I have some quotes from 1999 of things I said on the floor of this Senate. On November 4, I said:

> Fusing together the idea of banking, which requires not just safety and soundness to be successful but the perception of safety and soundness, with other inherently risky speculative activity is, in my judgment, unwise.

I said:

> We will, in 10 years time, look back and say: We should not have done that—repeal Glass-Steagall—because we forgot the lessons of the past.

I said during debate in 1999:

> This bill will in my judgment raise the likelihood of future massive taxpayer bailouts. It will fuel the consolidation and mergers in the banking and financial services industry at the expense of customers, farm businesses, and others.

I said:

> We have another doctrine at the Federal Reserve Board. It is called too big to fail. Remember that term, too big to fail. They cannot be allowed to fail because the consequence on the economy is catastrophic and therefore these banks are too big to fail. That is no-fault capitalism; too big to fail. Does anybody care about that? Does the Fed, the Federal Reserve Board? Apparently not.

That is what I said 11 years ago on the floor of the Senate.

I said:

> I say to the people who own banks, if you want to gamble, go to Las Vegas. If you want to trade in derivatives, God bless you. Do it with your own money. Do not do it through the deposits that are guaranteed by the American people with deposit insurance.

I said during that debate:

> I will bet one day somebody is going to look back and they are going to say: How on Earth could we have thought it made sense to allow the banking industry to concentrate, through merger and acquisition, to become bigger and bigger and bigger; far more firms in the category of too big to fail? How did we think that was going to help our country?

Those are quotes I made 11 years ago on the floor of this Senate. I didn't know then that within a decade, within 10 years, we would see huge taxpayer bailouts, but I thought this was fundamentally unsound public policy. I was one of only eight Senators to vote no. The whole town stampeded. In fact, as the Presiding Officer knows, this Financial Modernization Act was Gramm-Leach-Bliley, three Republicans, but this was firmly embraced by the Clinton administration and by the then-Secretary of the Treasury and others. It was bipartisan: We have to do this, have to compete with the rest of the world, and it was, Katey, bar the door. We are going to allow these big companies to get bigger, and it is going to be just great for the country.

It wasn't so great for the country. What I wish to show is what happened as a result of that piece of legislation. This graph shows from 1999 forward the growth of total assets in the largest financial institutions. Look at this graph: Bigger and bigger. Not just a bit bigger; way, way, way up, the growth in assets of those six largest financial institutions.

This chart shows the four banks, total deposits in trillions of dollars, and we see what has happened there: liabilities in the six largest institutions, deposits in the four largest banking institutions.

This chart shows the aggregate assets of the top six commercial and investment banks and what has happened in 10 years.

It doesn't take a genius and it doesn't take somebody with higher mathematics or having taken an advanced course in statistics to understand what this picture shows. We have seen a dramatic amount of concentration—some of it, by the way, aided and abetted by the Federal Government because as we ran into this problem, this very deep recession—the deepest since the Great Depression—our government arranged the marriages of some of the biggest companies, and so the big became much bigger.

I have said all of that simply to say: That is where we have been, and now the question is, Where are we going? What kind of legislation are we going to take up on the floor of the Senate? Already there has been a big dust-up. The minority leader came to the floor of the Senate and said what was done in the Banking Committee will be a big bailout of the banks. Of course, that isn't the case at all. This is a fact-free zone with respect at least to some debates. I don't think there is anybody in this Chamber who believes we don't have a responsibility now to address these issues, and address them in the right way.

Let me be quick to say a couple of things. No. 1, there are some awfully good financial institutions in this country run by some good people who have done a good job, and we need them. You can't have production without the ability to finance production. We need commercial banks. We need all of the other financial industries and institutions, but we need to make sure the excesses and the greed and the unbelievable things that were done by some in the last decade cannot be repeated, cannot happen again.

The piece of legislation that is going to come to the floor of the Senate from the Senate Banking Committee is a good piece of legislation. I commend Senator DODD. I think he has done an excellent job. By the way, those who have said in the Senate that somehow this is just partisan, they didn't reach out to others; that is not the case, and everybody knows it.

CHRIS DODD reached out to Republicans week after week and month after month to try to get some cooperation. Finally, they just walked away and they said: We are all going to vote no, no matter what. So it is not the case that this was designed to be some sort of partisan bill. I still hope there will be Republicans and Democrats who together understand what needs to be done to fix the problems that exist in our financial services industry.

In addition to Senator DODD bringing a bill from the Banking Committee, let me say Senator BLANCHE LINCOLN, under her leadership in the Agriculture Committee, has brought a piece of legislation to the Senate floor on derivatives that I think is a good piece of legislation that needs to be a part of the banking reform bill.

What I wish to talk about ever so briefly is two other things. There are a number of people who have bills that I am going to be supportive of that I think have great merit that are necessary. I think they are necessary to fix the real problems that exist. The issue of repairing what was done to Glass-Steagall, Senator CANTWELL, Senator MCCAIN have a bill on that. There are others who have a bill on proprietary trading, and there are others as well. But I wish to talk about two things very briefly.

No. 1, I am preparing an amendment that deals with what are called naked credit default swaps. I don't think that is investing. That is simply betting. If there is no insurable interest on either side of credit default swaps, that is not investing. I think there ought to be a requirement that there be an insurable interest on at least one side in order for it to be a legitimate function because it seems to me if we don't ban naked credit default swaps, we will have missed the opportunity to do something that is necessary to fix part of what happened in the last decade, No. 1.

No. 2 is the issue of too big to fail. It has not been described, it seems to me, by either the Banking Committee or by amendments that have been suggested—it has not been described that we should take seriously too big to fail by deciding if you are too big to fail, you are too big. This country has, on occasion—when we have a systemic risk that is unacceptable, when we have a moral imperative to do something about something such as this, this country has decided we will break Standard Oil into 23 parts; we will break up AT&T—and, by the way, the 23 parts turned out to be much more valuable in their sum than the value of the whole.

But having said all that, I believe there needs to be an amendment—and I am preparing an amendment—that deals with the issue of too big to fail. Very simply it says if the Financial Stability Oversight Council develops an approach that says, all right, this is an institution that is just too big to fail and the moral hazard for our country and the systemic risk for our country is too great and therefore we judge it too big to fail, I believe what ought to happen over a period of time—perhaps 5 years—is a symptomatic divestiture sufficient so that the institution remains an institution that is not then too big to fail. I believe that ought to be something that we consider as we develop our approach to these financial reform measures.

I don't think big is always bad, and I don't think small is always beautiful. I want us to be big enough to compete. I want us to have the resources to be able to make big investments in big projects. I understand all of that, and I can point to some terrific financial companies in this country run by first-rate executives.

So understand what I am talking about are the abuses and the unbelievable cesspool of greed we have seen in a decade from some institutions that were big enough and strong enough to run this country into very serious trouble. That is why I think we have a responsibility at this point to address all of those issues that are in front of us as we deal with banking reform.

I know this is going to be a long and a difficult task, but one of my hopes would be that Republicans and Democrats can all agree on one thing: What we have experienced in the last decade cannot be allowed to continue. It cannot be allowed to continue. No one, I believe, would want our financial institutions to continue to bet rather than invest, to continue to invest in naked credit default swaps where there is no insurable interest. Nobody, I would hope, would believe that represents the kind of productive financing that we need to produce in this country again. I want the financing to be available from good, strong financial institutions to good, strong companies that need to expand to produce American goods that say ''Made in America'' again.

That is what I want for our country. That kind of economic health can only come if you have a strong system of financial institutions that are engaged in the things that originally made this a great country, not trading naked credit default swaps but making good investments in the productive sector of this country.

I believe we can do that again, and I believe we will. I don't approach this banking reform debate with trepidation. I think ultimately cooler heads will prevail and all of us will understand the need, and when we meet that need, this country will be much better off.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

FOOD SECURITY

Mr. CASEY. Mr. President, I rise today to speak about an issue that was the subject of a Foreign Relations Committee hearing today, of course, chaired by our chairman, JOHN KERRY, and the ranking member, Senator DICK LUGAR.

Today in America and worldwide, every 5 seconds a child dies from starvation. Every 5 seconds across the world, every 5 seconds every day is the reality that stares us in the face. While the United States has historically played an important role in addressing hunger internationally, this simple fact should serve as a galvanizing call to action on this issue.

The 2008 global food crisis brought attention to the fact that emergency food assistance was not enough, as generous as our country is and as important as that strategy is to confronting the problem. The emergency food assistance that year was not enough, and donors in recipient countries that need to work together to address this systemic problem need to do so even more so today.

The Obama administration has rightly prioritized food security and the political support in the Senate is growing every day for the Lugar-Casey Global Food Security Act. I commend Senator LUGAR for his work on these issues for many years and, of course, I wish to commend and thank the work that our chairman, Senator JOHN KERRY, is doing on this issue every day as well.

Creating an environment where local farmers can produce for themselves and their communities as well as easily trade to get their goods to market is the key to fundamentally changing this ongoing crisis.

With a host of competing priorities for the attention of the United States, I believe there are at least two reasons food security matters, even in the midst of some of the challenges we are facing domestically.

First, this is a humanitarian crisis of immense proportions that we can go a long way toward solving. I think when we talk about this issue, no matter who we are, no matter what our station in life is, this is an issue that we come to, summoned by our conscience, and I think that is true in the Senate as well.

As one of the richest countries in the world, I believe we have a moral obligation to do all we can to help. This crisis is solvable with a combination of assistance and emphasis on providing small farmers around the world the know-how, the technology, and the means to provide for themselves.

The second reason, in addition to this being a humanitarian crisis as to why this is so important, is global hunger is a national security issue. Instability arising from conflict across the world over access to food is a documented problem. The 2008 food crisis, unfortunately, brought this into sharp, acute focus.

We saw it in Somalia, where struggles to gain access to food have enveloped population centers in violence. We have seen it in Egypt as citizens rioted for access to bread. We have seen it in Haiti more recently, where hospital beds filled in 2008 with those injured during food riots. Increased instability in any of these countries has a direct impact on U.S. national security interests.

The root causes of this perfect storm of crisis are well known but worth recounting. In 2008, food demand was driven higher due to expanding population and rising incomes. More cereals were needed to feed livestock for the production of meat and dairy products and to fill increasing demand for biofuels across the world. Higher oil prices, combined with weak harvests and rising global demand, created a scramble for resources. Wheat prices more than doubled and rice prices more than tripled between January and May of 2008.

Twenty-eight countries imposed export bans on their crops, driving up