

thanks, as he has given them all our thanks in the Senate and well wishes for the next chapter in public service.

In one of his early speeches in the Senate, PAUL KIRK spoke at length about his friend, Ted. He said Senator Kennedy was not one to sit idly by—he acted; he acted to help as many people as possible. Well, the same can now be said also of Senator PAUL KIRK, though obviously for a much shorter period of time. He was not one to sit idly by. In the short time he has been here, he did act, and he has helped as many people as possible.

When he was selected to replace his friend in the Senate, I was reminded then—and I think I mentioned this on the floor—of Ted Kennedy's fondness for the poet Robert Frost and a line from one of his poems. Frost wrote:

Men work together, I told him from the heart, whether they work together or apart.

Teddy and PAUL worked together for much of their lives. Even though they have been apart these past months, they have never stopped working together in the spirit and in the causes that PAUL has embraced in his time here.

As I think about the comments he just made, in talking about what we need in the Senate, I couldn't help but look across the aisle and not see a Senator there. I regret that. Senator INOUE, seated to my right, has served here much longer than most of us—and Senator LEAHY, who was just here, and Senator DODD—but I think we were all part of the Senate a number of years ago when that never would have been the case.

So it is what it is. I hope they hear his comments. I hope all our colleagues will reach for this moment Senator KIRK has asked us to and, in doing so, will keep faith not just with his service but with the service of our dearly beloved friend, Ted Kennedy.

I wish to thank PAUL KIRK for his service to the people of the country and the Commonwealth of Massachusetts and the way in which he kept faith with the spirit of the law which sent him here. I think he has served us all well, and we will miss him.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. WARNER). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

#### THANKING SENATOR KIRK

Mr. KAUFMAN. Mr. President, before I speak on the issue I came to speak about, I have to take a minute to speak about PAUL KIRK and Gail Kirk and how much they have given this country for many years and what a great honor it has been for me to serve in the Senate with PAUL. He embodies all that is good about this country. He is someone who has incredible intellect, judgment, and he is a lot of fun to be around.

I want to tell you, whatever you do, PAUL and Gail, we all send you our best.

PAUL has been maybe not a long-term Senator but a great Senator.

Thank you.

#### RESTRICTING FREEDOM OF EXPRESSION

Mr. KAUFMAN. Mr. President, on Tuesday night the Senate spoke with one voice expressing serious concern about ongoing attempts by China and other countries to restrict press and Internet freedom and condemning the recent cyber-attacks against Google in China.

In a bipartisan effort, a truly bipartisan effort, we unanimously passed S. Res. 405, introduced by myself and Senators BROWNBACK, CASEY, KYL, FEINGOLD, LIEBERMAN, MCCAIN, SPECTER, and WEBB—a broad spectrum of the Senate who all agree on this issue. This resolution reaffirms the centrality of freedom of expression and the press as cornerstones of U.S. foreign policy. It frames such freedoms as part of U.S. efforts to promote individual rights and voices concern over the ongoing efforts by many countries, and I mean many countries, to restrict free expression, highlighting the attempts to censor, restrict, and monitor access to the Internet.

The impetus for this resolution was a recent cyber-attack on Google's corporate infrastructure and at least 34 companies, reportedly originating in China. Google has evidence to suggest that a primary goal of this attack was to access Gmail accounts of Chinese human rights activists, journalists, and dissidents.

Even worse, this attack was only one of many recent attempts to exploit security flaws and illegally access computer networks of numerous individuals and institutions. These cyber-attacks are unconscionable violations of national security interests in addition to violations of intellectual property rights. With the passage of this resolution, countries from which such attacks originate or countries which take steps to restrict or monitor the Internet should consider themselves on notice.

The resolution calls on the Chinese Government to conduct a thorough review of the recent attacks and to make this investigation and its results transparent.

This is not just about cyber-warfare, and it is not just about China. This resolution highlights a much broader and far-reaching problem of state-sponsored efforts to restrict free and unfettered access to the Internet.

As technology continues to develop, an increasing number of governments have employed repressive tactics to monitor and control the Internet. In countries such as Iran and China, a growing effort has been made to silence the voices of their citizens and restrict the free flow of information. According to the 2009 "Freedom on the Net" report conducted by Freedom House, the

Government of China employs a sophisticated, multilayered, and wide-ranging apparatus to curtail Internet freedom. It also employs legal and economic means to coerce Internet service providers, Web hosting firms, and mobile phone companies to delete and censor online content.

Finally, it requires domestic Chinese and foreign companies with subsidiaries in China—such as Google but many others—to adjust their business practices to allow for increased filtering and supervision by the Government of China, which limits the data available on search engines.

This resolution urges companies to engage in responsible business practices in the face of such pressure from foreign governments by refusing to aid in the curtailment of free expression and welcomes the diplomatic initiative announced by Secretary Clinton in her January 21 speech on Internet freedom to support the development of technology aimed at censorship circumvention.

Finally, the resolution highlights violations of a free press in China, such as the ongoing jamming of Radio Free Asia, Voice of America, and other international broadcasters, despite the unimpeded broadcast in the United States of Chinese state-run media outlets. We allow China to broadcast to the CCTV and the Radio China outlets into the United States completely unfettered. Yet they jam all of our broadcasts by Voice of America and Radio Free Asia into their country. This is not fair, this is not reciprocity, and it is not becoming of a nation that hopes to become one of the great nations of the world.

It pays tribute to the professional and citizen journalists who persevere in their dedication to report in China despite the extremely high rate of imprisonment among journalists.

The freedoms highlighted in this resolution are not just an inherent good, they are also a practical benefit. As Secretary Clinton recently said:

... countries that restrict free access to information or violate the basic rights of Internet users risk walling themselves off from progress.

I am grateful for the widespread support and passage of S. Res. 405, and I thank the other cosponsors for their leadership. The United States must not sit back as voices in China, Iran, and around the world are silenced. It is my hope this resolution will help to promote an environment of expanded freedoms, especially when it comes to the Internet and the press.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The VICE PRESIDENT. Without objection, it is so ordered.

#### CERTIFICATE OF ELECTION

The VICE PRESIDENT. The Chair lays before the Senate the certificate of election to fill the unexpired term created by the death of the late Senator Edward M. Kennedy of the Commonwealth of Massachusetts. The certificate, the Chair is advised, is in the form suggested by the Senate. If there is no objection, the reading of the certificate will be waived and will be printed in full in the RECORD.

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

#### THE COMMONWEALTH OF MASSACHUSETTS

##### CERTIFICATE OF APPOINTMENT

*To the President of the Senate of the United States:*

This is to certify that on the nineteenth day of January, two thousand and ten Scott P. Brown was duly chosen by the qualified electors of the Commonwealth of Massachusetts a Senator for the unexpired term ending at noon on the third day of January, two thousand and thirteen, to fill the vacancy in the representation from said Commonwealth in the Senate of the United States caused by the death of Senator Edward M. Kennedy.

Witness: His Excellency, the Governor, Deval L. Patrick, and our seal hereto affixed at Boston, this fourth day of February in the year of our Lord two thousand and ten.

DEVAL L. PATRICK,  
*By His Excellency,  
Governor.*

WILLIAM FRANCIS GALVIN,  
*Secretary of the Commonwealth.*

[State Seal Affixed]

#### ADMINISTRATION OF OATH OF OFFICE

The VICE PRESIDENT. If the Senator-elect will now present himself at the desk, the Chair will administer the oath of office.

The Senator-elect, escorted by Mr. KERRY and Mr. KIRK, respectively, advanced to the desk of the Vice President; the oath prescribed by law was administered to him by the Vice President; and he subscribed to the oath in the Official Oath Book.

The VICE PRESIDENT. Congratulations, Senator.

(Applause, Senators rising.)

Mr. KAUFMAN. Mr. President, I ask unanimous consent to speak in morning business for up to 30 minutes.

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

#### FINANCIAL AND ECONOMIC REFORM

Mr. KAUFMAN. Mr. President, since the financial meltdown in 2008, America and Congress have remained stuck at a crossroads. Not since the Great Depression of the 1930s have we experienced a financial and economic crisis of such magnitude that it forces us as a society and lawmaking body to re-

consider the legal and institutional underpinnings of our financial system.

The history of our Nation shows we have been at this crossroads before. At times, we have made the right decision, but, sadly, at other times we have made the wrong one.

Throughout the 19th century and the early part of the 20th century, the complacency of government and the contrivances of powerful, moneyed interests prevented us from achieving fundamental reform of our financial and monetary structures. The result was, our history was replete with all-too-frequent banking panics.

Regrettably, it took well over a century before we heeded the clarion call for reform.

The shared experience of the Great Depression thrust us into the harsh reality that the status quo was bankrupt. Out of the ashes of that crisis, we built a legal and regulatory edifice that has endured for decades.

One of the cornerstones of that edifice was a federally guaranteed insurance fund to back up bank deposits. Another was the Glass-Steagall Act which established a firewall between commercial and investment banking activities. Other rules were imposed on investors to tamp down rampant speculation, such as margin requirements and the uptick rule on short selling.

For the next 50 years, the United States experienced relative financial calm and economic growth, with the normal business cycle providing the usual ups and downs, of course.

The edifices built in the 1930s served us well until the 1980s and the savings and loan crisis, which itself was brought on by the rollback of rules that applied to thrifts.

Unfortunately, the passage of time, and even after the shock of the S&L failures, the ideology of market fundamentalism began to sweep across our regulatory environment, erasing the clear lessons of history.

Those market fundamentalists argued that our financial actors could police themselves, that their own self-interest in remaining financially viable would create sufficient incentive to do thorough due diligence, far exceeding the ability of regulators to limit excessive risk by rulemaking.

Systematically, these fundamentalists worked to dismantle many of the prudential New Deal-era banking reforms. Their crowning achievement: the repeal of Glass-Steagall in 1999.

Wall Street and Washington were possessed by this laissez faire ethos over the past 20 years. But it was this philosophy and the fountainhead of decisions that sprang from it that led us blithely, and perhaps blindly, down the path to our current crisis.

Even Alan Greenspan, the avatar of the deregulatory mindset, has now admitted this dominant concept of self-regulation was ill-conceived.

In a speech just 1 year ago this month before the Economic Club in New York, the former Fed Chairman of

19 years conceded that the "enlightened self-interest" he had once assumed would ensure that Wall Street firms maintain a "buffer against insolvency" had failed.

The sheer complexity of today's trading instruments and the supposed risk management tools used to ensure them against collapse was, he said, "too much for even the most sophisticated market players to handle properly and prudently."

Mr. Greenspan, perhaps more than anyone else, should have known better. But instead of playing the role of the markets' fire chief, he played that of head cheerleader. For example, Mr. Greenspan applauded the trend of financial disintermediation, proclaiming that new innovations would allow risks to be dispersed throughout the system.

Unfortunately, he failed to realize that products such as credit default swaps sometimes perversely encouraged banks to become empty creditors, since banks holding these default instruments could end up making more money if people and companies defaulted on their debts than if they actually paid them.

Of course, this was just the tip of the iceberg. Despite having the power to write and enforce consumer protection standards, the Federal Reserve did nothing to combat deteriorating origination standards in mortgage and consumer loans.

Mr. Greenspan signed off on regulations that gave banks the ability to set their own capital standards. He allowed banking institutions to leverage excessively by gorging on short-term liabilities and, in some cases, creating off-balance-sheet entities to warehouse their risky assets.

In the wake of Wall Street excess and dereliction of duty by its regulators, financial ruin descended upon our country. Ultimately, it took extraordinary actions—including a multibillion-dollar taxpayer bailout—to prevent us from falling into the abyss of a second Great Depression. We narrowly avoided that fate.

But now, when Congress should be hardest at work rebuilding the edifice that served us so well for decades, we are not. Instead, we are being lulled into a false sense of security.

Many of Wall Street's biggest financial institutions, just a few months ago saved from oblivion by U.S. taxpayers, have already recovered. In some cases, they are even making record profits. Once again, they are back to their old tricks, in particular remaining obsessively fixated on short-term trading profits, with the help of zero percent loans from the Fed window, to drive their recovery.

In fact, much of the competition was killed off in the crisis so that once stronger banks are now stronger still, allowing them to charge customers higher transaction fees, from equities to bonds to derivatives.

Many on Wall Street are engaged in high-frequency trading strategies