

steel production around the United States, with plants all over the United States. I think he knows a lot about what goes on in the world and how this system works.

I believe the bill on which I have joined my colleagues is a thoughtful, commonsense approach. It doesn't place an immediate tariff on all Chinese goods that enter the United States. It does, however, explicitly direct the Commerce Department and International Trade Commission to take currency manipulation into account when estimating countervailing and dumping duties. Under current law, the Commerce Department can take currency manipulation into account when calculating countervailing duties, but it does not take currency manipulation into account. It could, but it does not. The Obama administration has not instructed them to do so, and neither did his predecessor. Moreover, neither agency currently has the authority to include currency manipulation in its calculation of anti-dumping duties.

The practical effect of this legislation would be to charge a duty on some imported products only after the International Trade Commission and Commerce Department conduct an investigation that determines dumping is taking place or a subsidy is being provided and that a U.S. company has been injured. So a duty would only be applied if it can be proved that the exporting country violated WTO rules. In other words, this measure upholds the rule of law.

This has nothing to do with protectionism; rather, it is about protecting the principles that make free trade work. You can't have a free-trade relationship if your trading partners aren't complying with the fundamental expectations of fair trading partners.

We don't live in a perfect world. Other nations, such as China, are more than willing to exploit our good will to gain political, strategic, and economic advantage. The time has come to defend our core economic interests. American workers are the best in the world. They are not asking us for a handout or a subsidy. What they are asking for are leaders who will defend their legitimate interests on the world stage. So far, this has not been done.

I salute Senators SCHUMER, BROWN, GRAHAM, BURR, SNOWE, STABENOW, and others who have supported the legislation. I think it is time for us to act, and I ask my colleagues to support the legislation as we move forward.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Illinois.

DEBIT CARD FEES

Mr. DURBIN. Mr. President, I wish to take those who are following this debate on a little trip through the world of plastic. I am talking about the world of credit cards—in this case, specifically about debit cards—because some-

thing happened over the weekend which has changed that world dramatically, and it is important for consumers, retailers, and voters across America to understand what happened.

On October 1—on Saturday—the rules on how much a credit card company and a bank that issues a debit card can collect every time we use the debit card changed. They call it the swipe fee. It makes sense: We hand them the credit card or we do it ourselves, swipe it through the machine, and we pay for a transaction. Back in the old days, which I can recall, some people would write out a check. This is the new form of a check. It is a debit card. When we swipe it through the machine and the machine accepts it, the money comes right out of our checking account to the retailer where we did the business. It is very convenient. People are using it more and more. In fact, over half the transactions at most retailers now are done with either credit or debit cards. What the consumer doesn't know is there is a charge each time that card is swiped. It is called the swipe fee or the interchange fee. What is it? It is established by the two, basically, duopoly credit card companies—Visa and MasterCard. They run the whole show. They have been under antitrust investigation in the past, and I am sure they will be in the future. They set the rules, and here are what the rules are.

If someone runs a restaurant or, let's say, a grocery store in Near North Side Chicago, such as Art Potash's, who is a close friend of mine—a family-owned grocery store—they say: I have to take plastic to do business, then Visa and MasterCard say they have to pay each time a customer swipes that card. How much do they pay? It is a secret. Basically, consumers don't know, but individual retailers do, and the individual retailers have little or no bargaining power with Visa, MasterCard, and the big banks, as one can imagine.

So we passed a law over 1 year ago—an amendment that I offered to the Dodd-Frank Wall Street Reform Act—which said to the Federal Reserve Board: Investigate this. Find out how much it actually costs the bank and credit card companies to process a transaction with a debit card. They came back, after a long study, and they said: If it uses a PIN number, which some do, it is about 4 cents. If we sign it, it is about 7 to 12 cents. Then they said: Incidentally, the average charge by the credit card company and bank for each swipe fee is 44 cents—dramatically larger than the cost of the transaction to the bank or the credit card company.

Remember, in the old days, when we processed checks? It cost pennies to process a check no matter what the face amount was. But now, retailers face the 44-cent average swipe fee every time somebody uses a debit card. So we can understand some retailers don't like this much. There is no competition. These banks and credit card companies tell them this is it, take it or

leave it; if they don't like it, don't use plastic. It is secret. Nobody knows it except the retailer, the bank, and the credit card company. It is a hidden fee, and it is a killer for a lot of small businesses.

I was in Rock Island, IL, and Carl, who is the manager of the Rock Island Country Market, said: We have a special deal here, Senator. People can come in from the neighborhood in Rock Island, IL, in the morning, and I give them a cup of coffee and a doughnut for 99 cents. It is a pretty good deal in this day and age. It sure is, isn't it, compared to what we pay. He said: I want to get them in the store. But, he said, you know what. They turn around and use plastic at the cash register. I wasn't even breaking even at 99 cents, and now I am paying 44 cents to some bank and credit card company because people have used plastic.

That world changed October 1—last Saturday. The new law went into effect where the Federal Reserve established the ceiling—the maximum—that can be charged for a debit card swipe fee that is issued by the largest banks in America. The maximum now comes down to about 24 cents. Is this a big deal? It certainly is, because each year in the economy, swipe fees accounted for about \$10 billion or \$12 billion—\$10 billion or \$12 billion—in additional charges to consumers and loss of profitability by businesses. One can imagine, \$10 billion or \$12 billion, even after it has been discounted by the Federal Reserve to about half that amount—\$5 billion or \$6 billion—has the banks in an uproar.

I guess it is a great honor that the Wall Street Journal on Friday had one of their people they invited in to comment who said this new bank fee that is being charged by Bank of America on debit cards is the Durbin fee—the Durbin fee. The same thing was said by the Chicago Tribune on Saturday.

Let me say at the outset I am honored to be associated with an effort to reduce costs to retailers and consumers across America. What we are doing is fair—trying to strike some balance in an industry that has shown little or no balance. One of the worst offenders in this is Bank of America—the largest bank in the United States.

Did you see what they did last week? They announced that anybody who had a debit card at Bank of America was now going to be subject to a \$5 monthly fee because of this reform. What I have said in the media, and I will say here, is: Bank of America customers, vote with your feet. Get the heck out of that bank. Find yourself a bank or credit union that will not gouge you \$5 a month and still will give you a debit card you can use every single day.

What Bank of America has done is an outrage. Last week, when they announced they were charging their own customers a \$5 monthly fee for the use of the debit card, they went overboard. They are overcharging their customers even for this new debit card reform,

but it is nothing new in the history of Bank of America. Consumers across America and the customers of Bank of America are rightfully outraged. It is hard to believe a bank would impose such a fee on loyal customers who simply are trying to access their own money on deposit at Bank of America, especially when Bank of America, for years, has been encouraging their customers to use debit cards as much as possible.

It is particularly hard to believe this fee would come from a bank with a track record such as Bank of America's. After helping to drive our economy off the cliff's edge in 2008, Bank of America was happy to accept a \$45 billion Federal bailout for their stupidity, their greed, and their mistakes. It was just as happy to take that money and hand out \$3.3 billion in employee bonuses in the same year—2008. Don't forget the track record of Bank of America when it comes to handling mortgages. They picked up this company—Countrywide—which had issued mortgages all across America that were going bad. The record of Bank of America, when it comes to processing these same mortgages, is equally disappointing. When it is not losing paperwork or refusing to answer the phone, Bank of America is foreclosing on American families right and left.

But at least this time Bank of America is being open about the new charge to its loyal customers. In contrast to the overdraft fees, research fees, swipe fees, and other hidden fees they have charged, this time Bank of America is being up front about sticking it to its own customers. Transparency is a good thing. It allows customers, as I said, to vote with their feet. Not every bank treats its customers like Bank of America, and consumers can decide whether Bank of America's values reflect their own.

Bank of America is the largest bank in terms of assets in the United States. Now it is crying poverty, saying it is forced to hit their debit cardholders with this new monthly fee because Congress passed swipe fee reform. I don't buy it. Here is the reality: Bank of America and banks in general are still making billions of dollars with this new reform in the law of credit and debit card swipe fees. Swipe fees are an estimated \$50 billion per year money maker for the banking industry—\$50 billion. Bank of America alone makes billions from swipe fees each year. But Bank of America didn't earn those fees by competition. Instead, Bank of America receives these billions because Visa and MasterCard, this duopoly that runs the credit card business in America, basically fixed these prices and retailers and consumers have no voice in the process. This price-fixing has immunized the swipe fee revenue stream from competition. Now that Bank of America is out in the open with this overcharge of their own customers, it is time for real competition to step in. The Federal Reserve

found it cost the bank, on average, 7 cents to conduct a debit transaction—a signature transaction. It costs a lot less, I am sure, for Bank of America, with its economies of scale. But the Fed also found Bank of America was getting an average of 44 cents, instead of 7 cents. They simply can't make that type of enormous profit margin—nearly 600 percent—in a transparent and competitive market. In a free and fair market, these profits would be competed down to a reasonable level. Without competition, credit card companies—these banks such as Bank of America—will continue to win, and consumers and retailers—and, of course, now the Bank of America's own customers—will lose.

Today, I have written a letter to the CEO of Bank of America. His name is Brian Moynihan. I told him it wasn't just me alone but others have done a little calculation on his \$5 monthly fee. Do you know what we found out? When they thought the swipe fee was going to be limited to 12 cents, Bank of America said: That will cost us \$2 billion a year. Turns out the Federal Reserve said: No, it will be 24 cents. So by our estimates, this new reform of the swipe fee may cost—may cost—Bank of America \$1 billion a year in revenue. Guess what. If we do the calculation of \$5 a month on the number of reported debit cardholders at Bank of America, they will bring back twice as much as their projected loss on this new law. They are overcharging their own customers, once again, twice as much as they should if they just want to cover the hidden fees they had in the past.

That is unfair to consumers, it is unfair to the customers, and it is unfair to do it in this tough economy, when a lot of Bank of America's customers across America are struggling to get by. What I am basically calling on Mr. Moynihan to do is to justify this \$5 monthly fee based on their projected debit card transaction losses and the number of people they have holding debit cards by their company.

I didn't come up with this alone. A gentleman by the name of Lazarus, who is a business reporter in California, was the first one who called it to my attention on the "Lehrer Report" on Friday night. We have looked into it further, and it is clear, again—that Bank of America is overcharging its own customers. I can tell you it isn't the first time. Most people are aware of the fact Bank of America was sued for overcharging for various fees, such as overdraft fees, in the past. Because of that suit and the possibility of losing it, they entered into a settlement to pay over \$400 million for overcharging their own customers. They are doing it again. Bank of America, with this monthly fee, is overcharging its customers again by any reasonable standard for a loss of revenue based on this new law.

The last point I wish to make is this—because I see some on the floor, including a Senator or two who may

have a different point of view. When I was back in Illinois, I stood with the retailers, and I hope the retailers of Tennessee and Utah will be in touch with my colleagues and let us hear their side of the story. They have been victimized by these banks and credit card companies for too long. What we do with this law is establish a reasonable standard of compensation and now some disclosure about what is being charged for transactions.

I wish to help small businesses—and large retailers too, for that matter—across America. Their profitability, the success of their business, means more Americans go to work. If a Senator wishes to stand on the floor of the Senate and defend the Wall Street banks, such as Bank of America, and the credit card companies, be my guest. I would rather stand with the consumers and retailers that have been taken to the cleaners for years and years by these swipe fees.

The latest outrage by the Bank of America is a reminder that when it comes to valuing customers, those banks that don't gouge those customers, that don't overcharge for debt fees, are the ones that deserve America's business.

Mr. President, I yield the floor.

The ACTING PRESIDENT *pro tempore*. The Senator from Tennessee.

CURRENCY EXCHANGE RATE OVERSIGHT REFORM ACT

Mr. CORKER. Mr. President, I actually am here to speak on another topic, but I was glad to hear the comments of the Senator from Illinois. I will say in general that I think consumers across our country are beginning to see the first of many consequences of Dodd-Frank. Sometimes I think my friends on the other side of the aisle believe money comes from air. But the fact is when you price fix something such as the Senate did through Dodd-Frank, when you price fix something like this, obviously it is going to have the consequences that have been laid out and, unfortunately, consumers across our country are going to be paying the price. It is interesting that most of the major retailers my friend was alluding to are all talking about the profits, the benefits they are going to have from this. At the end of the day it is the consumers who are going to be paying the price, and we are already seeing that play out. While Bank of America—I am not here to defend them. This is just the first of many charges and lack of credit that is going to be part of our American society as a result of Dodd-Frank.

But let me say, I came down today to talk about a bill we are getting ready to debate I understand this afternoon at 5:30. It is the Currency Exchange Rate Oversight Reform Act of 2011. I probably won't recite that again, but that is the bill we are going to be having a cloture vote on tonight at 5:30.

I understand how people across this country are very frustrated about our