a time when, as the Senator has indicated, the threat is growing.

I say to Senator LIEBERMAN, thank you for being a steady, stern, consistent voice along the line that since 9/11 our Nation has been in an undeclared state of war. The enemy still roams the globe. They have as their hope and dream hitting us again here at home. And, for God's sake, let's not weaken our defenses in a way that no other Congress has ever chosen to weaken the executive branch in the past. I thank the Senator for his service.

Mr. LIEBERMAN. I thank my friend from South Carolina for his expertise in this area and also his sense of principle. We have colleagues on the floor who want to speak. I want to say a final word. I know the Senator from South Carolina is particularly worried about pending amendments that would alter the way in which the underlying bill now treats enemy combatants who are citizens of the United States.

The underlying provision in the bill on detainee treatment fills a gap in our law that has been harmful and difficult for our military to deal with because there is no law about how to treat detainees. Senator GRAHAM worked very closely with Senator LEVIN and Senator MCCAIN to draft this compromise, and it is a good compromise. As he knows, if I had my preference, there would be no waiver in this because I believe anybody who is an enemy combatant is an enemy combatant and as a matter of principle ought to be held in military custody and tried by a military tribunal according to all the protocols of the Geneva Conventions, according to the Military Code of Justice.

Incidentally, if these tribunals are good enough for American men and women in the military who face charges, they ought to be good enough for enemy combatants who face charges.

But here is my point: The Levin-McCain-Graham provision in this bill on detainees is a compromise. It is a reasonable, effective, bipartisan compromise. It is the kind of compromise that doesn't happen here enough, and so I support it because even though I might have wished it would have gone further, so to speak, it is a lot better than the status quo. And I say that at this moment because I urge our colleagues who now want to come in with other amendments, to essentially undo this bipartisan compromise can do great damage. I am saying myself, yes, I wish it had not given the President the power to waive that he has under the bill and take somebody who is an enemy combatant to a normal article III Federal court, but this provision is a real step forward from the status quo, and I think if we can say that, then we ought to support it. So I hope our colleagues will think twice before trying to undo the compromise, and that if they do go forward with it, that our colleagues on the floor will defeat those amendments.

Mr. GRAHAM. Mr. President, I will wrap this up. I know we have colleagues who want to speak. Let me reiterate what Senator LIEBERMAN said. There is a stream of thought that every member of al-Qaida, American citizen or not, is an enemy of the people of the United States in a military sense, not a criminal sense, and they should be in a military tribunal. That is the way we have handled most cases in the past.

Here is what I believe: I believe that the choice of venue should lie with the executive branch, and I think there is a very robust role for article III courts. So I don't want to say from a congressional point of view that every member of al-Qaida has to be tried by a military commission all the time, because, quite frankly, sometimes article III courts could be the better venue. When it comes to telling the executive branch that you have to put a noncitizen in military custody inside the United States, I think that is the right way to do it, but I don't know enough, so if there is a reason to waive that provision, the experts can waive it.

I have been very cautious about micromanaging the executive branch because they are the ones fighting the war. We have a role to play, we have a voice to be heard, and here is what I am urging some my colleagues. This compromise is not what some of our friends wanted, such as Senator LIEBERMAN and, quite frankly, it is not what the ACLU wants, because they don't buy into the idea that al-Qaida operatives are anything other than common criminals. So you have two poles here. I believe an al-Qaida operative is not a common criminal, and if an American citizen joins al-Qaida they should be treated as an enemy combatant as one possibility. But if you want to go down the other road, you can go down that road. I just don't want us to take off the table, for the first time in the history of America, that an American citizen trying to help the enemy kill us here at home somehow can no longer be talked to by our military to gather intelligence. That is a crazy outcome.

I think we have a good bill that gives maximum flexibility to the executive branch but preserves the tools we are going to need now and into the future. And to my colleagues, please ask yourself: If in World War II we could hold an American citizen who tried to help the Nazis blow up America as an enemy combatant, why wouldn't you want to help hold an American citizen who is helping al-Qaida—which did more damage to the homeland than the Nazis—as an enemy combatant? Why would you want to take off the table the ability to hold that person, humanely interrogate them to find out why they joined, who they talked to and what they know? Because what they know and who they talked to may save thousands of lives. For us to say you cannot do that for the first time in the history of the country would be a colossal mistake.

I yield the floor.

The PRESIDING OFFICER (Mr. BENNET). The Senator from Kansas.

COMMUNITIES FIRST ACT

Mr. MORAN. Mr. President, I am here to speak on another topic, but it has been my privilege to hear the discussion between the Senator from South Carolina, Mr. GRAHAM, and the Senator from Connecticut, Mr. LIEBERMAN, about what I think is a very serious debate; that is, the juxtaposition of our constitutional rights as U.S. citizens in light of our desire to make sure Americans' lives are protected. I have always struggled with trying to find that right balance, and I found tonight's conversation on the Senate floor very valuable.

I wish to turn my attention and bring to the attention of my colleagues in the Senate a pending piece of legislation, a bill I have introduced dealing with our country's economy and particularly as it relates to financial institutions and particularly our community banks.

There are, as we know, so many Americans who are looking for work. I would say our government's first priority is to defend our country, and we have been having a debate about how we do that, but we also have a significant responsibility to create an environment where businesses can grow and put people to work. I want to point out tonight a piece of legislation I have introduced that I believe is part of the solution. It is called the Communities First Act, and it is a compilation of what I would say are commonsense tax and regulatory relief ideas for our Nation's smallest financial institutions.

We constantly hear about Wall Street. I want to worry tonight about Main Street. These banks in communities across Kansas and in States across our country were not the cause of the financial crisis from which we are still struggling to emerge, but unfortunately they have become the victims. They have become casualties of the crisis on Wall Street. Hundreds of community banks have been allowed to fail, and the survivors are left waiting for the next burdensome regulation to come from Washington, DC.

Until banks are willing and able to make prudent loans to creditworthy hometown customers, job creation will remain stifled and our economic recovery will continue to lag.

The evidence seems clear to me that the current regulatory requirements impose a disproportionate burden on community banks because they do not operate on the scale to spread the legal and compliance costs. When a bank with, say, just 40 employees requires 4 compliance experts, I believe something is terribly wrong.

This expensive overregulation diminishes the ability of a community bank to attract capital and to support the credit needs of customers. What that means is that someone who wants to be

a stockholder or the owner of a community bank, because regulatory requirements increase the cost of capital, will decide there is a different way to earn a living, a different place to invest that capital. So, in short, these burdens prevent a community bank from serving the community, and they avoid, therefore, the resulting job creation that comes when a community bank invests at home.

All of the regulations being piled on community banks might be justified if the failure of a community bank could pose a serious risk to our Nation's financial system, but that is clearly not the case. It was not the failure of several hundred community banks that left our economy in such poor condition; it was the financial condition of a handful of the largest firms in America that grew so large and so complex that their failure or bankruptcy could not be tolerated and the consequences would affect every American. We need a tailored approach to regulation.

Ross Wilson, one of my constituents in LaCrosse, KS, a banker, wrote to me. He says his bank will no longer make home loans, real estate loans. This is his quote:

As a community banker, I really hate this decision, but the complexity of the new regulations have forced us to make this decision. It appears that the powers that be in Washington don't understand the importance of a small community bank.

When your hometown bank won't make a home loan to one of its customers not because the loan won't be repaid but because the regulatory costs are far too significant, our regulations have far exceeded their value.

How does the Communities First Act that I have introduced change this trend and restore some level of sanity to our financial regulations? This bill would strip away outdated and unnecessary regulations, such as the Gramm-Leach-Bliley annual privacy notice requirement. Under current law, every bank and credit union is required to disclose their privacy policies on an annual basis even if that bank's policy has never changed during the year. So you can have a customer of a bank who has been a customer forever, and the bank has a policy in place that never changes, but every year the bank has to send out a significant mailing to every customer explaining their policy in regard to privacy. While that burden maybe doesn't sound too significant, it is a costly requirement of questionable benefit.

Blake Heid of the First Option Bank in Paola, KS, tells me:

Very little of what the regulations have us do is productive or helps us take care of our customers better. Just the privacy notices alone cost our small bank in excess of $13,000 annually. We haven't changed it . . . we never sold our customer information, and we still don't.

The Communities First Act would also address an issue regarding SEC registration by community banks. The number of shareholders which triggers a registration has not been updated in a long time and remains a burden that discourages community bankers from raising capital and making loans.

The Communities First Act would also reform which banks are required to comply with the costly burdens of Sarbanes-Oxley. Current law exempts banks with market capitalizations under $75 million from compliance under section 404. The benefits of that section do not appear to be worth the cost, so my legislation raises that threshold.

Another commonsense provision would encourage Americans to save by reducing the tax on longer term certificates of deposit. It would also allow for individuals under the age of 26 to invest in Roth IRAs without regard to their income level. We desperately need Americans to save money for their long-term retirement benefits.

The Communities First Act would also reform the new Consumer Financial Protection Bureau so that the National Credit Union Administration, the FDIC, the Federal Reserve, and the other regulators would have a meaningful role in the creation of consumer protection rules. Dodd-Frank provides these regulators insufficient input, and review of the CFPB and the results of poorly written regulations could mean less credit and, again, fewer jobs.

There seems to be some disagreement here in Washington, DC, today about the effects of burdensome regulations on our economic recovery. But back in Kansas, Jay Kennedy of the First National Bank of Frankfurt indicates:

Our staff of 7½ people are busy taking care of our customers and serving our communities. The extra burden from things like tracking escrow payments, sending privacy notices, and filing call reports that take a month to complete all create undue stress and busy work for us.

Kansans don't know what the words ''busy work'' mean.

The relief of those three things alone would allow us time to teach financial literacy that our schools can no longer afford to do and create new products to better serve our customers.

The provisions of the Communities First Act are just a first step in unleashing the ability of small banks to do what they do best—provide capital that results in jobs.

Congress has created a regulatory monster, and I urge my colleagues to join me in removing unnecessary burdens from our financial system and cosponsor S. 1600, the Communities First Act. While this legislation may directly benefit our Nation's community banks—our small financial institutions—the real beneficiaries are the entrepreneurs, the Main Street small business men and women, and farmers and ranchers who, with access to credit, can help put Americans back to work.

Thank you, Mr. President.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, parliamentary inquiry: Are we in morning business?

The PRESIDING OFFICER. We are.

BOEING CONTRACT EXTENSION

Mr. HARKIN. Mr. President, I have come to the floor this evening to congratulate the president of the International Association of Machinists union, Tom Buffenbarger, and Boeing's CEO, Jim McNerney, on their agreement today to extend their current contract for 4 years. This is a good deal. It reflects a strong and commendable commitment by Boeing to continue having their top-quality products made by top-quality workers. It provides real job security and fair treatment for the company's valued employees. It will also resolve the current labor dispute between the company and the union that is pending before the National Labor Relations Board. This settlement is a step forward for a great company—Boeing—a step forward for a great union—the machinists union—and a step forward for our great Nation. Again, I commend the CEO of Boeing, Mr. Jim McNerney, and the president of the machinists union, Tom Buffenbarger, for working out this agreement.

This agreement is also a compelling demonstration of the fact that the NLRB—the National Labor Relations Board—process works for all concerned. When an alleged unlawful activity happens, a charge is filed with the NLRB. That is what is supposed to happen. While the NLRB's process was playing out, the parties were able to sit down, negotiate, and strike a deal, which they announced today. As a matter of fact, that is what happens to most unfair labor practice charges filed at the NLRB. It is all a part of the process at that independent agency. Just as in our court system, cases settle to the benefit of both parties. That is what happened here. It also settled to the benefit of our Nation.

What should not have happened was the unprecedented level of political and congressional interference in this case. It wasn't just that Republican elected officials attempted to try this case in the press, they went far beyond that. House Republicans attempted to eliminate the board's funding entirely because of this case. Senate Republicans have blocked the nominees for the board and the General Counsel of the NLRB. House Republicans tried to subpoena the prosecutor's case file so they could obtain documents that the company had been unable to obtain in the litigation. A Member of this body called the NLRB Acting General Counsel, Mr. Lafe Solomon—an independent prosecutor and a 30-year career veteran of the agency, not a political appointee—a Member of this body called him and threatened to come after Mr. Solomon ''guns ablazing'' if he brought charges against Boeing. I am informed that the House Oversight Committee actually threatened to try to revoke the bar licenses—the bar licenses—of