united them with their American adoptive parents earlier this week. However, Jamie and Ali were not able to bring back all 150 children at their orphanage home. Many people across the nation like Michael and Monica Simonsen are still waiting to know that their child is safe and many orphans like Jamie and Ali's orphans who remain in Haiti still need food, clean water and a safe place to stay until they can complete an adoption process.

This Monday, the Department of Homeland Security announced that they would use their authority to extend humanitarian parole to Haitian orphans already in the adoptive process with an American family. I commend the Department of Homeland Security and the State Department's Office of Children's Issues for making this policy decision and I fully support their desire to assure that the best interests of these orphans are put first.

However, I am very concerned that when the Department of Homeland Security announced its decision to provide humanitarian parole, there was no plan at that time to ensure a safe and orderly process by which eligible orphans could be processed and evacuated.

I continue to hear reports that orphanage directors in Haiti are going to the U.S. Embassy and while some are being admitted others are being turned away. Some of these orphanages are more than 125 miles away. I am concerned for the safety of the 600–700 orphans that this announcement affects. They may be harmed trying to get to the embassy, and if they are okay on that journey and even succeed in obtain travel documents, they may be harmed when they are told to wait back at the orphanage until a plane is available. I am also hearing from American families so desperate to ensure their child is safe that they are trying to make their way to Haiti. We don't need more chaos in an already chaotic situation.

I along with some of my colleagues have called on the State Department and USAID to set up safe havens for orphans, which will provide food, water and protection for all orphans as well as time to ensure that those orphans who are eligible for humanitarian parole are processed and evacuated in a timely manner. This is just one idea; however, in the absence of an alternative plan, more and more children will continue to show up at the Embassy's gate.

Therefore, I ask the administration to implement a plan to ensure that these 600–700 orphans are safely and efficiently processed and evacuated to be united with their awaiting adoptive parents, and that we work with the international community and other NGOs on the ground to ensure the safety of all orphans until they can be placed in loving homes. Again, I thank the U.S. governmental officials who have been working around the clock trying to ensure the safety of these orphans and all those affected in Haiti.

''Though he brings grief, he will show compassion, so great is his unfailing love.'' Lamentations 3:32. In this time of darkness, I believe that Haiti can emerge in a better place. And I am grateful that our country will be a friend with Haiti in this endeavor.

Similar to a lot of Americans, I am not surprised but heartened and proud by the response of the American people, a tremendous outpouring of generosity. People in America from all walks of life recognized immediately that the people of Haiti, in the depths of an incalculable, an indescribable horror and tragedy, in the depths of that, the American people showed their generosity, they showed that they understand that our Haitian brothers and sisters are just that, they are part of the family, the human family, and they are our brothers and sisters.

The most vulnerable member of that family, in most instances—maybe not in every instance in every family but most of the time—will be a child. We are seeing unforgettable imagery and video of young children being rescued in Haiti, surviving for days at a time in the rubble and the horror they have been living through. Thank goodness so many people have invested in ways to save those children.

But what we still have to do a better job on is making sure that if a Haitian child is in the adoption process, is in the pathway, so to speak, to being adopted, we have to do everything possible, in addition to the obvious safeguarding, to provide that child with security, physical security and food and water and medicine and medical treatment and, in addition to that, that we provide, as expeditiously as possible, a process for their adoption and ways to make it possible for them to be adopted, that the adaptive parent or guardian can have that assurance but also so that child can be well on the way to being adopted.

We do not quite have that yet in terms of what the Federal Government can do and should do. I had a call late this afternoon with Secretary of State Clinton, who should be commended for her work, in a broad way, with regard to the response to the tragedy in Haiti but, in particular, her concern and her actions that she has taken to make sure these young children are taken care of. I will not go into all the details now, but let me cite in summary fashion that a number of my colleagues in the Senate and I have called upon the State Department and USAID to set up safe havens which will provide food, water, and protection for all orphans, as well as time to ensure that these orphans in Haiti who are eligible for what is called humanitarian parole—those who are on the way to being adopted through the process—that those who are eligible for that process, humanitarian parole, are indeed evacuated and processed in a timely manner.

This is just one idea, one way to help. In the absence of an alternative plan, more and more children will continue to show up at the American Embassy. It is vitally important that happen.

I commend the work of our government at various levels in terms of what they have been doing to respond to the challenge posed by these orphans and their circumstances. I know in our home State of Pennsylvania, Governor Rendell and Congressman ALTMIRE worked very hard to bring some of these children back to Pennsylvania. I commend them for the effort they put forth. For all these reasons, there is plenty of evidence to show that the American people understand that these individuals, these families, and especially these children are God's children. We have to be cognizant of that as we go forward with sound policies in the days ahead.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, first let me say to my colleague, Senator CASEY, his comments about the nearly unspeakable tragedy that has occurred in Haiti strike all of us in a very poignant way. I have been to Haiti. It is one of the poorest regions in the world. We have people in Haiti living in unbelievable poverty. Fly to the airport and near the airport is an area called City Soleil. It is a slum of nearly a half million people living in desperate conditions. The entire country of Haiti has suffered such immense difficulties for so long. The people of Haiti are wonderful people. To be visited now by this great tragedy with an unbelievable loss of life that will exceed 200,000 people is heartbreaking to me, and I know to all Americans who watch this tragedy play out on television as volunteers are digging through rubble and, in some cases, finding people still alive and, in most other cases, finding a lot of people who have lost their lives.

The American people are a people full of great generosity, and that expression of generosity in the form of contributions to organizations that are there helping these people is something that is very important. All of us can be proud of the generosity of this country and what is now happening in the outpouring of support.

CHAIRMAN BERNANKE

Mr. DORGAN. Mr. President, I rise to briefly explain why I am going to vote against the nomination of Mr. Ben Bernanke as Chairman of the Federal Reserve Board. Mr. Bernanke has been serving as Chairman of the Federal Reserve Board. I will be the first to say I think there are things that Mr. Bernanke has done that are very important to this country. He steered our country in a very difficult circumstance. There was a time when our economy could have completely collapsed, which would have been devastating. It was teetering on the precipice of that. Mr. Bernanke and others made decisions, some of which I thought were good decisions.

It is the case that Mr. Bernanke worked for the previous administration that in many ways created circumstances that took us to that cliff or near the cliff with economic policies. I will talk about that for a moment. But when Mr. Bernanke became Chairman of the Fed, I understood that his background fit fairly well what we were going through, and I think he did some things that should be commended and supported. I have told him that I supported a number of these actions that were very important.

One of those actions was to open, for the first time in history, the window at the Federal Reserve Board to extend credit directly from the Federal Reserve Board to the biggest investment banks in the country. It has always been the case that FDIC-insured banks, commercial banks, would have a window at the Fed to go get direct loans from the Fed, but it has never been the case that the investment banks were able to do that. During this great crisis, Fed Chairman Bernanke and the Board of Governors opened that window for direct lending from the Federal Reserve Board to the investment banks.

I wasn't critical at that moment. I didn't come to the floor and express criticism. I don't know exactly what they saw that persuaded them to do that. But some months later, I sent, along with nine of my colleagues who signed the letter, a letter, dated July 31, to Chairman Bernanke and said: The Federal Reserve Board took action to allow all of the major investment banks in the United States to effectively access direct lending from the Federal Reserve Board for the first time in history.

Down in the letter I say: We now urge you to release the names of financial institutions that have received the emergency assistance and how much each has received. The American taxpayers' funds were put at risk, and we believe the American people deserve information about the Federal Reserve Board's bailout activities to determine how much and what kind of funds were used, and so on.

We received a letter back from the Chairman of the Fed in which he said: Publicly releasing the information on the names of borrowers and amounts borrowed under the Federal Reserve Board liquidity program could seriously undermine our liquidity programs. He essentially said: I don't intend to tell you, and I don't intend to tell the Congress or the American people.

It is interesting to me that a Federal judge last year ordered the Fed to release the names of the institutions that received the emergency financial assistance from the Federal Reserve Board and the amount of the assistance. A Federal judge said to the Fed: You must release that information to the American people. The judge in this case, which was an FOIA case, found that the Federal Reserve had ''improperly withheld agency records.'' The judge said that the Fed's argument that borrowers would be hurt if their names were released was ''conjecture without evidence of imminent harm.'' But the Fed went ahead to appeal the judge's ruling and, therefore, it has been stayed.

The American people are now in a situation where their Federal Reserve Board said for the first time in history: We will give the biggest investment banking institutions direct access to loan money from the Federal Reserve Board, and we don't intend to tell anybody who got it, how much they got, or what the concessions or prices were. We don't intend to give anybody that information.

I find that completely untenable. I just am not going to vote for the nomination of a Chairman of the Federal Reserve Board who says to Congress and the American people: Yes, we opened that window. We decided to do direct lending to the biggest investment banks, which, by the way, steered this country right into a huge wreck. Take a look at what and who caused this financial wreck that cost this economy $15 trillion in wealth. American families had lost $15 trillion in wealth.

The Federal Government had either spent or lent or committed $12 trillion to bail out particularly Wall Street and the biggest firms on Wall Street. All of those biggest firms on Wall Street, I believe, and even those that are now the healthiest firms that are experiencing record profits and are preparing to pay out record bonuses of somewhere around $120 to $140 billion, those firms would not have survived. They would have gone under were it not for the help of the American people through their government.

The question for the Federal Reserve Board from the Congress and the American people is: What did you do? How much did you do? What was the collateral? Under what conditions? We need to know.

The Chairman of the Fed said he supports transparency. If that is the case, show us a little transparency. How is it that someone can possibly argue that telling us now that they gave $200 billion here or $1 trillion there to firms that are now showing record profits and preparing to pay the biggest bonuses, how can that possibly injure those firms? In fact, many of them have apparently paid the TARP funds back, let alone the direct loans from the Federal Reserve Board.

My only point is simple. I don't have a beef against Ben Bernanke personally. I kind of like him. I met him a number of times. I think he steered us through some tough times and probably made some good decisions at the right time. I also have some differences with him on economic policy and monetary policy. But I have a very big difference on this question. This question is controlling for me. If the Federal Reserve Board believes it has unlimited capability to decide it will change the rules on everything, open a direct lending window and give it to the biggest investment houses in the country, and they don't intend to ever tell any of us what they did or why or how; they don't intend to disclose any of it, that is not what I call open government.

That is not something that is written in the Constitution. It is not something that this Congress should tolerate.

This Congress should say to Mr. Bernanke: Your nomination is here in front of the Senate. We will act on it as soon as you provide the information Senators have requested of you—by the way, the information that a Federal judge has already ordered that you disclose. As soon as you comply with that, then your nomination shall have a vote in the Senate.

I wanted to explain in more detail my response to people who had asked me what I was going to do on the nomination. That gives adequate explanation.

I also wanted to comment briefly that the President today said something quite extraordinary, and I want to compliment him for it. I know he is walking into a thicket of trouble because a whole lot of big interests are going to gang up on these proposals. Let me tell you the two proposals the President offered that make a lot of sense.

No. 1, he said big financial institutions that are too big to fail are too big. That is pretty simple. If they are too big to fail, they are just flat out too big. We ought to stop this concentration because too big to fail means no-fault capitalism. If they run themselves into trouble, the taxpayer picks up the tab. The taxpayer bails them out. That is what too big to fail means.

The President says no more. Let's get rid of that too-big-to-fail tag and let's decide that if they are that big, let's stop this concentration.

The President also has indicated that we ought to have financial institutions that are not trading in derivatives on their own proprietary accounts. I wrote a piece in 1994, 15 years ago, that was the cover story for Washington Monthly magazine. The piece I wrote was ''Very Risky Business.'' I believe at the time there was $16 trillion of notional value of derivatives in our country. I said what is happening is outrageous. We have taxpayer-insured banking institutions that are trading on derivatives in their own proprietary accounts, putting taxpayer money at risk. It is flat out gambling. I said they may just as well have a craps table or a Keno table in their lobby. Oh, they can still call it a bank, but it is a casino.

Fifteen years ago, I wrote that article. The fact is, we have gone through this unbelievable collapse of the economy—$15 trillion of wealth lost by the American people—and we still have

these institutions trading on proprietary accounts. The President says it ought to stop. I agree with him.

The President also says we ought to separate, as Paul Volcker suggests, the FDIC-insured commercial banking institutions from the investment banks over here. They were put back together. I said on the floor of this Senate 10 years ago—five, six, eight times—and gave long speeches predicting that if you do this, if you fuse together commercial banks and investment banks, you are headed for trouble. I said on this floor: Within a decade I think you are going to see massive taxpayer bailouts. People have asked me: How did you find the crystal ball? I just guessed. But I worried that if you put this together, this is a bargain for trouble, this is asking for trouble. Ten years later, we have seen this unbelievable collapse.

The President is right; and it takes courage for him to say it—let's decide to separate investment banking from commercial banking. Paul Volcker has talked a lot about that, and he is right about it. So I know what is happening.

I just saw, in CongressDailyPM: ''Banks Kick Off Effort Against Volcker Rule.'' ''A furious lobbying effort among large banks was set off today by President Obama's announcement that he will push a rule forcing them to choose between being a commercial institution or an investment bank that focuses primarily on trading for its own profits.'' The President dubbed this plan the ''Volcker Rule.''

I met with Paul Volcker in my office recently. I have talked with him at some length about this. Paul Volcker is dead right, and so is the President. This is going to provoke an unbelievable battle here. I understand that. There is a lot at stake. The big interests—they want to keep doing what they are doing. The big investment banks, at the moment—you take a look at their balance sheet. They are not, by and large, loaning money to the interests in this country that desperately need it. They are trading on proprietary accounts and making a lot of money trading. The fact is, if they are still too big to fail—and they are—that is called no-fault capitalism, and it is our risk, not theirs.

None of them would be around anymore had the U.S. Government not stepped in to provide a safety net. Now they are telling us: Well, these changes the President and others suggest, they are radical changes. No, they are not. They are changes that go back to the future in many ways. They are changes that go back to a period—1999—before a piece of legislation that was passed by the Congress to decide: Let's put together these big old holding companies and put everything into one. One-stop financial shopping, they said. Compete with the Europeans. We will put up firewalls. It turned out they were made of tissue paper and the whole thing collapsed.

I just say I think the President has made the right call. It is gutsy. It is going to provide a big fight around here. But it is not a secret, perhaps—given my history and what I have said in opposing the kinds of things that were done 10 years ago that set us up for this fall—it is not surprising that I fully intend to support the President's effort. I think it is critically important to get our financial system reformed and done right.

Then, it is important to do one other thing; and that is have regulators who do not brag about being willfully blind. We had a bunch of folks in here for a bunch of the last decade who said: Do you know what? We have decided to take this important government job—in any number of these regulatory areas—and we are proud to say we are probusiness. What does that mean? We are proud to say we are at the SEC, we are at this agency or that agency, and you all do whatever you want. We won't look. We won't watch.

In fact, some of them were so incompetent that even when people—whistleblowers—came and said: Bernie Madoff is running a Ponzi scheme, even when somebody told them what was going on, they did not have the guts or the time or the intelligence to investigate it.

But being willfully blind ought not be something to boast about anymore. Going forward, we want effective regulation. Regulation is not a four-letter word. The lack of regulation caused this crash in many ways and cost trillions of dollars to American families.

I am not suggesting overregulation. I am saying when you have certain areas that are regulatory in this government, to make sure the free market system works, and works well, when people commit fouls in the free market system in this area of competition, you need to have somebody there with a whistle and a striped shirt to blow the whistle and say: That's a foul. If you do not have that, the system does not work and the system gets completely haywire. That is what happened in the last decade. That is not a technical term, that haywire issue. But we have the right and the opportunity to get this right now, and I say to the President, good for you. This proposal is the right proposal.

Then, let's see, in the weeks ahead and the months ahead: Whose side are you on? I say to those in public service on these issues: Whose side are you on? Are you on the side of the big investment bankers who helped steer us into the ditch that involved substantial wagering and gambling here, and then we pick up the tab because it is no-fault capitalism on too-big-to-fail issues? Or are you going to stand up for the American people here and decide you have to put this back in place the right way? I hope we will have enough support to follow the President's lead on this issue.

Let me just make one final comment. I understand the need for a financial system that works. I admire bankers who do banking the old-fashioned way: take deposits and make loans and do underwriting in between, looking in somebody's eyes to say: You want a loan? What is it for? Let me evaluate that. Can you repay this loan? That is underwriting. That is the way it works. The Presiding Officer, I know, ran a bank and understands that.

We need a good financial system. You even need investment banks. I know one of my colleagues once said: Investment banking is to productive enterprise like mud wrestling is to the performing arts. Well, that was tongue in cheek. But we need investment banks to take the riskier investments out there. But our investment banking system went completely off the map. We need good commercial banks that are capitalized. We need investment banks. All of that is important. We need to get it right. I do not mean to denigrate all finance because finance is very important in this system to help this free enterprise system work, to help people who want to start businesses and hire people. That is very important for our country.

So we will have that debate in a longer fashion in the weeks ahead.

Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

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

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

CITIZENS UNITED V. FEC

Mr. KAUFMAN. Mr. President, I wish to discuss today's regrettable Supreme Court decision in Citizens United v. the Federal Election Commission.

Despite nearly 100 years of statutes and precedent that establish the authority of Congress to limit the corrupting influence of corporate money in Federal elections, the Court today ruled that corporations are absolutely free to spend shareholder money with the intent to promote the election or defeat of a candidate for political office.

What makes today's decision particularly galling is that it is at odds with the testimony of the most recently confirmed members of the Court's majority, who during their confirmation hearings claimed to have a deep respect for existing precedent. Although claims of ''judicial activism'' are often lobbed, as if by rote, at judicial nominees of Democratic Presidents, including Justice Sotomayor, this case is just