

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