I ask unanimous consent that my letter to him dated in March be printed in the RECORD.

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

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, March 31, 1999.

Chairman YASSER ARAFAT,
President of the National Authority, Gaza City, GAZA, Palestinian National Authority.

DEAR MR. CHAIRMAN: Thank you very much for coming to my Senate hideaway and for our very productive discussion on March 23rd.

Following up on that discussion, I urge that the Palestinian Authority not make a unilateral declaration of statehood on May 4th or on any subsequent date. The issue of the Palestinian state is a matter for negotiation under the terms of the Oslo Accords.

I understand your position that this issue will not be decided by you alone but will be submitted to the Palestinian Authority Council.

When I was asked at our meeting whether you and the Palestinian Authority would receive credit for refraining from the unilateral declaration of statehood, I replied that I would go to the Senate floor on May 5th or as soon thereafter as possible and compliment your action in not unilaterally declaring a Palestinian state.

I look forward to continuing discussions with you on the important issues in the Mid-East peace process.

Sincerely,

ARLEN SPECTER,
Chairman.

Mr. SPECTER. I again thank the Chair for his staying late. I thank him, beyond that, for listening to my speech. Very often Presiding Officers are otherwise engaged. I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until the hour of 2:15 p.m.

Thereupon, at 1:03 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. GREGG).

FINANCIAL SERVICES MODERNIZATION ACT OF 1999

The PRESIDING OFFICER. The Senate will continue consideration of S. 900.

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I thank the Chair.

Mr. President, I will be spending some time on S. 900, but I also, in my remarks today, will be focusing on the question of when the Senate is going to start dealing with issues that affect ordinary citizens. I think that is what people in Minnesota would like to know.

This is called the Financial Services Modernization Act. I have no doubt that the large banks and lending institutions are all for this. The question I have is, When are we going to come out here with legislation that benefits ordinary citizens?—which I mean in a positive way. I will come back to this later on.

The Minnesota Farm Services Administration has now had to lay off close to 60 employees. That is where we are heading. This is an agency, the Farm Services Administration, that is a grassroots organization. They are out there trying to serve farmers. They are out in the field. They pick up on what is happening in rural Minnesota.

Right now the message we are sending here from the Congress is, we can't even pass a supplemental appropriations bill that we started working on several months ago to provide spring planting operating money for family farmers. Prices are way down. Income is way down. People are being foreclosed on. It is not just where they work, it is where they live. They are losing their farms, and we can't even get to them some disaster relief money, some loan money, so they can continue to go on until we go back and change this ''Freedom to Fail'' bill that we passed several years ago.

I am not telling you that some of the large conglomerates and some of the large grain companies and some of the large packers aren't making record profits. They are. They have muscled their way to the dinner table. They exercise raw political control over family farmers.

Meanwhile, this bill, the Financial Services Modernization Act, is all about consolidation and letting large financial institutions have unchecked power. But what we should be talking about is these family farmers going under.

I talked with Tracy Beckman today, director of the Minnesota FSA office. He told me that right now we have 340 loan requests, totaling $44.9 million, that are approved but are unfunded due to a lack of funding. Right now there is the possibility, unless we get this funding, that we are going to have 800 farm families in Minnesota that aren't going to get any financing. They need that financing if they are going to be able to go on.

Yesterday Tracy Beckman told me the story of a family farmer who found out he couldn't get any loan money and he doesn't have any cash flow. You can work 24 hours a day and be the best manager in the world, and you will not make it as a family farmer right now. He said to one of our FSA officers out in the field, out in the countryside, when he found out that FSA can't help him because we are not able to pass a supplemental emergency assistance program, this farmer said, ''I'm just going to go home and shoot myself and my family.''

This is someone who is desperate. There is a lot of desperation in the countryside. We can't even pass a supplemental appropriations bill that will get some loan money out to family farmers, which we should have done a month ago or 6 weeks ago. Instead, we are out here on the floor talking about the Financial Services Modernization Act of 1999, the big bank act, the large conglomerate act, the large financial institution act. When are we going to be out here talking about affordable child care, or about raising the minimum wage? When are we going to make sure people get decent health coverage? When are we going to talk about providing more funding for the Head Start Program? When are we going to be out here talking about how to reduce violence in homes, and in schools, and in our communities? When are we going to be out here talking about something that makes a difference to ordinary people?

Now, Mr. President, I understand that all of the trade groups support this legislation—that is to say, all of the financial services groups. But I rise in strong opposition to this legislation called the Financial Services Modernization Act of 1999.

This bill, S. 900, would aggravate a trend toward economic concentration that endangers not only our economy, but, I think, more importantly, it endangers our democracy. S. 900 would make it easier for banks, securities firms, insurance companies, and, in some cases, commercial firms, to merge into gigantic new conglomerates that would dominate the financial industry.

Mr. President, this is the wrong kind of modernization at the wrong time. Modernization of the existing, confusing patchwork of laws, regulations, and regulatory authorities would be a good thing; but that is not what this legislation is really about. S. 900 is really about accelerating the trend toward massive consolidation in the financial sector.

This is the wrong kind of modernization because it fails to put in place adequate regulatory safeguards for these new financial giants whose failure could jeopardize the entire economy. It is the wrong kind of modernization because taxpayers could be stuck with the bill if these conglomerates become ''too big to fail.'' We have heard that before—''too big to fail.''

This is the wrong kind of modernization because it fails to protect consumers. In too many instances, S. 900 would lead to less competition in the financial industry, not more. It would result in higher fees for many customers, and it would squeeze credit for small businesses and rural America. Most importantly, Mr. President, this is the wrong kind of modernization because it encourages the concentration of more and more economic power in the hands of fewer and fewer people. The regulatory structure of S. 900, as well as the concentration it promotes, would wall off enormous areas of economic decisionmaking from democratic accountability.

Mr. President, this is the wrong time to be promoting concentration in the financial sector. S. 900 purports to update obsolete financial regulations, but the bill itself is already obsolete. This idea has been around for over a decade. But economic circumstances have changed drastically in the intervening years. Today, much of the global economy is in crisis, and this is no time to be promoting a potentially destabilizing concentration of economic power.

The banking industry has become more and more concentrated over the last 18 years, and especially during the 1990s. There have been 7,000 bank mergers since 1980. In the last year or so, we have seen megamergers that are the largest in the history of American banking. The merger of NationsBank and BankAmerica would have assets of $525 billion, and the BancOne and First Chicago/NBD merger would have assets of $233 billion. In 1980, by comparison, there were no mergers or acquisitions of commercial banks with a total of more than $1 billion in assets.

What is new and different about the situation today is that banks are beginning to merge with insurance and securities firms. The merger between one of America's largest banks, Citibank, and the largest of insurance groups and brokerage groups, Travelers, is probably the best example. This new conglomerate will control over $700 billion in assets.

Supporters of S. 900 argue that whether we like it or not, the lines between banking and securities—and the lines between banking and insurance—have already been breached. Regulators and courts have already let banks dabble more and more into securities and insurance, and they have let brokerages invade banking. The battle over Glass-Steagall has already been lost, they say.

Well, Mr. President, I am not so convinced. If S. 900 didn't encourage more and bigger mergers, I don't think so many big banks, big insurance companies, and securities firms would be so enthusiastic about it.

In fact, passage of S. 900 would set in motion a tidal wave of big money mergers. It would prompt other banks to start courting insurance and securities firms. And it would put increasing pressure on the banks of every size to find new partners. It may be true that we have already come a long way down this road. It may be true that the protections of Glass-Steagall and the Bank Holding Company Act have already been eroded. It is certainly true that we cannot turn back the clock.

But it does not necessarily follow that we are doomed to continue down this perilous path wherever it may take us. Yes, regulators have already given banks an inch, but it doesn't mean we have to give them a mile. If the old laws and regulations are inadequate to deal with the changing world of finance, then we need better regulations, not weaker ones. We should not be supplying the wrecking ball that tears down all remaining walls between banking and other risky activities, without first putting into place adequate safeguards.

Passing this bill would be an act of monumental hubris. It would reflect a smugness and complacency about our economic policy that I believe is unhealthy and unwarranted. We have heard the argument that America has entered the new age, a ''new paradigm,'' a so-called ''new economy.'' Depression and deflation are relics of a distant past. The old laws of ''boom and bust'' no longer apply. Our superior technology, so the argument goes, will allow us to sustain this economic recovery for another 20 or 30 years, and maybe more. This is the beginning of a long boom. Some have dared to imagine that we have arrived at the end of history.

There is a dangerous moral to this story: that we no longer have to prepare for emergencies or guard against disaster; that the safeguards put in place years ago to stabilize the economy can now be safely withdrawn; that a safety net that will never again be tested by adversity can now be safely shredded; that we no longer need to worry about inadequate oversight of markets because the markets can and will police themselves; that bigger is better, antitrust is obsolete, and regulation is passe.

I think we are flirting with disaster. We are strolling casually along the upper decks of the *Titanic*, oblivious to the dangers ahead of us. Remember, the *Titanic* in its day symbolized the ultimate triumph of technology and progress. Just like these new financial conglomerates, it was considered ''too big to fail.'' Because everybody assumed this flagship of Western technology was unsinkable, they saw no need to take ordinary precautions. They disregarded the usual rules of speed and safety, as Congress is now doing with S. 900. And they failed to store enough lifeboats for all the passengers, which reminds me of nothing so much as the repeal of the welfare entitlement.

Mr. President, that is another thing that maybe we should be talking about on the floor of the Senate—what is happening with welfare reform. Later in my remarks, when I am talking about the real issues that affect real people, and in particular poor people, I will return to that.

Some of the passengers in first class may be oblivious, but the world economy is still in a precarious state. Most of Asia is still in a depression. The Japanese economy is slugging through the 9th year of an unshakable slump. Russia has been mired in a depression for 8 years, its economy shrunk to half its former size. Brazil is entering into recession, with serious implications for all of its Latin American neighbors. European economies are showing signs of weakness.

In the face of these sobering developments, the solution offered by this legislation is simply more of the same—more deregulation, more mergers, more concentration. At precisely the moment when, for the first time in 50 years, we face some of the hazards that Glass-Steagall was designed to contain, Congress wants to tear down the remaining firewalls once and for all.

We seem determined to unlearn the lessons of history. Scores of banks failed in the Great Depression as a result of unsound banking practices, and their failure only deepened the crisis. Glass-Steagall was intended to protect our financial system by insulating commercial banking from other forms of risk. It was designed to prevent a handful of powerful financial conglomerates from holding the rest of the economy hostage. Glass-Steagall was one of several stabilizers designed to keep that from ever happening again, and until very recently it was very successful. But now S. 900 openly breaches the wall between banking and commerce.

And what about the lessons of the savings and loan crisis? The Garn-St Germain Act of 1982 allowed thrifts to expand their services—people in the country will remember this—beyond basic home loans, and only seven years later taxpayers were tapped for a multibillion-dollar bailout. I'm afraid we're running the same kind of risks with this legislation. S. 900 would lead to the formation of a wide array of ''too big to fail'' conglomerates that might have to be bailed out with taxpayer money. These financial holding companies may well be tempted to run greater risks, knowing that taxpayers will come to their rescue if things go bad.

S. 900 does set up firewalls to protect banks for failures of their insurance and securities affiliates. But even Alan Greenspan has admitted that these firewalls would be weak. And as the Chairwoman of the FDIC has testified, ''In times of stress, firewalls tend to weaken.'' The economists Robert Auerbach and James Galbraith warn that ''the firewalls may be little more than placing potted plants between the desks of huge holding companies.''

Regulators will have little desire to stop violations of these firewalls if they think a holding company is ''too big to fail.'' After the stock market crash of 1987, for example, Continental Illinois breached its internal firewalls to prop up a securities subsidiary. Regulators reprimanded Continental with a slap on the wrist.

And even if there is no taxpayer bailout, the Treasury Department has expressed its concerns about unmet expectations. Investors and depositors may assume protection is indeed much greater for these holding companies than it actually is. And they may panic when they realize they were mistaken.

And what about the lessons of the Asian crisis? Just recently, the financial press was crowing about the inadequacies of Asian banking systems. Now we are considering a bill that would make out banking system more like theirs. The much maligned cozy relationships between Asian banks, brokers, insurance companies and commercial firms are precisely the kind of crony capitalism S. 900 would promote.

The economists James Galbraith and Robert Auerbach warn against repeating the mistakes of the Asian economies: ''There is already evidence of monopolistic practices in the banking industry that would be heightened by [S. 900]. There is now devastating experience from the recent problems experienced by huge banking-finance conglomerates in Asia. There is little justification to follow these examples, as would be allowed by [S. 900]. It could happen here if we build the same unwieldy structures to dominate our banking system.''

To be accurate, if we want to locate the real causes of the Asian crisis, we have to look at the reckless liberalization of capital markets that led to unbalanced development and made these economies so vulnerable to investor panic in the first place. The IMF and other multilateral institutions failed to understand how dangerous and destabilizing financial deregulation can be without first putting appropriate safeguards in place.

World Bank Chief Economist Joseph Stiglitz wrote last year about the Asian crisis:

> The rapid growth and large influx of foreign investment created economic strain. In addition, heavy foreign investment combined with weak financial regulation to allow lenders in many Southeast Asian countries to rapidly expand credit, often to risky borrowers, making the financial system more vulnerable. Inadequate oversight, not over-regulation, caused these problems. Consequently, our emphasis should not be on deregulation, but on finding the right regulatory regime to reestablish stability and confidence.

That is World Bank chief economist Joseph Stiglitz. We claim to have learned our lessons from the crisis in Asia. But I am not sure we have.

Tell me why on Earth are we doing this, besides the fact that these large financial institutions have so much political power? Why now?

The backers of S. 900 claim that the Glass-Steagall Act of 1933 and the Bank Holding Act of 1956 are obsolete and financial regulation must be modernized. Well, I'm all for modernization. But the question is: what kind of modernization?

I think most of us agree that the existing patchwork of confusing and inconsistent regulations needs to be simplified and rationalized. GAO has testified that the piecemeal approach to deregulation taken by the Fed and Treasury has resulted in ''overlaps, anomalies, and even some gaps'' in oversight.

The problem is that S. 900 doesn't really fix that problem. It maintains a patchwork of regulators. Who knows how they would coordinate their efforts when holding companies run into trouble?

But most importantly, the reach of S. 900's regulatory safeguards does not match the size of these new conglomerates. A central feature of S. 900 is the transfer of regulatory authority for the newly created holding companies to the Federal Reserve. This seems a lot more like deregulation than modernization.

Let me repeat that. A central feature of S. 900 is the transfer of regulatory authority for the newly created holding companies to the Federal Reserve. This sounds a lot more like deregulation than modernization.

How much confidence can we have in the Fed's oversight? The case of Long Term Capital Management last year does not exactly inspire confidence. Only one week before that $3.5 billion bailout, Alan Greenspan testified before Congress that the risk of hedge funds was well under control and that bankers policing them knew exactly what they were doing. Well, in this case at least, they didn't know what they were doing. And apparently neither did the Fed.

What concerns me more is that this massive transfer of power is anti-democratic. The Federal Reserve Board is not an elective body, and it's not democratically accountable. To the extent Congress pries into the Fed's business—which is not very much—we focus on monetary policy, not bank oversight. Why should we hand over so much power to an institution that is essentially accountable to the financial industry and nobody else?

I repeat that. Why should we hand over so much power to an institution that is essentially accountable to the financial industry and nobody else?

James Galbraith and Robert Auerbach write:

> The Federal Reserve's decision-making is contingent to a great extent on the banking industry which it regulates. Bankers elect two-thirds of its 108 directors on the boards directors of its 12 regional Federal Reserve Banks. This 25,000 employee bureaucracy with its own budget that is not authorized or approved by the Congress is not independent of the bankers and finance companies that it would regulate.

Several commentators have expressed open delight that this transfer of power to the Fed will insulate financial regulation from ''partisan politics.'' The Christian Science Monitor endorsed H.R. 10 last year because ''it would make financial regulation more remote from politics.''

But is this really something we should welcome? Another term for ''partisan politics'' in this case is ''democracy.'' Democracy may be messy sometimes. It would be vastly improved by real and meaningful campaign finance reform. But it also happens to be the basis of our form of government.

Why should such an important area of public life be ''insulated'' from democratic accountability? Why should the people making the most important economic decisions in our country be accountable only to Wall Street and not to voters?

Why are we transferring this kind of authority?

We've already walled off most economic decisionmaking from any kind of democratic input. Former Labor Secretary Robert Reich has argued that we no longer have any fiscal policy to speak of, and Congress has delegated monetary policy to the Federal Reserve. ''The Fed, the IMF, and the Treasury are staffed by skilled economists,'' he wrote, ''but can we be sure that the choices they make are the right ones in the eyes of most of the people whose lives are being altered by them?'' He has noted that ''One reason governments exist is to insure that economies function for the benefit of the people, and not the other way around.'' Already, decisions about interest rates and desirable rates of unemployment—decisions that will decisively impact the lives of millions of Americans—are beyond the reach of democracy. They are reserved to the exclusive jurisdiction of unelected bankers.

What does it mean, as a practical matter, for supervision of the financial sector to be protected from democratic accountability? The contents of S. 900 itself should give us a pretty good idea. For whose benefit is this legislation being passed? In the long debate over this legislation, there has been a lot of talk about the conflicting interests of bankers, insurance companies, and brokers, but very little discussion of the public interest.

Financial services firms argue that consolidation is necessary for their survival. They claim they need to be as large and as diversified as foreign firms in order to compete in the global marketplace. But the U.S. financial industry is already dominant across the globe and in recent years has been quite profitable. I see no crisis of competitiveness.

Financial firms also argue that consolidation will produce efficiencies that can be passed on to consumers. But there is little evidence that big mergers translate into more efficiency or better service. In fact, studies by the Federal Reserve indicate just the opposite. There is no convincing evidence that mergers produce greater economic efficiencies. On the contrary, they often lead to higher banking fees and charges for small businesses, farmers, and other customers. Bigger bankers offer fewer loans for small businesses. And other Fed studies have shown that the concentration of banking squeezes out the smaller community banks.

S. 900 reflects the same priority of interest promoted by financial consolidation itself. A provision designed to ensure that people with lower incomes can have access to basic banking services has been stripped out. Let me repeat that. A provision designed to ensure that people with lower incomes can have access to basic banking services has been stripped out. This provision was to address the growing problem that banking services are beyond the reach of millions of Americans. According to U.S. PIRG, the average cost of a checking account is $264 per year, a major obstacle to opening a checking account for low-income families. These families have to rely instead on usurious check-cashing operations and money order services.

I don't see much protection for consumers in S. 900 either. Banks that have always offered safe, federally insured deposits will have every incentive to lure their customers into riskier investments. Last year, for example, NationsBank paid $7 million to settle charges that it misled bank customers into investing in risky bonds through a securities affiliate it set up with Morgan Stanley Dean Witter.

S. 900 makes nominal attempts to address these and other problems. But in the end, I am afraid this bill is an invitation to fraud and it is an invitation to abuse.

Finally, the impact of S. 900 on the Community Reinvestment Act is a cause of real concern. I thank my colleague, Senator SARBANES, for his tremendous leadership in making sure that we protect community reinvestment as a part of his substitute legislation. CRA has been an effective financial tool for the empowerment and growth of our communities for over 20 years. Despite this success, CRA is now in great danger. Why? Because S. 900 is a legislative package of deals and favors aimed to please Wall Street, certainly not Main Street. It is not good for small business, not good for low-income families, not good for rural America, not good for our neighbors or our communities.

Within this bill are three substantial provisions intended to ''modernize'' financial services by rolling back the Community Reinvestment Act. But that will only encourage discrimination and promote economic despair.

We need to ask ourselves a very important question: Are we willing to turn the clock back and abandon the Community Reinvestment Act? Are we willing to return to the days before 1977 when banks could freely discriminate against neighbors, farms, small towns, and other underserved populations, just because they were viewed as less profitable customers?

We need to keep the doors open for families, seniors, farmers, small businesses, for consumers to access credit so they can realize their dream to own a home or start a business. We need to keep the doors open for community groups, for cities and towns to access credit to revitalize impoverished neighborhoods or to restore once abandoned buildings. We need to keep CRA strong because we all benefit from community reinvestment.

CRA establishes a simple rule—that depository institutions must serve the needs of the communities in which they are chartered. In a safe and sound manner, they form partnerships with groups and consumers to provide lending to those denied credit. In a safe and sound manner, banks work with families looking to achieve their dream of owning a home. In a safe and sound manner, banks lend to small businesses to help them grow. In a safe and sound manner, banks lend to farmers who fall on hard times and need some extra help to survive falling commodity prices.

For many consumers, CRA has been a lifesaver. To deny the positive impact CRA has made in improving the economic health of our country is simply to deny the facts. The CRA has delivered an estimated $1 trillion or more for affordable homeownership and community development. The role of CRA is not just to benefit the most impoverished neighborhoods in our States; rather, CRA cuts across class lines, race lines, gender lines, practically every hurdle to discrimination, to promote economic stability for families, small farmers, and communities. This legislation in its present form begins to take all that away.

What is my proof? According to the statistics collected by the Local Initiative Support Corporation, or LISC, in 1997 the Home Mortgage Disclosure Act data showed that lending to minority and low-income borrowers is on the rise. For example, since 1993 the number of home mortgage loans to African Americans increased by 58 percent; to Hispanics, by 62 percent; and to low- and moderate-income borrowers by 38 percent—well above the overall market.

In 1997, large commercial banks made $18.6 billion in community development investments. In 1997, banks and thrifts subject to CRA's reporting requirements made two-thirds of all the small business loans made that year. More than one-fifth of those loans were made to small businesses and low- and moderate-income communities.

Each time I return to Minnesota, I am convinced that CRA is working. Early this year, I had a chance to present an award to a family who had achieved their dream of becoming homeowners. Rene and Gloreen Cabrarra were the 750th family to purchase their home through an innovative partnership between the community group ACORN and a local bank. Rene and Gloreen had to move out of their apartment when it was condemned for repair problems. As a result, they moved in with other family members. The Cabrarras began working with the community group ACORN in the Twin Cities and were soon able to obtain a special low-income loan to buy their home, thanks to a CRA agreement between that community group and that bank in that metro area. There is no doubt that CRA has benefited Rene and Gloreen. As a result, they are now proud homeowners living in the Phillips neighborhood.

From the nearly 170 mayors who have signed their name in support of the progress CRA has made in their communities, there is tremendous support. From family farm and rural organizations who see access to credit as being essential tools for their small communities, there is tremendous support. A story of empowerment can be shared by every group working for the advancement of their rights.

Despite this undeniable success, the CRA is under attack. S. 900 would begin to dismantle its effectiveness in the communities where it has been most beneficial. Specifically, I will speak to two anti-CRA provisions in S. 900.

First, S. 900 creates a safe harbor for banks that have maintained a satisfactory CRA rating for 3 consecutive years. This provision would practically eliminate the opportunity for public comment on the CRA performance of a bank at the time of a merger application. Banks that have received a satisfactory or better CRA rating for 3 years consecutively would be deemed in compliance and therefore freed from the requirement of public comment on their application.

Public comment on a proposed merger is an especially useful tool in the case of large banks serving a variety of markets. In such cases, regulators examine only a portion of these markets to evaluate a bank's CRA rating. Since performance in small communities is weighted less than in larger areas, public comment sometimes provides the only means to truly examine the commitments of a bank to all of its community members. Simply put, public comment is a chance for community groups and consumers to bring to light important information and facts that may have been overlooked during the review process.

However, this avenue for public involvement in the merger process is seriously undercut by S. 900's safe harbor provision. The only way a citizen could exercise his or her democratic rights would be to find ''substantial verifiable information'' of noncompliance since the merging bank's last CRA examination. This is a very high burden. An estimated 95 percent of all banks are deemed CRA compliant. As a result, the vast majority of mergers would be exempted from public comment.

Some have justified this undemocratic safe harbor as a way to prevent extortion by community groups during the merger review process. Mr. President, in August 1998, I wrote a letter to the Federal Reserve requesting a public hearing on the proposed merger between Norwest Corporation, based in Minnesota, and Wells Fargo Company. I specifically requested that special attention be paid to the possible effects that this merger would have on the people and the communities who rely on Norwest's services and community participation across the State. I ask my colleagues, Was this extortion?

I was not the only elected official to request such a hearing. A Congressman, a State representative, and various community groups did as well. Were they guilty of extortion?

The 2-day hearing opened the doors for 70 different groups and individuals to publicly comment on the strengths and weaknesses of both Norwest and Wells Fargo with regard to community involvement. Representatives from the Navajo Nation, statewide nonprofit housing organizations, and microcredit lending organizations that provide a lifeline to small businesses, all had their chance to be heard. They had their chance to publicly challenge these merging entities to remain involved in their communities. Did this constitute extortion?

No one was practicing extortion by requesting a public hearing on the merger between these two financial giants. No elected officials or nonprofits were doing anything improper when they publicly commented on the lending practices of these two banks. What these 70-plus groups and individuals were practicing was democracy.

Using S. 900, citizens would be deprived of these democratic rights unless they could ''substantially verify'' a merging bank's noncompliance. That is not just undemocratic, it is unjust. At least the Daschle-Sarbanes amendment would retain the consumers' democratic right to participate in the process.

The second anti-CRA provision in S. 900 is the small bank exemption. This provision would exempt banks in rural communities with assets of less than $100 million from CRA requirements. In fact, it would exempt 63 percent of all banks from the requirements of CRA. It would send a clear message to farmers, to small businesses, and to consumers in small towns that they do not have the same rights to access credit as consumers who live in urban areas.

Some of my colleagues would argue that small banks in rural communities do not need CRA. Why? They claim that small banks by their nature serve the credit needs of local communities. But CRA compliance records will tell you a different story.

More importantly, rural America is facing an economic crisis. Family farms are disappearing one by one from this country's rural landscape. Many rural communities are in great need of access to credit before their economies collapse. This anti-CRA provision completely ignores the realities and needs of rural America.

According to a recent SBA (Small Business Administration) report, June 1998 data show a 4.6-percent decline in the number of small farm loans. That June 1998 data also reveals that the value of very large farm loans, over 1 million, has increased by 25 percent, while small farm loans under $250,000 increased by only 3.9 percent. As family farm and rural community organizations have concluded, larger loans are going to fewer farmers.

According to a similar study conducted by the State of Wisconsin, farming operations were more likely to obtain a loan if they were under contract with an agribusiness. Small and independent farmers faced greater difficulty accessing the necessary credit to remain in operation.

To quote an April 29 letter signed by 19 organizations representing the interests of farmers in rural communities:

> Rural areas continue to suffer from a serious shortage of affordable housing. Farmers are facing the worst financial conditions in more than a decade due to declining commodity prices. Rural Americans continue to need the tools of the CRA to ensure accountability of their local lending institutions. CRA helps to meet the credit demand of millions of family farmers, rural residents, and local businesses.

In a March 24 letter to Senators, the National Farmers Union also sent the message that rural America needs the CRA just as much as our urban centers. To quote the letter from President Leland Swenson:

> The Community Reinvestment Act prohibits redlining, and encourages banks to make affordable mortgage, small farm, and small business loans. Under the impetus of CRA, banks and thrifts made $11 billion in farm loans in 1997. CRA loans assisted small farmers in obtaining credit for operating expenses, livestock and real estate purchases. Low- and moderate-income residents in rural communities also benefited from $2.8 billion in small business loans in 1997.

In 1999, access to credit is tighter than usual, making it critical to maintain the CRA.

For many consumers living in rural communities, having access to credit is having access to a future. Our rural communities need CRA because they can depend on little else in today's agricultural markets.

I am strongly opposed to the small bank exemption in S. 900 because I have witnessed firsthand the important role CRA plays in rural communities in Minnesota. At least the Sarbanes-Daschle amendment would remove this harmful provision from the bill.

We need to ask ourselves, do we really intend to return to the old banking practices of red lining? Do we want to leave our cities, small towns, and families without a means to become economically stable and strong? Do we intend to draw a clear line between the haves and have-nots?

It has been nearly 3 years since the passage of welfare reform. Since then, urban and rural America has seen a dramatic rise in the numbers and needs of the desperately poor.

Mr. President, that is right. Since then, we have seen a dramatic rise in the number and needs of the desperately poor. Why are we not talking about other issues on the floor of the Senate? I will get back to this in a little while.

What does that have to do with CRA? Everything. Because of CRA, nonprofit organizations that assist the homeless are able to establish partnerships with banks to access credit and build affordable and emergency long-term housing. CRA loans that develop dilapidated neighborhoods and bring more jobs to our urban centers benefit former welfare recipients. Over $1 trillion has been invested with innovative ways of providing housing, jobs, and community revitalization to stabilize these economically troubled areas.

CRA has been a mainstream banking practice for over 20 years. It has evolved over the years to better serve banks and their communities, and it has been streamlined to reduce the regulatory burden on small banks. This is a law that has been improved and has grown to better serve banks and consumers.

A lot of big banks don't like the CRA. They feel it is an imposition. They denounce it as big government and overregulation. But for most people I ask, Which is the greatest danger here, concentration of political power in government or concentration of economic power? I don't think it is a close call.

I think our goal should be to help ordinary people make sure they have some say over the economic decisions that affect their lives. Repealing CRA is not going to do that. No amount of antigovernment rhetoric is going to do that. But enforcing some meaningful consumer protections would do that. So would prohibiting mergers that threaten to crowd out community banking, squeeze credit for small businesses, and open the door to higher fees and ever more fraud and abuse.

This is the fundamental problem with deregulation and economic concentration generally. It allows the Nation's economic power to be held in the hands of fewer and fewer people. The same thing is happening in many of our other major industries, including airlines, electric utilities, and communications.

Ben Bagdikian has noted that 20 corporations and multinationals own most of the major media in the entire country—newspapers, magazines, radio, television and publishing companies. In the 2 years since the Congress eased restrictions on ownership of radio, 4,000 stations have been sold—in the last 2 years—and more than half of all big-city stations are in the hands of just five companies.

The electric utility industry is already consolidating in expectation that the States and Congress will soon mandate retail competition. And 4,500 corporate mergers were announced in the first 6 months of last year, with the combined value of $1.7 trillion. These include SBC and Ameritech, Chrysler and Daimler Benz, Enron and PGE, Monsanto and American Home Products, Worldcom and MCI, and Columbia and HCA Healthcare. Now we hear about mergers between BP and Amoco, Mobil and Exxon, and on and on.

Pretty soon we are going to have three financial service firms in the country, four airlines, two media conglomerates, and five energy giants.

Mr. President, this is absolutely amazing to me, which is why I have spent some time making the case. We see more consolidations here. We see a dangerous concentration of power in telecommunications—that is the flow of information in democracy—and the same thing in energy, the same thing with health insurance companies.

In agriculture it is absolutely unbelievable—absolutely unbelievable. Everywhere family farmers look you have these conglomerates that have muscled their way to the dinner table, exercising their raw economic and political power over family farmers, over consumers, and I might add, over taxpayers as well.

Joel Klein came out to Minnesota, along with Mike Dunn, who heads the Packers and Stockyard Administration in the USDA, for a very dramatic public hearing in our State just a couple of Sundays ago. Let me tell you, you have these hog producers that are facing extinction, and then you have these packers that are in hog heaven. You have your grain farmers going under; and you have Cargill making a 52-percent profit in this past year.

The farmers are saying, ''What is going on here? Consumers aren't getting a break. And we're not getting the prices that enable us to even keep going on with our farming. Who is making the money?'' Everywhere you see this concentration of power. I will have an amendment on this bill later on that will talk about antitrust action.

Antitrust action has been taken off the table. Antitrust action has been taken off the table. This is a classic example of why we need reform. Because when it comes to antitrust action, and having the Senate say we are on the side of consumers, we are on the side of family farmers, we are on the side of community people, and we are willing to take on these huge companies, we dare not do that. These monopolies are the campaign givers. These are the heavy hitters. These are the investors.

We have been through this before, Mr. President. At the end of the last century, industrial concentration accelerated at an alarming pace. Lots of people, including the columnist and author E.J. Dionne, former House Speaker Newt Gingrich, and the philosopher, Michael Sandel, have noted the similarities between that era and our own.

American democracy suffered as a result of that concentration of economic power. The two parties became dominated by similar corporate interests. Their platforms started to sound an awful lot alike, and voter participation declined dramatically. Why? Because people realized that they had little to say in the economic decisions that most affected their lives.

I think that aptly describes the situation today. I tell you, when I travel in Minnesota or travel in the country, one of the things that people say to me is that they think both parties are controlled by the same investors. They do not think there is any real opportunity for them to have any say anymore in this political process.

And once again, we are about to pass a piece of legislation —I hope we do not, but if we do—a piece of legislation that will lead to the rapid consolidation in the financial services industry, to the detriment of rural America, to the detriment of small towns, to the detriment of low- and moderate-income people, and to the detriment of working families. But there is an awful lot of economic and political clout behind this bill.

And what is in store for us if we allow this trend to continue? Huge financial conglomerates the size of Citigroup will truly be ''too big to fail.'' Government officials and Members of Congress will be prone to confuse Citigroup's interests with the public interest, if they do not already. I think they do already.

What happens when one of these colossal conglomerates decides, for example, it might like to turn a profit by privatizing Social Security? Who is going to stand in their way? That is a trick question, of course, because we already face that dilemma today. But I contend that the economic concentration resulting from passage of S. 900 would only make that problem worse.

In a sense, then, campaign finance is only a symptom of a larger problem. By all means, we should drive money out of politics. Absolutely, we should. But even if we succeed, the trend towards economic concentration will diminish the value of democratic decisionmaking. If few or none of the most important economic decisions are made democratically, or are even subject to democratic accountability, what is the point of voting? Indeed, these developments raise important and fundamental questions about the role of democracy itself.

It used to be that these questions were a source of concern for many people. And they were a hot topic for political debate. Thomas Jefferson and Andrew Jackson warned not only against the concentration of political power, but also against the concentration of economic power.

The great Supreme Court Justice Louis Brandeis railed against the ''Curse of Bigness.'' Brandeis argued that industrial concentration coarsened the value of democracy by diminishing the role of individuals in economic decisions. We should not let that debate die. It is a vital part of our democratic heritage.

There may be some colleagues who share these concerns but will nonetheless vote for S. 900. They say this is the best we can do. They say the damage has already been done, and concentration will continue with or without this legislation.

I disagree. I think we need to take a good look at this. Before we consider sweeping changes in our financial services laws, we had better understand the effects of the latest wave of mergers. The true test of these new combinations will be the impact of the next recession. We need to see how these megamergers hold up before proceeding any further.

There is simply no justification or excuse for this kind of invitation to bigness before a solid, updated regulatory system can be put in place. I believe this legislation is an enormous mistake. It is not necessary. And it could do real harm to the economy. It should be soundly defeated. It should be soundly rejected.

Mr. President, with due respect to my colleagues, while I have the floor I want to argue one other case. And I say to both the Senator from Texas and the Senator from Utah, I will not dominate the whole afternoon, but I do want to make one other argument. And it is this: I do not understand why we are on the floor dealing with this legislation. I do not really understand why we are dealing with—what is it called—the Financial Services Modernization Act.

When I talk to people in cafes in Minnesota, they do not talk to me about the Financial Services Modernization Act at all. As a matter of fact, I will tell you something. If you spend a little bit of time with people, most people will say—and both of my colleagues, the Senator from Texas and the Senator from Utah will be happy to hear the first part of what they say, and maybe not as happy to hear the second part. If you do a poll and ask them, ''Are you a liberal or a conservative,'' at the Town Talk Cafe in Willmar, which is my focus group—and that is the name of the cafe—I would say 75 percent of the people say they are conservative. They do.

But you know what? If you stick around and talk to people for a while, they do not like the way in which these big banks have taken over financial services and have driven out the community banks. And they do not like these big insurance companies that are dominating health insurance. And they do not like how these conglomerates are driving family farmers out. And they do not like the concentration in telecommunications. And they do not like to see the merger of the energy companies. And they are not all that happy with Northwest Airlines that basically dominates about 75 percent of the flights in the State of Minnesota.

Those people in the cafes of Minnesota have a healthy skepticism about bigness. They have a healthy skepticism about a piece of legislation that leads to dangerous consolidation, and basically leaves the economic decisionmaking, that can make or break the lives of families and communities and neighbors, in a few hands. They are right. More importantly, one more time, I just want to sound this alarm, which is why I am going to talk a little bit more here. We have a situation in my State of Minnesota right now which I can only define as desperate.

I have spoken at enough farm gatherings. I spoke first, it was a farm gathering in northwest Minnesota, Crookston. Then there was a farm gathering that I spoke at in Worthington. Then there was a farm gathering in Sioux Falls, SD. Then there was a farm gathering in Sioux City, IA. Every time I spoke at those gatherings—and there were 500, 600, 700, several thousand farmers—I looked out there and I saw the pain in the faces of family farmers.

I see the pain in the faces of those family farmers as I am in this Chamber for two reasons: First of all, on the long-term front, these family farmers can't make it without a decent price. They want to know what we are going to do about getting farm income up. Why aren't we talking about farm income today? Why aren't we doing something about agriculture?

They want to talk about when there is going to be antitrust action. They want to talk about who is going to be on their side, not on Cargill's side or IBP's side or Monsanto's side. They want to talk about whether or not there is going to be some protection for them so they have a chance to make it.

These family farmers also want to know why in the world we can't get emergency assistance to them as a part of the emergency supplemental bill. They thought 2 months ago we were going to do it, but we didn't. We left and went home for spring break. Now we are back. I say to the majority party, get that supplemental bill out here on the floor and pass it. How can we hold this bill up? There was supposed to be a separate ag supplemental bill. But I think it was tied to Central American assistance. I think they went together.

It should be passed out of here, because, one more time, the Minnesota FSA is laying off its employees. You might say, so what, a bunch of bureaucrats. Not so. This is a grassroots organization, with people out in the farmland providing people with credit, as a lender of last resort, with more and more demand as farm prices are down, farmers are facing foreclosure, trying to get out there and plant, and they do not have the loan money. This is a demoralized agency, and they are letting people go.

As I said earlier, we are going to have, on the present course, at least 800 farmers who aren't going to get any financing at all. They are going to go under. That is a real emergency supplemental bill.

I am tempted, while I have the floor, to speak for a while about this, because it seems to me that we ought to be doing something about this and we ought to be doing something about it right now. The Financial Services Modernization Act—I have to write this down—the Financial Services Modernization Act does not mean a thing to them. The Financial Services Modernization Act does not mean a thing to these family farmers. They want this Congress to pass that supplemental bill because for them time is not neutral. Time marches on. If they do not get any assistance, they are going to go under. These are hard-working people. I think it is just simply unconscionable. I am not just talking about the Financial Services Modernization Act. I think it is unconscionable that any piece of legislation go forward on the floor of the Senate until we do something about this.

It is absolutely unbelievable; it really is.

I mentioned a story earlier. I see there are people in the Chamber who are watching the debate—or at least watching one person speak. I have a hard time giving people a feel for the gloom that is out there. Again, I talked to Tracy Beckman, not using any names, who is director of the Minnesota FSA.

He said, I think it was this morning, that one of the farmers who was denied a loan because there was no money, because we haven't done anything—we are supposed to pass this emergency supplemental bill and get the funding out there—one farmer today said, ''Well, I'm just going to shoot myself and my family.'' That is horrifying. That is what he said.

There is tremendous economic pain, tremendous desperation. People are going under. We have the Financial Services Modernization Act, this piece of legislation. Frankly, it doesn't mean anything to these farmers. They want to get some help. They would like to get spring planting loan money. That is what they would like to have done for them. That is not what we are doing.

When are we going to get serious? It is clear what this piece of legislation does. We have the Community Reinvestment Act, which has been tremendously important to lots of people in small communities. It has ended redlining. I used to do community organizing against redlining. It has worked well. It has made a huge difference. It's a source of capital, and lots of communities have overcome discrimination. This piece of legislation takes all that away. Wipes it out, wipes it out through the two provisions that I talked about.

My question is, what does it do for ordinary citizens? What does it do for ordinary people? That is the question. Why aren't Senators talking about issues that matter to working people, that matter to ordinary citizens in our country? Why aren't we talking about the Town Talk Cafe?

I see my colleagues on the floor.

Mr. GRAMM. Will the Senator yield for one moment?

Mr. WELLSTONE. As long as I continue to have the floor, I will be pleased to yield.

Mr. GRAMM. I have to accommodate our dear colleague from Minnesota. Let me say, I wish he could go on forever, because I am always enlightened listening to him. But to accommodate him, I asked unanimous consent that he might have 40 minutes when we came back in at 2:15. It is now 3:15. The Senator has spoken an hour.

I asked other people to come over to speak based on that agreement. I do not intend to try to enforce the 40 minutes, but if the Senator could take that into account, because I asked Senator BENNETT, who, as are all of us, is busy, to come over based on that agreement. He has been sitting here now for 25 minutes or so. If the Senator could sort of begin to bring it to a close, it would be much appreciated.

Mr. WELLSTONE. Mr. President, let me say to my colleague that initially—and I appreciate what he is saying and because of that, I will try to bring it to a close—I said I thought it would take 40 minutes. My colleague was gracious enough to say, take the time you need, take an hour and a half, whatever you need. I think that is actually part of the RECORD.

And when he said that—I usually take direction from my colleague from Texas—I thought to myself, well, if I have an hour and a half to talk about the issues that I think we really ought to be talking about, I will take that. So I am about ready to finish up on that hour and a half.

Mr. BENNETT. Mr. President, will the Senator yield for a question?

Mr. WELLSTONE. I am pleased to, although I want to make sure that I focus on some of these other issues. Let me yield for a question.

Mr. BENNETT. I want to answer some of the things the Senator has been saying here and ask him a question in that context.

The Senator has asked the question, why we are taking this up, and why does it matter, and is there any urgency. My question to the Senator is, is he aware of the fact that Robert Rubin, the Secretary of the Treasury, and Alan Greenspan, Chairman of the Federal Reserve system, both testified before the Senate Banking Committee that this legislation was of the highest urgency and that if it did not pass as quickly as possible, the entire banking system of the United States would be adversely affected by virtue of foreign competition? Is the Senator aware of that testimony from the administration and the Federal Reserve Board?

Mr. WELLSTONE. Mr. President, it is a fair enough question. In answering the question, let me say that I actually just did have an opportunity to be in a session with Secretary Rubin in which several of us expressed the very concerns that I have taken an hour to express. He said they are very valid concerns. ''On balance, I think it is better that we do this'' was what he said.

And then when we had a discussion about CRA—and I have devoted a good deal of my time talking about that—the Secretary was very clear about the President's veto letter and very clear that it was important that we maintain these CRA provisions.

Of course, the Secretary is interested in this legislation, though it wasn't quite the same report I heard that my colleague heard. I say one more time—I am coming to the end of my remarks—that in deference to all my colleagues out here, I know this Financial Services Modernization Act has the support of the industry groups and has the support of the financial institutions. Of course, because it is going to lead to more concentration of power and give them more say.

I am sure Alan Greenspan would like it. The Federal Reserve Board is going to have even more power—an unelected body with yet even more decision-making power over decisions that vitally affect people's lives. But I have to tell you, in all due respect to one of my favorite colleagues, the Senator from Utah, one more time, besides believing this piece of legislation is a huge mistake, I won't support this legislation in its present form.

I won't support the alternative, the substitute, either. Besides thinking it is a huge mistake, for reasons I have argued over the last hour—and my colleague from Texas was gracious enough to give me that opportunity—I also want to say one more time to family farmers in the State of Minnesota right now that this Financial Modernization Services Act doesn't mean anything. It doesn't mean a thing. They want to know why we are not getting some loan money out to them right now because they are in such desperate shape. They are trying to live to be able to farm another day.

To the people who are going to be laid off in Minnesota FSA, who are doing the good work of trying to process loans and help people, but have no money to work with, I think it is absolutely outrageous. To all the farmers in economic pain because we are not doing a darn thing about getting farm income up, or about getting price up, or a darn thing to take on some of these big grain companies and packers so family farmers can get a fair shake in the marketplace, I am for putting more free enterprise back into the food industry. It is the big monopolies I don't care for. These farmers have every reason to wonder what we are doing here.

I will tell you one more time that the people in the cafes I have been in are not talking about this particular legislation; they don't see this as a crisis. Alan Greenspan may see the world in a very different way than people in the cafes in Minnesota, and so might the Secretary. Certainly these financial institutions do. Certainly Wall Street does.

But people in Minnesota are not particularly interested in mergers, acquisitions, and all this consolidation of power. They are interested in a good job at a good wage. Why aren't we out here talking about raising the minimum wage?

They are interested in not falling between the cracks when it comes to health care coverage. Why aren't Senators talking about decent health care coverage for people? They are interested in how they can afford prescription drugs. Why aren't Senators talking about affordable prescription drug coverage for seniors, and, for that matter, for all of us? They are interested in how there can be a decent education for their children. Why aren't Senators having a major debate about education or getting resources to communities so we can do a better job of educating our children? They are interested in how we can reduce violence in homes, in schools, and end the violence in our communities. Why aren't Senators out here with legislation that deals with that? They are interested in how to earn a decent living and how to give their children what they need and deserve. They are interested in making sure that every child, by kindergarten, comes to school ready to learn. Why aren't we investing in good, developmental affordable child care?

That is what they are interested in.

We are not dealing with any of those issues. I want to know when Senators are going to come out on the floor and deal with pieces of legislation that dramatically affect ordinary people, working families in my State and working families around the country.

I yield the floor.

Mr. BENNETT addressed the Chair.

The PRESIDING OFFICER (Mr. CRAPO). The Senator from Utah is recognized.

Mr. BENNETT. Mr. President, I have enjoyed the presentation by my friend from Minnesota. I return his friendship, and he is my friend. We disagree on just about everything, and we disagree about most of the things he said here today. I want to make a few comments about some of the positions he has taken before I talk about the bill.

As I listened to the Senator run down the litany of things he thinks we ought to solve with legislation—we ought to solve farm prices with legislation; we ought to solve preparation for school with legislation; we ought to solve education, generally, with legislation; we ought to solve the amount of money people earn with legislation, and on down the list—he reminds me of a comment that I found very insightful that was made by a head of state in another country as I was visiting there. This man said to me, ''Politicians think that money comes from the budget.'' Money does not come from the budget. Money comes from the economy. If the economy doesn't work, there is no money in the budget. And if I may, Mr. President, I think that discussing financial modernization has a great deal to do with all of the issues that the Senator from Minnesota was discussing because it has to do with the health of the economy.

If the banking system, the financial system, and the economy does not work efficiently, if it does not work carefully and properly, the economy as a whole will suffer, the amount of tax revenue coming into the Government will suffer, and we can have all of the discussions we want about solving all of the social problems with legislation, and then we will turn around and find that the cupboard is bare.

It is very important that we recognize the impact of this legislation on the Nation's economy. As I said in my question to my friend from Minnesota, we heard testimony in the Banking Committee from the member of the administration most charged with focusing on this area of the economy, the Secretary of the Treasury, and with the head of the independent agency most charged with keeping the economy strong and vital, the Chairman of the Federal Reserve Board, that it was essential that we modernize our financial legislative structure in this country.

Why? They told us that foreign banks are coming to the United States, and as the American banks go overseas, they are competing in a different regulatory framework. They said that the American framework is outdated, it is outmoded, it is expensive, and that it gets in the way of America's ability to compete.

The big banks that my friend from Minnesota attacks so vigorously, the last time I checked, all paid taxes on the revenues they received. The best way to make sure that we do not get those tax revenues is to say, let us hobble those banks in their competitive structure with foreign banks. Let's see to it that they cannot compete in the same kind of atmosphere as their foreign competitors, in the name of preventing them from concentrating power, and then see how much taxes we get from those big banks. Taxes are a percentage of profits; if there are no profits, there are no taxes and there is no money in the budget to pay for all of the programs that the Senator from Minnesota wants to fund.

Now, he made another comment that I found fascinating, from a personal point of view. He said that, of course, the big banks don't like CRA because it forces them to do what they should be doing. He stands up for the little banks that he wants to protect from the big banks that, in his view, want to gobble them up. In my experience with this legislation, it has been exactly the reverse. The big banks have said to me: We don't much care about the CRA provisions. We have learned to live with CRA. We have learned to handle our banking practices in such a way that gets us appropriate CRA ratings. And some of the big banks have said: Don't pay any attention to the CRA amendments in this bill because we can live with them just fine. No. The protest about CRA has come, ironically, given the position of the Senator from Minnesota, from the small banks, the little bank.

Let me give you an example that I have heard of, secondhand, but I think summarizes what we are dealing with here. I have heard of a bank in California that was opened by a group of Chinese Americans. What do you do in the marketplace when you are trying to find a niche that will allow you to survive, whether you are in the banking business, or the clothing business, or the automobile business, or whatever kind of a business? You do look around for some community that is not being served properly, and say to yourself, ''I can fill that niche.'' The oldest business advice in the world is find a need and fill it. Here were a group of

Chinese Americans who decided that other Chinese Americans for some reason or another were not getting access to the credit they needed. They found this need and they hoped they could fill it. They did. They were successful. They prospered.

Then comes the CRA regulators, and they said, ''Let us see your books. Let us look at your loans.'' They came back and said, ''You are only making loans to Chinese Americans. That is, you are not complying with the Community Reinvestment Act that requires you to make loans to Hispanics or African Americans or other minorities that we, the regulators, will identify and determine.'' The people at this bank said, ''Of course we are only making loans to Chinese Americans. That is what we set up to do. That is the market we set up to serve.'' ''Well, you will accept the penalties and strictures of CRA regulation if you do not go out and find statistically enough African Americans and Hispanics to meet our requirements.''

This was a community that these Chinese Americans did not understand instinctively. This was the community that they were not set up to serve. Maybe you can say that it was a good kind of thing for them to reach out beyond their natural business area and start serving these other sectors, but it created a burden on this small bank, and it was a very small bank that the managers of the bank objected to.

In my own State of Utah, I get the same reaction. The big banks don't much care about CRA. They don't like it. They find it burdensome. But they have learned to live with it. Banks that have written in that are complaining are the little banks, and they are complaining for the same reason in the example that I have given. They feel they are serving their communities and they are being forced to try to reach beyond their natural communities to try to find somebody who can statistically qualify under CRA.

This is from a very small bank in Utah. The President of the bank says, ''We have and will continue to lend to all segments of our community because it has been defined by regulation. The time spent documenting our community lending efforts for regulatory purposes is in itself counterproductive, as we could instead redirect our energies toward additional lending and community development activities.''

In other words, they are spending more time filling out forms for CRA than they are investing in their community.

Another one from a very small town in Utah, and it is surrounded by the family farmers that the Senator from Minnesota was talking about: ''Exempting our institution from CRA requirements would allow bank personnel to spend more time with our customers and developing new products rather than gathering information to satisfy CRA documentation requirements.''

We will have a great deal more to say about the CRA issue, I am sure, when it comes up. I simply wanted to make those points in response to the points that were made by my friend from Minnesota, because he is very clearly talking to different people than I am talking to. He is talking to the people in the crossroads cafes. And I think that is fine. But I think when it gets to the issue of banking regulation, he might spend some time talking to people who run banks and talking to people who borrow from banks.

He made another point that I will talk about and then get specifically to the bill.

He talked about the concentration of power, and he railed at great length against corporations that he felt were destroying our democracy. ''Fewer and fewer people,'' he said—I wrote that phrase down—are controlling our economic power.

I want to share a statistic that I saw in the paper last week that has an interesting slant on this.

Back in, say, 1950—my memory is not sharp enough to give you the exact year, but it was sometime in the 1950s—the percentages of Americans who owned stock in corporations was 4 percent. Today it is over 50 percent.

I would say to those who, like my colleague from Minnesota, are concerned about the concentration of power in the hands of a few people, who does he think owns Citibank? Who does he think owns these corporations that he says are so terrible? They are owned by Americans. They are owned by individuals. Fifty percent of Americans now own stock, and the number is going up all the time.

This is one of the reasons that the class warfare arguments that we have heard around this Chamber for so long are beginning to wear thinner and thinner, because the people who own the corporations are ordinary, everyday, hard-working Americans. The days of J.P. Morgan being the controller of these institutions are over. J.P. Morgan is dead, his heirs scattered, and the controlling shareholder ownership of these corporations is in the hands of the teachers' pension fund—in the hands of ordinary people who have invested their savings in these corporations and have a stake in seeing to it that these corporations survive. That is why the class warfare arguments get thinner and thinner with each passing year.

We are in a sense, Mr. President, turning Karl Marx on his head. He wanted the people to own all of the means of production. That was tried in the Soviet Union in the name of the government as they attacked the terrible capitalists in the United States, and ironically it is the capitalists that are seeing to it that the people ultimately own the means of production, but they own the means of production in their own name with shares held in their own name, which they can control and which they can vote and which they can sell if they don't like what the corporation is doing. And we are getting the people's ownership of the means of production through capitalism rather than through the forced distribution of wealth that Karl Marx and his followers practiced in modern communism.

Having given that reaction to the political science lecture from my friend, who was once a professor of political science—I was never a professor, but I was once a student of political science, and I like to engage in these kinds of debate—I would like to say just a few words about the bill.

The fact that it is just a few words is a testament to the expertise of our chairman who has worked harder and more personally on a piece of legislation than any chairman I have ever seen. We have resolved the controversies in this legislation to the point where there are only a few left. The Senator from Texas has led the fight in doing that.

When we first started this, when I first came to the Banking Committee, the number of issues was huge and the gap between those issues was very wide. I would go out and people would ask me where we were on financial modernization. Unlike my friend from Minnesota, I did get those questions. I would go out in places where people were interested. And I would say repeatedly through my first term of service in the Senate that we were nowhere and we were not going to have financial modernization legislation, because the issues were so contentious and the gap between the two sides was so great that we were simply not going to get it done, and, quite frankly, I was not paying any attention to it for that reason. I didn't want to waste my time becoming cognizant of all of the ins and outs of these arguments when the arguments were going nowhere, and the legislation was going nowhere.

We made a major step towards resolving these last year when Senator D'Amato was the chairman of the committee, and we finally began to grapple with some of these issues and tried to bring them closer together. But Senator GRAMM has brought us even closer together and produced a bill on which there are now only relatively few issues in contention rather than the great many issues that were in contention 4 or 5 years ago.

I think that is an extraordinary achievement, not only on the part of the chairman who has led the issue, but, frankly, on the part of the committee as a whole. The fact that we are having this debate when we should have been having it a few years ago, according to those who are following the issue, demonstrates how far we have come.

This reminds me in some ways of the debate we had in the telecommunications bill where we had huge forces on both sides of the issue struggling, literally, for survival. We had telephone companies, cable companies, long-distance carriers, local carriers, all fighting over what would happen to their future.

We finally came together on a bill that virtually everybody could buy off on. They weren't happy with it, but they said they could live with it. We made a landmark step forward in telecommunications.

I think that analogy holds true here. Insurance companies, when I first came to the Senate, were bitter in their opposition to any kind of change that would affect them; banks were chomping at the bit for more competitive opportunities and complaining that laws passed in the 1930s were freezing them out; testimony which I have referred to from Chairman Greenspan and Secretary Rubin indicated we are being savaged by foreign competition because our regulatory structure gets in the way; the securities industry and all the other folks, everybody agreed we needed reform but nobody could agree on the form of that reform.

Now we have a bill before the Senate that, however reluctantly, the insurance companies have said, ''We can live with,'' and the banks have said, ''We can live with''—the big banks and the little banks that are not usually on the same page on everything; the insurance agents and the insurance companies are not necessarily always on the same page.

We have reconciled these various interests now. The regulators have said they can live with this and that. There is only one major regulatory argument left, and we will do our best to work our way through that one and find a compromise.

The time to pass the bill is now. The moment has come when all of these forces are together. Let us not waste that moment. Let the Senate not shatter it all and say we will deal with it later. The forces of competition that led Secretary Rubin and Chairman Greenspan to speak of the urgency of this are still there and their pressures are still there. The passage of time, as we get farther and farther away from the 1930s when our present regulatory structure was put in place, is not on our side in terms of making the financial services in this country efficient, more effective, and more competitive.

We need this bill. We need it now. We should not lose the opportunity we have to seize the moment while there is a degree of agreement among all of the parties of the bill to get it done.

I salute the chairman for his personal effort in getting us where we are. I urge the Senate to pass the bill.

Mr. GRAMM. Mr. President, let me thank our dear colleague from Utah for his very fine comments. Any colleagues who want an opportunity to speak on the bill should come to the floor to be afforded that opportunity. At some point, if we don't have people over to speak on the bill, Senator SARBANES, under the unanimous consent request, will offer his substitute. Members can wait and speak on that substitute, if the Senator chooses to offer it, and obviously if you want to speak about the bill itself, you can do it on the substitute. Members desiring to speak on the bill before the substitute is pending, should come on over.

Mr. President, I will respond very briefly to our dear colleague, Senator WELLSTONE. Senator WELLSTONE gave an impassioned plea not to repeal CRA. Let me say that one of my great frustrations with our efforts to reform CRA and curb abuses in CRA is that nobody wants to debate the reforms. Even the spokesman for the national association of the community groups that form the heart of CRA has said what they call ''green mail'' exists. They think it is harmful to CRA. Most Americans would call that process ''blackmail'' and not ''green mail.''

I think many people have had at least their eyebrows raised by the fact that $9 billion in cash payments have been made or committed under CRA. CRA is not about giving people money not to testify against your bank merger, or to testify for it; instead, CRA is about giving people an opportunity to have input and present evidence as to whether they are meeting the requirements of the law.

I don't know what any judicial process—and this is a quasi-judicial process, I guess you could say—how anyone would not be revolted by the practice of paying witnesses. In essence, as Members will see when we begin the debate on CRA and we show some of the documents with the names redacted, that is exactly what is happening all over America today.

The point I make about CRA is no one is talking about repealing CRA. This is not a debate about repealing or weakening CRA. This is a debate about integrity of banks that have longstanding records of compliance, and whether somebody just by calling them a name—by saying they are a loan shark, they are a racist, or some other inflammatory name—should be able to delay actions that they are guaranteed on an impartial basis under the law.

All our provision in the bill says is that if a bank is going to be denied the ability to do something that they would have to be in CRA compliance for, and they have a long history of being in compliance on CRA, then those people who object—for their objection to be used to delay the process—have to present substantial evidence.

Now, ''substantial evidence'' is defined in law more precisely than any other term of art in the American legal system: more than a scintilla of evidence; facts that would lead a reasonable person to think that something might be true.

We are talking about the lowest standard of law, not the highest standard.

The second provision in out bill would allow very small banks in rural areas that don't have a city to serve, much less an inner city, to be exempt from a regulatory burden that costs them between $60,000 and $80,000 a year, even though these banks generally have only between 6 and 10 employees. Since 1990, in 16,000 audits of these small, rural banks, only three banks have been found to be in substantial noncompliance.

Every word that the Senator said about not repealing CRA I am sure resonated, but it doesn't have anything to do with the debate we are having. Nobody is proposing we repeal CRA in this bill. We are talking about two targeted reforms. I don't want anybody to get confused.

Senator DODD has come to the floor. I yield the floor.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I have noticed over the last week every time I get up to give a talk, the Senator from Idaho is in the Chair.

The PRESIDING OFFICER. I love to hear the Senator's speech.

Mr. DODD. I enjoy the Senator's collegiality and leadership. It is nice to have the distinguished Senator from Idaho as a new Member of the Senate.

Let me begin these brief remarks by commending the distinguished chairman of the committee, Senator GRAMM, and the ranking Democrat, Senator SARBANES, for their efforts on this legislation to date.

I have been on the Banking Committee, and in fact I sat with my colleague from Maryland. I have been in the Congress 24 years, and I think for almost all 24 years he has been my seatmate—usually depending on where we were, the majority or the minority, to the left or right of me—almost all 24 years on one committee or another, including service in the House, in the Judiciary Committee, and then over these last 18 years in both the Foreign Relations Committee and the Banking Committee. I have been fortunate to have his good counsel and advice, and admired his leadership and thoughtfulness on so many issues. This is one which I constantly feel like the mythological figure of Sisyphus, rolling up this rock of financial services modernization every Congress. I do not think there is one we have missed since my arrival in this Chamber 18 years ago, not one Congress in which we have not tried to address the issue of modernization of financial services. On numerous occasions, the Senate, this body, actually completed its work but, because of bifurcated jurisdictions and other matters in the House, we were never able to attain success; that is, sending a bill, a broad bill on financial modernization, to a President, any of them that I served with—including President Reagan, President Bush, and now President Clinton.

But we are precariously close to achieving a result that has been unattainable over the last number of years. The fact that we are dealing with this legislation as early as we are in this Congress is heartening to me, because it means we have in front of us an opportunity to complete action on what I think is a worthwhile endeavor.

Again, let me commend my two colleagues who are making it possible for us to arrive at the point where we are on the floor of the Senate. Over the next several days we will consider, I assume, a number of different amendments that will, I hope, allow us to bring broad-based support to this proposal and to enter a conference with the other body and send a measure to the President which he can sign.

That is a lot of steps in front of us. I realize that. But if you know the past history of this legislation, they seem like minor steps indeed, when you consider we rarely reach the point we are today.

Let me also, once again, in this forum here, commend my colleague from Texas, Senator GRAMM. This is his first major legislative effort as chairman of the Banking Committee. He has had other major legislative efforts but never as the chairman of this committee. He deserves all due credit for his contributions to this bill. Few committee chairmen have more personally invested themselves in a piece of legislation than he has. As I said a moment ago, my colleague and friend from Maryland brings a career's worth of experience in dealing with financial services issues, both domestic and international. His counsel and advice and words of wisdom ought to be heeded.

The legislation before us does address some very, very important issues, outstanding issues. It provides a framework for modernization of our Nation's financial services. It allows banks and securities firms, as I know you have heard from both the chairman of the committee and the Senator from Maryland, and insurance companies, to affiliate. It provides a rational process, we think, for these affiliations to take place.

Although it needs to improve, in my view this bill provides some significant benefits and protections to consumers who would not only benefit from these diversified firms but who would also benefit from having standardized and comprehensive protections for the sale of securities and insurance products.

Let me add right here, these are arcane subject matters. Sometimes we are asked where the consumer protections are in this bill; where is the consumer in this legislation? The consumer is all through this bill, in a sense. First and foremost, the consumer is there because consumers are seeking to handle their financial matters in a more expeditious way, knowing they have broad, comprehensive protections.

In many ways, this legislation is trying to catch up with what already is occurring in the marketplace, both at home and abroad. By regulation and court decision, much of our modernization is occurring. What we are seeking to do here is involve ourselves, as we should have been years ago, in setting out the guidelines of modernization from a public policy standpoint. So it is very important legislation because the courts, and in too many cases the regulators, do not bring to bear the kind of consumer issues that only a public policy forum like the Senate can do.

When the issue is raised where is the consumer in this legislation, in fact the consumer is all through this bill. It is our goal here to see to it that they will be able to conduct their financial matters, financial business in a way that conforms to the lives and demands of consumers in this country, and that will also better equip them with protections in dealing with other matters in securities and insurance issues.

This bill also protects the traditional right of States to regulate insurance, something that has been subject to longstanding debate. This will codify at the end of the 20th century how we in Congress feel about that issue, while at the same time will provide for functional regulation of all financial institutions. That has been an ongoing debate for years, and one that the adoption of this bill would establish firmly as we enter the 21st century.

But I believe the outstanding issues, such as banking and commerce, the operating subsidy of affiliate structure and additional consumer protections, can and will be worked out in a reasonable fashion. However, I must share my deep frustration, frankly, and great concern over the future of financial services modernization legislation. During my tenure, as I said a moment ago, in the Senate, I, like many of my colleagues, have invested a significant amount of time and effort attempting to enact modernization legislation. I am of the belief that it is vital to the future of America's financial services industries and important to consumers as well.

This process has not been an easy one. Finding the delicate balance of protecting consumers while at the same time creating a regulatory framework that fosters market efficiency and industry innovation has been a difficult and a long task. I had hoped that by today I would be speaking on behalf of the merits of a bipartisan legislative approach. I had hoped to speak on behalf of a bill that last year received the overwhelming support of the Senate Banking Committee by a vote of 16 to 2. Just recently, similar legislation passed the House Banking Committee by a vote of 51 to 8. Instead, I reluctantly rise to express my deep concerns about the legislation before us that attacks what I consider to be one of the most important laws in our Federal code, the Community Reinvestment Act, CRA, of which you are going to hear a great deal in the coming days.

The attack on CRA contained in this legislation is clear, in my view, and unmitigated. It broadly exempts depository institutions from CRA. It attempts to address a problem that simply does not exist, and in the process, in my view, does great harm to a law that has brought billions of dollars in mortgage and small business credit to rural and urban Americans, allowing them to participate with equal opportunity to expand their financial gains and opportunities in this country.

As you know, this bill as drafted will be vetoed by the President. We usually receive a statement of administration policy written by the appropriate department head. Only on rare occasions does the President of the United States write a personal letter prior to committee markup, stating his concerns and articulating his promise to veto a bill if certain provisions are not resolved. Of primary importance to the President is the preservation of the Community Reinvestment Act in the context of any financial modernization legislation.

I will say very directly—I say this to my colleagues, whom I know have a different point of view. If this bill is not changed to address various CRA concerns, the President of the United States will veto this bill. And that mythological figure of Sisyphus will, once again, rear his head at the close of the 20th century and we will fail in our attempts to modernize financial services.

That would be a great misfortune. But I say as well that to pass a piece of legislation as we end the 20th century, about to begin the 21st, and to disregard the principles and values incorporated in the Community Reinvestment Act, also, in my view, would be a tragedy of significant proportion.

The veto of this bill as written is certain, as certain as our ability to avoid it. We should understand who supports this attack on the CRA provisions contained in this bill. The attack has not been sought by the industry, which is normally the case. There is no constituency of support for them. The support of this legislation is not contingent on the inclusion of CRA provisions. Banks are in the midst of their 7th year of record profits with CRA as the law of the land.

Over the years, at the request of industry and appropriate regulators, CRA has been simplified and modified to be far less invasive to depository institutions. The fact of the matter is that banks care little about changing CRA. The attack on CRA is truly supported only by a few people. I say again with deep respect to my colleague and friend from Texas, who cares deeply about this issue, as does the senior Senator from Alabama: I respect their points of view. I disagree with them fundamentally. I respect their points of view. But there are really no other constituencies that I can find who share their point of view on this issue. There are many people who have a different point of view, including financial institutions, consumer groups, and others about the importance of extending the CRA provisions.

Let me reiterate, if I can. The President of the United States, all Federal regulators, industry, 51 of the 60 Democrats and Republicans in the House

Banking Committee, 16 of the 18 Democrats and Republicans in the Senate Banking Committee, all support the preservation of CRA.

While not perfect—and no one is arguing that it is—CRA, in my view, and in the view of many others, has been truly a success story.

Between 1993 and 1997, the number of conventional home mortgage loans extended to African Americans increased by over 70 percent. Let me repeat that. Between 1993 and 1997, the number of conventional home mortgages extended to African Americans increased by over 70 percent.

Over the same period, the number of home mortgage loans increased 45 percent for Hispanics, and 30 percent for Native Americans.

According to the Small Business Administration, loans to African-American-owned businesses doubled between the years of 1993 and 1997.

More than $1 trillion has been leveraged under CRA—credit for home mortgages, small businesses, and other purposes—that has enabled creditworthy citizens, minority creditworthy citizens to improve their economic status and that of their families in both rural areas and inner cities.

We should not retreat from these laudable goals if we are going to make the modernization of financial services conform with the modernization of a society that reaches out to each and every sector of that society to see to it that they have the equal opportunity to invest and to grow and to enjoy the full benefits of being Americans.

Despite these strides, CRA has not erased all lending discrimination in this country.

In 1997, mortgage loans for African Americans, Native Americans, and Hispanics were denied at a rate of more than twice those of white mortgage applicants of similar incomes. For both urban and rural areas, CRA has played an invaluable role in economic development.

I recently received a letter from the U.S. Conference of Mayors, signed by the mayors of nearly 200 towns and cities of all sizes, from New Haven, CT, to Houston, TX. Let me quote them. It states:

> The Community Reinvestment Act has played a critical role in encouraging federally insured financial institutions to invest in the cities of our nation.

The letter goes on further and says:

> Unless the onerous CRA provisions are addressed and the CRA is preserved, we would urge strong opposition to the Senate bill as presently drafted.

Urban areas are not the only beneficiaries of CRA. CRA loans assist small farmers in obtaining credit for operating expenses, livestock, and real estate.

Less than a month ago, we voted unanimously to award a Congressional Medal of Honor to Rosa Parks. As we all know, Ms. Parks led the fight in this country for racial equality. The CRA provisions in this bill we have before us today would send, in my view, Rosa Parks and many others to the back of that bus economically. They would directly hurt minorities and rural citizens by restricting their right to pursue the American dream to own a home, start a small business, to receive fair access to credit.

Despite my strong support for financial services modernization—and, Mr. President, it is very strong, indeed—if the price of modernization is the denial of financial services in the 21st century to rural Americans, African Americans, Asian Americans, Hispanic Americans, and Native Americans in the country, then I am unwilling to pay it.

I strongly urge my colleagues to support Senator SARBANES' substitute amendment and Senator BRYAN's CRA amendment. In my view, if these measures are improved, as I believe they should be, then I think we would have a strong bill.

There are a lot of other amendments that may be offered. There is a debate over the op-sub and the affiliate issue. I think that is an important issue. I think the issue of privacy in financial dealings is an important issue. And there are many other matters that may be raised.

But, in my view, nothing—nothing—is as important as whether or not we are going to provide equal access to our financial institutions to all Americans. The Community Reinvestment Act has made a significant contribution to tearing down the barriers that have existed far too long and has provided the access to credit, home mortgages, and improving the financial future of too many of our citizens to retreat now. To back up on a major, major bill such as this, I think, would be a great retreat, indeed.

So as strongly as I support the concepts included in the fundamental financial modernization bill, Mr. President, I could not support a bill that treats too many of our Americans unfairly as they presently are by retreating on Community Reinvestment Act provisions.

So I urge my colleagues, those who care about financial modernization, those who care about civil rights and care about access to financial institutions, to support the substitute, support the CRA amendments. I think then we would have a strong bill, and remaining issues could be resolved without too much difficulty. But a bill that fails to address this issue is a bill that, in my view, will not pass and will not be signed into law, and it would be an unfortunate, unfortunate day, indeed.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BYRD. Mr. President, is time under control?

The PRESIDING OFFICER. There is no control of time.

Mr. BYRD. I thank the Chair.

I presume that the Pastore rule has expired for the day?

The PRESIDING OFFICER. It expired at 1:15 this afternoon.

Mr. BYRD. I thank the Chair.

Mr. President, I ask unanimous consent to speak for not to exceed 5 minutes out of order.

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

Mr. BYRD. Mr. President, over the weekend, a glimmer of light broke through the war clouds shrouding Yugoslavia. That light was kindled by the release of the three American soldiers who have been held hostage in the Federal Republic of Yugoslavia since their capture by the forces of Yugoslav President Slobodan Milosevic on March 31. The individual responsible for this remarkable turn of events is the Reverend Jesse L. Jackson. For his efforts, he has earned the thanks of a grateful nation. Due to the faith and determination of Mr. Jackson, the Reverend Joan Brown Campbell of the National Council of Churches and the delegation of religious leaders that Mr. Jackson led to Yugoslavia, in this one small corner of a terrible conflict, good has triumphed over evil.

I have no doubt but that the motives of President Milosevic in freeing the American servicemen will be analyzed, dissected, and ruminated on by the commentators in the coming days. Despite all the conjectures, we may never know what he was hoping to achieve. Surely Milosevic will be disappointed if he believes that this gesture, welcome as it is, will blind the United States and the rest of NATO to the atrocities that he is inflicting on the ethnic Albanian population of Kosovo.

But in contrast to Mr. Milosevic, we do know what the Reverend Mr. Jackson was hoping to achieve.

He has faced some of the most ruthless strongmen in the world, including Syrian President Hafiz Assad, Cuban President Fidel Castro, and Iraqi President Saddam Hussein.

In 1984, Mr. Jackson won the release from Syria of Navy Lieutenant Robert Goodman Jr., who was shot down over Lebanon. That same year, he persuaded Castro to release 48 American and Cuban prisoners. In 1990, he helped to win freedom for more than 700 foreigners who were being detained as human shields by Saddam Hussein following the invasion of Kuwait. His trip to Yugoslavia marks the fourth time that Jesse Jackson has won freedom for hostages.

In the faces of the freed soldiers and their families, I am reminded once again that faith can move mountains. I salute the Reverend Mr. Jackson and his delegation for their remarkable success.

Mr. President, as a mark of respect for Mr. Jackson and the delegation of church leaders, I am today submitting a Sense of the Senate Resolution commending Mr. Jackson for the deep faith that marked his mission to Belgrade, and for his successful efforts to free Staff Sergeant Andrew A. Ramirez of California, Staff Sergeant Christopher J. Stone of Michigan, and Specialist Steven M. Gonzales of Texas. We welcome these soldiers home with open arms. We also salute the brave men and women of our armed forces who remain in harm's way in the Balkans. Their courage and patriotism, and the dedication and sacrifice of their families, are appreciated and honored by all Americans.

Mr. President, I ask unanimous consent that I may send the resolution to the desk and that it be held there until the majority leader and the minority leader decide upon a proper disposition of it, but that it can't be held longer than a day, the end of business today.

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

Mr. GRAMM. Mr. President, I ask the distinguished Senator from West Virginia to add me as a cosponsor to that resolution, if he would.

Mr. BYRD. I thank the distinguished Senator. Mr. President, I make that request.

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

Mr. BYRD. Mr. President, I have retrieved my resolution from the desk. I ask unanimous consent that S. Res. 94 be printed in the RECORD.

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

S. RES. 94

Whereas on March 31, 1999, Staff Sergeant Andrew A. Ramirez, Staff Sergeant Christopher J. Stone, and Specialist Steven M. Gonzales were taken prisoner by the armed forces of the Federal Republic of Yugoslavia while on patrol along the Macedonia-Yugoslav border;

Whereas Sergeant Ramirez, Sergeant Stone, and Specialist Gonzales conducted themselves throughout their ordeal with dignity, patriotism, and faith;

Whereas the Reverend Jesse Jackson led a delegation of religious leaders to the Federal Republic of Yugoslavia that succeeded in negotiating the release of Sergeant Ramirez, Sergeant Stone, and Specialist Gonzales; and

Whereas the Reverend Jesse Jackson has previously succeeded in securing the release of hostages held in Syria, Cuba, and Iraq: Now, therefore, be it

Resolved, That—

(1) the Senate commends the Reverend Jesse Jackson for his successful efforts in securing the release of Sergeant Ramirez, Sergeant Stone, and Specialist Gonzales, and for his leadership and actions arising from his deep faith in God; and

(2) the Senate joins the families of Sergeant Ramirez, Sergeant Stone, and Specialist Gonzales in expressing relief and joy at their safe release.

Mr. ALLARD addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, I rise in support of S. 900, the financial modernization bill. I supported this legislation as a member of the Banking Committee, and I commend Chairman GRAMM for the excellent work he has done in bringing this bill to the floor. The chairman has worked very hard to craft a bill that makes sense. It is balanced and will benefit our economy.

This legislation is designed to modernize America's financial services industry by providing a sensible framework for the affiliation of banks, securities firms, insurance companies, and other financial institutions. It is, of course, very difficult to craft a compromise that is acceptable to many diverse interests, but it is necessary that we do so.

Much of our financial services industry is governed by laws written in the 1930s. Congress has struggled with this issue for many years. I am hopeful that this is finally the year we enact this legislation.

I will focus my comments on several issues concerning community banks.

In Colorado, the community bank is an important institution. It is the center of many of our towns and rural areas. I have worked hard to represent their interests in the Banking Committee. I am a supporter of the provisions in this bill to exempt small rural banks from the Community Reinvestment Act. For small banks, the CRA, or Community Reinvestment Act, is a regulatory burden. While a large bank can often devote an entire department to CRA compliance, a small bank has to divert scarce resources toward compliance. Each of these small banks is required to undergo regular exams and actually designate a CRA compliance officer. This makes little sense when one recognizes that small rural banks could not survive if they did not invest in the community. Frankly, where else could they put their money?

I will read a few excerpts from Colorado banks on this very important point.

From the First National Bank of Stratton:

Your amendment removing the CRA requirement will have a positive benefit for small community banks located in non-metropolitan areas. As a small community bank in a town of 700, the employees and the bank's officers are already involved in literally everything going on in the town. The CRA requirement provides a burdensome paper and personnel requirement for small community banks.

Remember, this is coming from a bank in a town of only 700 people.

Then from the First National Bank of Cortez:

In our bank, our compliance officer spends a great deal of time preparing documents for the CRA file and Bank Examiners. We estimate that it takes 80 to 100 hours each year to update the CRA file, and to date, we have never had a customer ask to see the file.

Then from the First National Bank in Las Animas and La Junta:

I strongly support the provision to remove the onerous requirements of the CRA from small rural banks. We serve our communities well and if we do not serve the needs of our community we will not exist.

From the Kirk State Bank:

As a small rural bank, the CRA is a burdensome regulation. In reality, small banks and small communities have to be good community citizens to be successful and a bureaucratic regulation does nothing to improve the situation.

Mr. President, I ask unanimous consent to have the text of these letters and others from Colorado bankers printed in the RECORD.

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

THE FIRST NATIONAL BANK OF STRATTON,
Stratton, CO, March 29, 1999.

Hon. PHIL GRAMM,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR GRAMM: Your amendment removing the CRA requirement will have a positive benefit for small community banks located in Non-metropolitan areas. As a small community bank in a town of 700, the employees and the bank's officers are already involved in literally everything going on in the town. The CRA requirement provides a burdensome paper and personnel requirement for small community banks.

Your support of this amendment is greatly appreciated.

Yours Truly,

DANA M. SIEKMAN,
Vice President.

FIRST NATIONAL BANK, CORTEZ,
Cortez, CO, March 30, 1999.

Hon. PHIL GRAMM,
Chairman, Committee on Banking, Housing and Urban Affairs, Washington, DC.

DEAR SENATOR GRAMM: Thank you for your letter of inquiry regarding our position on your amendment to exempt banks less than $100 million in aggregate assets from the CRA regulation.

Needless to say, I am very proud of you and your committee and strongly desire that this amendment be passed.

In our bank, our compliance officer spends a great deal of time preparing documents for the CRA file and Bank Examiners. We estimate that it takes 80 to 100 hours each year to update the CRA file, and to date, we have never had a customer request to see the file. Of course the Bank examiners do request this information. We find that this regulation is completely worthless and of no benefit at all.

Also, in my opinion the whole CRA regulation should be disposed of, since it does not apply to others in the financial industry.

Very truly yours,

DONALD G. HALEY,
President.

THE FIRST NATIONAL BANK,
Las Animas, CO, March 29, 1999.

Hon. PHIL GRAMM,
Chairman, U.S. Senate Committee on Banking, Housing and Urban Affairs, Washington, DC.

DEAR SENATOR GRAMM: I appreciated your letter of March 22, inquiring about the financial services modernization bill and the exemption from the requirements of CRA for smaller rural banks, such as our own. Although I do not believe many of the aspects of the financial services modernization bill are in the best interest of our nation I strongly support the provision to remove the onerous requirements of the CRA from small rural banks. We serve our communities well and if we do not serve the needs of our communities we will not exist. The CRA requirements, are in many cases, counter-productive and anything that can be done to remove the bureaucracy involved in that would be appreciated. Thank you again for soliciting input.

Sincerely,

DALE L. LEIGHTY,
President.

THE KIRK STATE BANK,
Kirk, CO, March 31, 1999.

Senator PHIL GRAMM,
U.S. Senate, Committee on Banking, Housing and Urban Affairs, Washington, DC.

DEAR SENATOR GRAMM: Thank you for your letter of March 22, 1999 regarding the CRA Amendment.

As a small rural bank, the CRA is a burdensome regulation. In reality, small banks in small communities have to be good community citizens to be successful and a bureaucratic regulation does nothing to improve the situation.

Very truly yours,

L.E. HOUSE,
President.

FOOTHILLS BANK,
Wheat Ridge, CO, April 13, 1999.

Hon. PHIL GRAMM,
Chairman, Banking Committee, U.S. Senate, Washington, DC.

DEAR SENATOR GRAMM: The Community Reinvestment Act has outlived it's usefulness, and was never fairly implemented to included all financial institutions. It was a government hammer to force banks to make loans and open branches that were not prudent. Enforcement of discrimination laws produces better results.

Please hold firm on exempting banks with less than $100 million in assets from CRA requirements during your consideration of the Financial Services Modernization bill. The exemption should be at the $500 million level, if not removed altogether, and all financial institutions (lenders) should be included; such as Credit Unions.

Finally, please remember, this great Country's economic health is largely based on the freedom of individuals who take the risk of opening a small business, and a small bank is a small business. The less government regulation for small banks the better we can compete with large banks who have full time staffs to handle regulatory requirements. As the President of a small bank that I started after a large bank purchased the bank I had worked at for 20+ years, and let me go at the ripe old age of 49 years, I wear many hats and spend much of my mornings reviewing stacks of regulatory correspondence. Any relief will be appreciated.

Sincerely,

JOE L. WILLIAMS,
President & CEO.

FIRST NATIONAL BANK
OF CANON CITY,
Cañon City, CO, April 7, 1999.

Hon. PHIL GRAMM,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR GRAMM: We support your thoughts that rural banks of less than $100 million in assets should be exempt from the provisions of CRA. In my thirty years of banking, I can honestly say that CRA compliance issues in a bank of this size ($95 million in assets in a community of less than 50,000 people)are unnecessary. This bank and every other rural bank, by their very nature, are leaders and innovators in meeting the credit needs of the citizens and businesses in communities in which they are located.

Our directors, officers and employees, for the most part, were born and raised in this community and they volunteer untold numbers of hours to community organizations and governmental agencies. While attending these events, we have and take the opportunity to listen to the needs of the community and to communicate our products and services accordingly. We often develop new products and services, or actually sponsor events, to satisfy specific needs based on feed-back we have received from the community.

The present CRA examination procedures for small banks have already been simplified to the point, that the remaining procedures are nothing more than an exercise in futility. The results prove nothing that the examiner doing the work and the bank being examined does not already know. The bank is truly meeting the community's credit needs and there is no discrimination or redlining taking place. Eliminating small rural banks from any and all CRA requirements would be cost effective and will permit bank examiners to focus on safety and soundness areas that are truly meaningful and effective in the examination process.

Respectfully yours,

WILLIAM H. PAOLINO,
Sr. V.P. and Cashier.

PAONIA STATE BANK,
Paonia, CO, April 1, 1999.

Senator PHIL GRAMM,
Chairman, Committee on Banking, Housing, & Urban Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR GRAMM: Thank you for your letter of March 22, 1999, received today. Please be advised that we do support the amendment to the Financial Services Modernization bill, to exempt banks with less than $100 million in assets and in non-metropolitan areas, from CRA requirements.

We believe that mall community banks have more than demonstrate that we must reinvent in our communities on a wide basis, simply to continue in business. With the high levels of competition in the marketplace, we do not have any alternative but to complete rigorously, and that means covering all areas and segments of our population and service areas, with full and complete banking services. The costs of doing so are enormous without the added costs of documentation of compliance with CRA. It will be more helpful to small community banks like ours to be relieved of such burden, and we thank you for pursuing the amendment.

Sincerely,

CLINTON W. BOOTH,
President & CEO.

THE GUNNISON BANK
AND TRUST COMPANY,
Gunnison, CO, April 9, 1999.

Hon. PHIL GRAMM,
Committee on Banking, Housing, and Urban Affairs, Washington, DC.

DEAR SENATOR GRAMM: Thank you for your letter regarding the pending financial modernization legislation. While I applaud your support of regulatory relief from the burdens of the Community Reinvestment Act for small rural banks, there continue to be provisions of the financial modernization legislation that concerns me. I believe, as does the Independent Bankers of Colorado on whose Board I am a member, that the financial modernization bill as it is currently written is harmful to community bank interests.

We support the closure of the unitary thrift holding company loophole through which an increasing number of non-banking firms are acquiring thrifts. We agree with the Federal Reserve, Independent Bankers' of America Association and American Bankers' Association that this loophole allows the mixing of banking and commerce and the entry of non-federally insured entities to the payments system and discount window. Without a payments system reserved solely for federally insured financial institutions the future of community banking is doubtful. Community banks cannot compete effectively against a combination of the country's largest banking, financial and commercial firms. These combined entities would own and control products and services vital to the continuing viability of community banks. Moreover, they would control access to the payments system the lifeblood of community banks and communities throughout Colorado and the nation, especially of our rural community banks and communities.

For these same reasons, we oppose any commercial basket that allows a bank to invest its revenues in commercial firms-the mixing of banking and commerce. Community banks cannot compete effectively against financial and commercial conglomerates that will control a variety of commercial and consumer markets.

We support an increase in community bank access to the Federal Home Loan Bank (FHLB) by according membership to the FHLB for all banks less than $500 million in assets and by including agricultural and small business paper as eligible collateral. Alternative sources of funding are becoming increasingly expensive for community banks to acquire. Increased access to the FHLB will help to ensure an additional, affordable source of funds for community bank lending, particularly rural community bank lending. Without affordable sources of funding, community banks cannot adequately support their local communities.

Community banks remain concerned about the insurance provisions that may be included in financial modernization legislation. We urge that Congress not take any legislative steps that would hinder community bank insurance activities. Community banks must retain the authority to engage in insurance activities to be able to compete effectively against big banks, insurance companies and financial conglomerates controlled by unitary thrift holding companies that are increasingly in pursuit of community bank customers.

Thank you for seeking my input into your laudable efforts to reach a comprise on financial modernization that benefits all parties.

With Sincere Regards,

TOM L. HAVENS,
President.

THE FIRST NATIONAL BANK
OF STRATTON,
Stratton, CO, March 26, 1999.

Hon. PHIL GRAMM,
Chairman, Committee On Banking, Housing & Urban Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR GRAMM: I would like to thank you for your support in the Senate Banking Committee, concerning your proposal to exempt Banks with under one hundred million in assets, from the Community Reinvestment Act.

We strongly support this exemption. We are all over burdened with regulatory requirements and CRA is at the top of this list. We have devoted countless hours and thousands of reams of paper to be outstanding in our CRA Reports.

It is a well known and documented fact that any Bank surviving in the 80's and into the 90's who is not meeting the requirements of the Community Reinvestment Act, is not succeeding. Most small Banks not in the metropolitan setting perform all the acts, required under CRA, in their daily survival.

It might be further interesting to note that due to the change in the matrix and composition of the requirements for an outstanding CRA rural Banks find it very difficult to receive an outstanding. We had worked diligently and faithfully to maintain an outstanding CRA Rating and then with the change of rules we are almost excluded by a definition form being able to obtain an outstanding rating and have to be satisfied with merely a satisfactory.

This again points up the fact that there is no reason to go through that gyration to be only satisfactory, as we certainly are satisfied in the daily performance of our Banking lives. We are all concerned about the Community and daily make every effort to enhance the Communities which we serve.

We therefore highly support the exemption of this requirement on the smaller institutions. It would save us dollars and cents, but more importantly would allow us the time to get out of the office, away from the paper work requirements and actually serve the customers as we intend to. It would also help provide one less unfair advantage to small Banks concerning our Credit Union struggles and brings us one step closer to a level playing field. Credit Unions are not required to be under any CRA requirements.

I thank you for the opportunity to be heard and to support your efforts on the Financial Modernization Bill. We also would ask for your support in closing the unitary thrift loophole which is detrimental to the small Banks and the Banking payment system in general. We believe these two items are of the highest priority in the up coming Modernization Bill.

Respectfully,

ROBERT L. TODD,
President.

Mr. ALLARD. Mr. President, these letters contain a number of views on the CRA and other provisions of the bill.

Now I want to talk about taxes. For over a year now, I have been working on legislation to reduce the tax burden on small banks. Last week, I introduced S. 875 along with Chairman GRAMM and Senators BENNETT, ABRAHAM, HAGEL, ENZI, MACK, GRAMS and SHELBY.

This legislation expands the subchapter S option for small banks. Subchapter S is a portion of the Tax Code designed for small businesses with a modest number of shareholders. The most important feature of subchapter S is that it eliminates the double taxation faced by corporations. Subchapter S businesses are taxed only at the shareholder level.

Congress made this provision available to banks 3 years ago. Since then, nearly 1,000 small banks have converted from C corporations to S corporations. Unfortunately, many more would like to convert. They are prevented from doing so by a number of remaining obstacles in the tax law.

My legislation would change this by making subchapter S available to many more banks. I will be working closely with Senator GRAMM and the Finance Committee in the months to come in an attempt to include this legislation in a tax bill.

Mr. President, I will include a full description of the provisions of my bill at the end of these comments.

I also want to talk briefly about one additional matter that has come to my attention. This is a proposal to permit banks to be organized as limited liability companies, or LLCs. LLCs were first created in the mid-1980s and have spread throughout the Nation. Virtually every State now permits businesses to be organized as LLCs, as well as corporations and partnerships. The tax benefit of an LLC is similar to that of a subchapter S corporation. Double taxes are eliminated and taxes are paid at the level of the owners. Up to this point, Federal law had limited banks to the corporate form.

In recent years, a number of experts have questioned this restriction, and there appear to be good reasons why we may wish to examine permitting small banks to be organized as LLCs.

I will provide the chairman with language on this point and ask that he take a good look at it. I want to thank Chairman GRAMM, once again, for his hard work on this bill. I have been pleased to be a member of the Banking Committee, and I am pleased to support the legislation.

Mr. President, I ask unanimous consent that an explanation of my legislation be printed in the RECORD.

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

SMALL BUSINESS AND FINANCIAL INSTITUTIONS TAX RELIEF ACT OF 1999 LEGISLATION TO REDUCE THE FEDERAL TAX BURDEN ON SMALL BANKS

This legislation expands Subchapter S of the IRS Code. Subchapter S corporations do not pay corporate income taxes, earnings are passed through to the shareholders where income taxes are paid, eliminating the double taxation of corporations. By contrast, Subchapter C corporations pay corporate income taxes on earnings, and shareholders pay income taxes again on those same earnings when they pass through as dividends. Subchapter S of the IRS Code was enacted in 1958 to reduce the tax burden on small business. The Subchapter S provisions have been liberalized a number of times over the last two decades, significantly in 1982, and again in 1996. This reflects a desire on the part of Congress to reduce taxes on small business.

This S corporation legislation would benefit many small businesses, but its provisions are particularly applicable to banks. Congress made S corporation status available to small banks for the first time in the 1996 ‘‘Small Business Job Protection Act’’ but many banks are having trouble qualifying under the current rules. The proposed legislation:

Permits S corporation shares to be held as Individual Retirement Accounts (IRAs), and permits IRA shareholders to purchase their shares from the IRA in order to facilitate a Subchapter S election.

Clarifies that interest and dividends on investments maintained by a bank for liquidity and safety and soundness purposes shall not be ‘‘passive’’ income. This is necessary because S corporations are restricted in the amount of passive investment income they may generate.

Increases the number of S corporation eligible shareholders from 75 to 150.

Provides that any stock that bank directors must hold under banking regulations shall not be a disqualifying second class of stock. This is necessary because S corporations are permitted only one class of stock.

Permits banks to treat bad debt charge offs as items of built in loss over the same number of years that the accumulated bad debt reserve must be recaptured (four years) for built in gains tax purposes. This provision is necessary to properly match built in gains and losses relating to accounting for bad debts. Banks that are converting to S corporations must convert from the reserve method of accounting to the specific charge off method and the recapture of the accumulated bad debt reserve is built in gain. Presently the presumption that a bad debt charge off is a built in loss applies only to the first S corporation year.

Clarifies that the general 3 Year S corporation rule for certain ‘‘preference’’ items applies to interest deductions by S corporation banks, thereby providing equitable treatment for S corporation banks. S corporations that convert from C corporations are denied certain interest deductions (preference items) for up to 3 years after the conversion, at the end of three years the deductions are allowed.

Provides that non-health care related fringe benefits such as group-term life insurance will be excludable from wages for ‘‘more-than-two-percent’’ shareholders. Current law taxes the fringe benefits of these shareholders. Health care related benefits are not included because their deductibility would increase the revenue impact of the legislation.

Permits Family Limited Partnerships to be shareholders in Subchapter S corporations. Many family owned small businesses are organized as Family Limited Partnerships or controlled by Family Limited Partnerships for a variety of reasons. A number of small banks have Family Limited Partnership shareholders, and this legislation would for the first time permit those partnerships to be S corporation shareholders.

Permits S corporations to issue preferred stock in addition to common. Prohibited under current law which permits S corporations to have only one class of stock. Because of limitations on the number of common shareholders, banks need to be able to issue preferred stock in order to have adequate access to equity.

Reduces the required level of shareholder consent to convert to an S corporation from unanimous to 90 percent of shares. Non-consenting shareholders retain their stock, with such stock treated as C corporation stock. The procedures for consent are clarified in order to streamline the process.

Clarifies that Qualified Subchapter S Subsidiaries (QSSS) provide information returns under their own tax id number. This can help avoid confusion by depositors and other parties over the insurance of deposits and the payer of salaries and interest.

Mr. ALLARD. Mr. President, I yield back my time.

Mr. SCHUMER addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. SCHUMER. Mr. President, I rise to address the issue of the financial services legislation now before us. Like many of my colleagues, Mr. President, this marks my 19th year of trying to improve financial services. We haven’t done much in 19 years, but I am hoping this 20th year is the charm.

Today, however, regrettably I have a few doubts. As much as anyone in the Senate, I want to see modernization pass, and I want to see it pass now. The bill is critical to the vitality of New York’s economy. New York City is the financial capital of the world.

As I have said time and time again, financial modernization legislation is critical to ensuring that our financial institutions are competitive at home and abroad. Because of the entrepreneurialness of America, particularly in financial services, we dominate the world. Hundreds of thousands, if not millions, of people are employed in every one of the 50 great States because of our dominance in this area. And even as things that have happened in America spread to Europe and Asia, it is more and more American companies that are taking the lead and doing them. That is because we are technologically, entrepreneurially, and in innovation ahead of just about every other country in the world in financial services. So today we are the financial capital. We are the leaders. But we may not be tomorrow. Our superiority is not some historical inevitability. We need to compete in order to win. And we cannot compete in the present context of the laws.

Mr. President, when I came to the Congress in 1981, I was strongly supportive of the Glass-Steagall law. It seemed to me very simple—that while my inclination would be to allow financial institutions to do whatever they chose, they should not take part in risky activities with insured dollars. In those days, many of the banking institutions in the country wanted to use their insured dollars for the riskiest of activities. Some of us, even back in the early eighties, warned against it, and we were like voices against the wind.

I will never forget an amendment of the Banking Committee in the House, sponsored by the gentleman from Louisiana, Mr. Roemer, and myself, that said no S&L, for instance, could use insured dollars for equity investments in real estate. It lost by one vote. Had it passed, America would have saved $200 billion.

But as a result of the awful S&L crisis, we were able to come closer together on financial services. One of the great ironies is that in the early eighties, when many had said let everybody do everything, even with insured dollars, and they deadlocked with those of us who felt—some felt that each institution should be pigeonholed, but others felt don't pigeon-hole institutions but pigeon-hole insured dollars and make sure they only go to low-risk types of activities. But the S&L crisis allowed us to come together because everyone realized that insured dollars should not be used for risky activities.

And so in the early and middle nineties, legislation was crafted that allowed institutions to underwrite, sell, and even be agents for all varieties of financial services, but that successfully walled off insured dollars from the rest. This is good legislation. And so in the last few years, I—who was regarded, I guess, as one of the leading opponents of modernization—became an advocate. I was proud to support the modernization bill that reached the floor of the House last year. In fact, I persuaded a good number of my New York colleagues to support it and it passed by one vote.

We found a good model, Mr. President; we ought to stick with it. There was balance in that model. There was bipartisanship in that model. It worked. Yet, we come here to the floor of the Senate today, with financial services at risk. They are at risk because even though we had a plan that had almost everyone's support, that is not the bill coming to the floor today.

One of the main sticking points is CRA. CRA is supported by most of the financial institutions in my State, while those who seek to lift CRA say that it is a terrible burden for the financial institutions. I seem to hear that more from some of my colleagues in the Senate than from the institutions that it is supposed to help. In fact, if you surveyed the major banks and major insurance companies and major securities firms in my State of New York, almost every one would say they were happy to support last year's H.R. 10 and would be happy to support it again this year.

They realize that CRA has been an important tool for building communities across America. It has been at work in my State, whether it be in the inner city, which in the past was starved for capital, or whether it be in rural areas, also starved for capital. Individuals, homeowners, small builders, small business people, from the Adirondack Mountains and from the South Bronx, have come and said, ''Senator, make sure we keep CRA.''

The amazing thing is that CRA has worked. While in the past financial institutions, banks, would write off whole areas because it was hard to find the good loans, the economical loans, CRA forced them to go in and now they find they are making money by lending money in rural areas and inner-city areas. So it works. All of a sudden, we see that these provisions, widely accepted by the industry, widely accepted in a bipartisan measure in the House this year, accepted last year by the Senate Banking Committee by a 16–2 vote margin, are ready to scuttle the whole bill.

Let me say this: I fear that the Community Reinvestment Act provisions in the bill before us would doom modernization's failure once again, doom modernization to partisanship, doom modernization to a Presidential veto. It cannot and should not be the monkey wrench that grinds modernization to a halt. CRA or removing CRA should not be the monkey wrench that grinds modernization to a halt.

I greatly respect the views of our chairman. He is a towering intellect—somebody I joust with on many occasions and have always done it in a respectful way so that we each enjoyed it and went away shaking hands.

I say to my chairman that I understand his strongly held views. But if you believe that financial modernization is important, given the consensus that CRA has built through most parts of this country and among most Members of both parties—the House, for instance, passed a bill with a similar CRA provision as the Sarbanes substitute by a 51 to 8 margin—I ask the chairman to reexamine it, and again not have his strong feelings about CRA be the monkey wrench that undoes the whole financial services construct.

Strangely enough, it is not the passions of the many in the House but rather the passions of the few in the Senate that are causing us problems today. This is a reversal of what has usually happened.

The bill's provisions that undermine CRA will clearly cause a Presidential veto. It caused all of the Democrats on the committee to vote against the bill.

One thing we have learned in financial services in this long, tortuous, and sad history is that unless we have bipartisan support, a bill such as this with so many conflicting interests will fail. It is my hope we can today move this bill forward by setting aside partisanship and confrontation and replacing it with pragmatism and compromise.

There are certain provisions in the Democratic substitute that I don't particularly like. I am giving serious thought to the affiliate op-sub issue. In the past I have strongly been for the affiliates for the same Glass-Steagall reasons I mentioned before. I talked to the Secretary of the Treasury, who feels strongly on the other side, and he has modified the bill to meet some of the objections I have. But I don't want to let my views on that issue hold up the bill.

It is my hope similarly with CRA that we will act with dispatch. It is my hope that the Senate will adopt the CRA provisions of the Democratic substitute and we can move this bill forward to conference assured that we have created a bill that has sufficient support to pass the Senate on a bipartisan basis, assured that we have created a bill that will finally, after 20 years, be signed into law.

Thank you, Mr. President.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, we have been trying to accommodate Members who wish to make opening statements. We have been forbearing on offering the substitute, which is in order under the agreement as the first amendment. I guess I am really just trying to let colleagues know that I am sort of close to being ready to offer the substitute. I don't know whether there are others who want to make an opening statement before we get to that. I see the Senator from Nebraska may be interested in doing so. I withhold. Obviously, Members, once the substitute is offered, can make statements, too. But I withhold. I see the Senator is seeking recognition.

Mr. ALLARD addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, on this side I think we have at least two Members right now who want to be recognized to make opening statements. I request we go ahead and give them an opportunity to do that.

Mr. HAGEL addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. HAGEL. Thank you, Mr. President.

Mr. President, I rise today in support of S. 900, the Financial Services Modernization Act of 1999. As a member of the Senate Banking Committee, I am proud to have played a small role in writing this bill.

America's financial services companies operate under a regulatory regime that dates back to the Great Depression. Our banks, insurance, and securities firms are bound by artificial barriers that do not recognize the current realities of the global marketplace. The reality is this: That the line separating these industries have been blurred by the evolution of new financial products and technology.

Securities firms, insurance companies, and banks already affiliate with one another, because the marketplace demands it. However, these affiliations cannot lead to full and fair competition or the full potential benefits for consumers because of the Glass-Steagall Act and its legal barriers.

Clearly, it is time for Congress to modernize U.S. financial service regulations and introduce full and open competition across the banking securities and insurance industries. S. 900 would accomplish that.

Passage of this bill will benefit consumers in two basic ways: First, allowing competition among banks, securities firms, and insurance companies will lead to lower costs and higher savings for consumers. Second, this competition will strengthen our financial service firms that are integral to the health of the American economy.

A 1995 Bureau of Economic Analysis report estimated that increased competition in the financial services industry would save consumers nearly $3 billion a year. I realize, Mr. President, that $3 billion may not seem to be a large figure around here, but in places such as Scottsbluff, NE, and other towns in my State that is real money.

If we don't modernize our laws governing the delivery of financial services, then we will put our companies and our industries at a severe disadvantage in the global arena.

Today, the United States is the world leader in financial services. We must not jeopardize this position through congressional inaction. Just as exports of manufactured goods and commodities have become increasingly important to the growth of our Nation's economy, so are our exports of financial services very important to our economy's growth.

Our global position was strengthened by the conclusion of a historic financial services side agreement to the Uruguay Round of GATT. It is ironic that the United States pushed hard for this agreement to reduce barriers to competition abroad while our domestic market continues to operate under a 1930s regulatory regime. It is time to tear down barriers to competition in our domestic markets and ensure that our industries are able to continue to compete at home and abroad.

The members of the Senate Banking Committee took a hard look at this important issue surrounding financial modernization. S. 900 balances the sense of urgency surrounding passage of financial services reform legislation with the need to ensure that the legislation responds to future marketplace dynamics and not just to today's realities and political pressures.

Is this legislation perfect? No, it is not perfect. There are far too many competing and important interests involved in this legislation. And perfection means different things to different people. But this bill does achieve a very workable and relevant and realistic balance between the politics of financial modernization and sound public policy.

Some of my colleagues have alleged that this bill is only going to help large financial institutions and will not help small banks. This is not true. S. 900 includes some very important changes, for example, to the Federal home loan bank system. These changes are very important to small banks everywhere across this country, not just in the rural States, such as my State of Nebraska, but in urban communities and large cities as well.

The Federal home loan bank provisions in S. 900 will strengthen local community banks that are vital to the economic growth and viability of all communities. They will ensure that in an era of banking megamergers, smaller banks are able to compete effectively and continue to serve their customers' lending needs.

These provisions are supported by all of the major banking trade organizations. There are many specific dynamics to improving the marketplace and the ability for the small institutions to compete. Many of my colleagues this afternoon have detailed those changes rather well.

It is important, Mr. President, to modernize our financial service laws to ensure that our companies can compete in this new global marketplace. As barriers to trade come down, our financial service firms must be prepared to take advantage of new global opportunities.

Congress can help them prepare by giving them the flexibility they so desperately need. S. 900 provides this flexibility. I urge my colleagues to support its speedy passage.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I am not a member of the Banking Committee, although I have served there from time to time. I don't have an opening statement in the normal sense of the word because I don't intend to address the specific provisions in the bill, but rather to say to those who are on the committee, and in particular the chairman of the committee, Senator GRAMM, while many may not understand and appreciate the significance of the banking and financing institutions of the United States, and some may even come to the floor, as my good friend, Senator WELLSTONE, and talk about when we might get on to some business in the Senate that really helps people, that prompted me to come down and talk about something that I think is very, very people-oriented.

As a matter of fact, I have given a number of talks to fellow Americans. When I have asked, what do you think is the most significant thing institutionally about the United States that contributes to the opportunities we have in our daily lives to live better lives? Then I answer for them and say, it is the financing system in the United States.

There is no doubt about what helps the average man buy a car, buy a house, make renovations to his house, perhaps even buy a second cabin, or a second car for his children, those things which, when added up, make America the most prosperous Nation on Earth, the country that has people with more material wealth—if that is what measures the validity of a society—than any other nation in the world. It is that we can finance purchases. We can finance what we buy, we can pay for it over time, and of late we are getting the interest rates down where they ought to be, as low as possible.

This is the best thing for Americans in their day-by-day life which permits them to use their salary and their earnings in a way that will let them spread out the costs of items that they need over a period of time, with a reasonable and rational finance plan.

It is absolutely important that from time to time, even though in the Congress we don't like to legislate items like a brand-new banking and finance bill—it is tedious for some, it is difficult, and for many it doesn't even seem like anything exciting we ought to be doing in the Senate. However, realizing what it does for our people, it ought to be full speed ahead to get to the floor with a good bill to modernize the banking and financing system of this country.

Earlier in our history, almost everything was financed through banks and the type of institutions that are principally the subject matter of this bill. Because we didn't modernize the system soon enough, financing is done in various ways—perhaps there is more financing done outside the banking system than there is in the banking system per se. Insurance companies do financing; companies that are big enough do their own financing of appliances; clearly, institutions that are not banks and not subject to banking rules or financing purchases.

When it comes to measuring a country's long-term success and the international markets and the day-by-day availability of good credit and soundness of our economy, we have to always look to the banking system. As a matter of fact, just think a moment of the past 3 years when things have gone wrong in other countries, when some of these countries went almost totally bankrupt. What led such failures? It was frequently led by the failure of their banking system. That should say something when we see that all around us.

Why is the country of Japan, that many people 15 years ago said we should mimic—obviously we don't choose to speak that way today; I never spoke about it even 15 years ago—what has happened to Japan today? They don't want to face up to the fact their financing institutions are in a state of chaos, if not bankruptcy. It is tough for them to admit.

We didn't want to admit it when our savings and loans were going bankrupt. We didn't want to come up with the money it took to bail out the depositors who were guaranteed their money, up to $100,000, who financed the S&L banking system in the United States, but we finally did it. We saved it. We spent a lot of money doing it.

In a very real sense, those who are managing this bill, including my good friend from Maryland, Senator SARBANES, and obviously the chairman, who I have already mentioned, are contributing a very vital quality to American life by trying to modernize the financial and banking system of the United States.

As my good friend from Nebraska said, what we have is too old, too ancient. It is not modern. It is not taking care of modern problems. It is not helping banks grow in a way they can and should to be modern institutions of financing.

I commend and laud those on the committee who have worked hard. I hope even with our differences we will get a bill. I read a letter from the President saying if certain things are in the bill, he will veto it. This letter was directed to the distinguished chairman, Senator GRAMM. We know the executive branch has a couple of strong feelings about this bill; perhaps the Senate has equally strong feelings about the same items.

On the other hand, I believe when we are finished and go to conference and work this through with the House and with the administration in an effort to get a bill that is sound, reform-minded, modern and yet protects certain interests that the banking system is currently helping and protecting, we will get a bill. The opportunity doesn't come very often for Congress to reform a significant portion of our capitalist system.

I will make one other observation. For anyone who doesn't think capital—which is the substance of banks—isn't important to a capitalist society, let me suggest that the last 3 years ought to prove it up in America in spades. While many economies in the world were in a state of bankruptcy, couldn't buy our goods and were having great economic difficulty, what happened to America? Our consumers bought more rather than less. Interest rates went down rather than up. There was more money for almost any venture desired because the banking system in our country was the greatest safe haven for capital that the world has ever seen. That meant anyone with extra money sent it here. Thus, that money was available to finance purchases in America, bring interest rates down rather than up.

The question is, What will happen when the world economy goes the other direction? Frankly, we ought to have a modernized banking system when that occurs. It is predicted that America's prosperity may turn a little bit in the wrong direction within 3 to 5 years. If it lasts 5 years, it will be astronomical in terms of a previous growth period. We have learned that the availability of a lot of capital in a capitalist system such as ours can make this economy grow and prosper in a way we had never quite figured out until we became almost totally dependent upon that.

There are signs all over the place that this great opportunistic land of ours needs a good, sound, solvent, and modern banking system. I came down to make sure those listening understand this is not a bill for bankers. This is not a bill for rich people. This is a bill to let a banking and finance system work for Americans—whether they are financing a home, whether they are moderate-income people, whether they are financing an education for their kids, whatever it may be. We have to have a sound set of financial rules in America for Americans to grow and prosper.

American business needs to borrow money, and clearly a banking system has to be ready and able to do that for the American business people here and abroad. It cannot be done with a system that is hog tied with ancient rules and regulations that don't meet today's times.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. I thank both my Republican colleagues for great statements. I think the Senator from New Mexico reminded us of the successes of our banking system and how we should appreciate it. I think he made a very good statement. My colleague from Nebraska, who is working real hard on the Banking Committee with the chairman and all members on the Banking Committee, I appreciate his effort and help on these very important issues. He has contributed considerably to this legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

AMENDMENT NO. 302

Mr. SARBANES. Mr. President, pursuant to the order that is governing our consideration of this bill, at least currently, I send an amendment in the nature of a substitute to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Maryland [Mr. SARBANES], for Mr. DASCHLE, for himself, Mr. SARBANES, Mr. DODD, Mr. KERRY, Mr. BRYAN, Mr. JOHNSON, Mr. REED, Mr. SCHUMER, Mr. BAYH and Mr. EDWARDS proposes an amendment numbered 302.

Mr. SARBANES. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

The PRESIDING OFFICER (Mr. SMITH of Oregon). The Senator from Maryland.

Mr. SARBANES. Mr. President, as I have indicated earlier in the course of the opening debate on this issue, we are very anxious on our side to have financial service modernization legislation, and most of us subscribe to the proposition of allowing affiliations between banks, security firms, and insurance companies.

However, as I have indicated, that is not the only issue before us. We have to consider that question in the context of addressing important questions of providing credit in all communities in our country; namely, the Community Reinvestment Act issue. We have to consider how these activities are to be done, whether they are to be done solely in an affiliate, outside of the banking structure, or whether banks will have the opportunity either to use the affiliate or to do it in an operating subsidiary. We have the important issue of the long historical separation between banking and commerce, which has prevailed in this country. And we have other aspects of the legislation which I think are of importance, including important provisions with respect to consumer protection.

As we have indicated earlier, we were not able to support this legislation in the committee and the legislation was brought to the floor on an 11-to-9 vote. The alternative, which we have now offered, just offered, and which is at the desk, is, in effect, the bill that the committee reported last year on a 16-to-2 vote with the one substantial change of providing for the operating subsidiary approach. That is now contained in the alternative, the substitute amendment which I have sent to the desk.

Last year some very careful compromises were worked out in order to move this legislation forward on a consensus basis. Unfortunately, that has not been the case this year, and the legislation that was developed in the committee was reported by the majority but contained no supporting vote from any of the Democratic members of the committee. The proposal before us, S. 900, the bill from the committee, is strongly opposed by a great number of civil rights groups, community groups, consumer organizations, and local government officials. People within the financial services industry have mixed views on some of the provisions of S. 900, and of course the President has indicated that he will veto the committee bill.

Unfortunately, we have this sharp contrast with last year's bipartisan approach. I think it is fair to say that none of the industry association groups oppose the substitute. They have been caught in the switches, so to speak, on this issue, and subjected to considerable persuasion. But I think it is fair to say that the provisions that are in the substitute will pass muster. These provisions also are fairly close to what the House Banking Committee has done by a 51-to-8 bipartisan vote. So we think the approach contained in the substitute just sent to the desk stands the greatest chance of finally being enacted into law. This substitute amendment, in effect, would put us on a path, at the end of which we could obtain the President's signature and get legislation.

Let me briefly seek to contrast the substitute and S. 900, the bill brought from the committee. It should be clearly understood that there is an intense view on this side of the aisle, and I believe shared by at least a few on the other side of the aisle, that the Community Reinvestment Act has really been a very significant and constructive public policy. It has improved the availability of credit in low- and moderate-income communities. There is example after example, and we will put those in the RECORD as this debate develops, where the CRA lending and investments have brought life to previously neglected communities and given people not only hope, but the ability to move up the American ladder of opportunity. It has helped to alleviate credit needs and improve services in rural areas and on Native American reservations. It has had a significant impact on home ownership amongst minority groups, African Americans and Hispanic Americans, whose numbers in terms of home ownership have increased dramatically, and everyone who goes and observes that phenomenon reports back that the CRA has had a considerable role to play in that very important objective.

The President has stated:

> [W]e should all be proud of what [CRA] has meant for low and moderate-income Americans of all races. Although we still have a long way to go in bringing all Americans into the economic mainstream, under CRA the private sector has pumped billions of dollars of credit to build housing, create jobs and restore hope in communities left behind.

It is for this reason that farm groups, labor unions, mayors all across the country, community development corporations, Hispanic organizations, Asian American, Native American—this has had a significant impact on the Indian reservations across the country—and civil rights groups all support retaining the effectiveness of CRA.

I will include in the RECORD at the end of my remarks letters from these various organizations detailing their very strong view about CRA, and in effect their support for this substitute.

The substitute requires that banks should have at least a satisfactory CRA rating before they can affiliate with securities and insurance firms, and that they would have to maintain that rating to continue the new affiliation. These provisions are essential in order to maintain the effectiveness of CRA within the expanded holding company structure. Capital, management, and CRA performance are at issue when an institution files an application for deposit insurance, a charter, a merger, an acquisition or other corporate reorganization, a branch or the relocation of a home office or branch.

If you are going to allow banks for the first time in a comprehensive way to engage in insurance and securities activities, then it is important that those banks, before they can do that, meet the CRA test. Otherwise, you are going to have a situation in which financial institutions could enter into additional activities, even if they were deficient in their CRA performance.

As the FDIC Chairman, Donna Tanoue stated:

> The bank and thrift regulatory agencies consistently take into account an insured institution's record of performance under CRA when considering an application to open or relocate a branch, a main office, or acquire or merge with another institution. As this legislation would enable institutions to enter into additional activities, it would seem consistent that CRA compliance should continue to be a determining factor.

Last year, we worked out these CRA provisions in the bill that was reported out of the committee. And the consensus, a 16–2 vote, contained these important CRA provisions.

This year, the provision requiring a satisfactory rating as a precondition of expanded affiliations is absent from the committee-reported bill. There are two provisions in the committee-reported bill which we feel very strongly contribute to undermining the application of CRA.

This substitute amendment, unlike the committee bill, requires banks have and maintain satisfactory CRA ratings in order to engage in and maintain expanded affiliations. To fail to do so would allow banks, for the first time, to move out in terms of the activities they can engage in, in a comprehensive way—both securities and insurance—without the bank that is going to do that having to meet the CRA test.

It does not apply, the CRA, to the insurance and securities activities, although many CRA advocates want to do exactly that. It only requires that the bank, as a condition of affiliation, meet the CRA performance standards.

As Secretary Rubin has stated:

> If we wish to preserve the relevance of CRA at a time when the relative importance of bank mergers may decline and the establishment of non-bank financial services will become increasingly important, the authority to engage in newly authorized activities should be connected to a satisfactory CRA performance.

Let me turn to the other CRA issues that are, in effect, posed by the substitute as compared to the committee-reported bill.

The second provision of the committee bill that weakens CRA is its safe harbor for banks with a ''satisfactory'' or better CRA rating. This is, banks would be deemed in compliance with CRA if they had in each of their three preceding examinations received a satisfactory rating. Groups, in fact, would not be able to comment about CRA performance unless they could carry the very heavy burden of providing substantial, verifiable information to the contrary.

The Federal bank regulatory agencies oppose this provision. They agree that a satisfactory CRA rating is not conclusive evidence that a bank is meeting the credit needs of all of its communities. On the contrary, they welcome comments from the public regarding the CRA performance of the institutions they supervise.

For example, Ellen Seidman, Director of the Office of Supervision said:

> [w]e generally find that the information received from those few who do comment on applications is relevant, constructive, and thoughtful, and frequently raise issues that need to be considered. In order for us to reach a supportable disposition on an application, and satisfy our statutory responsibilities, we need to have public input.

Public comment is especially useful in the case of large banks serving multiple markets, because regulators sample only a portion of these markets to determine the institution's CRA rating. Public comment provides an opportunity for community members to point out facts and data that may have been overlooked in a particular examination.

In fact, the provision that is in the committee bill would preclude looking at anything that took place prior to the past examinations if those examinations produced a satisfactory rating.

It is very clear that this safe harbor provision of the committee bill would stifle public comment on banks' and thrifts' CRA performance. This is so because nearly all banks and thrifts receive satisfactory or better CRA ratings, well up into the 90s, 90-percentile figures.

The committee majority asserts that the public comment process has been routinely abused, but that assertion is not supported by the record. We get these sort of examples that are brought in. There has never been a full-scale hearing on this issue. All of the statistical information from the regulatory agencies indicate that there has not been abuse of the public comment process. The vast majority of applications reviewed on CRA grounds are approved in a timely manner. Many do not receive any adverse comments. Very few applications that receive adverse CRA comments are delayed.

The substantial, verifiable information would really knock community groups and ordinary citizens out of being able to comment in any meaningful way. As the FDIC Chairman Tanoue stated, ''Public comments relating to CRA should not bear a burden of proof that is not imposed on public comment related to any other aspect of a bank's performance.''

The regulators take in all these comments and then they make their judgment. There seems to be a presumption here that when people come in and make a comment that somehow they then carry the day. Nothing could be further from the truth. The regulators collate all these comments, consider them, and proceed to make their judgment. And the number of instances in which CRA has been raised is a very small percentage of the total.

The third way in which the committee bill attacks CRA is the exemption for rural institutions with less than $100 million in assets. This would obviously have very severe consequences for low- and moderate-income rural communities which depend heavily on small banks for their credit needs.

It is asserted that these small banks, by their nature, serve the credit needs of their local communities. However, historically, in the ratings made by the regulators, small banks have received the lowest CRA ratings. Although many small banks do serve the needs of their communities, observers note that some small banks often invest in Treasury bonds rather than in their own communities.

Some have argued that you need an exemption in order to relieve the regulatory burden. The fact of the matter is, as the Federal bank regulators revised the CRA regulations in 1995 to reduce the cost of compliance for small banks, the new rules provided a streamlined examination for small banks. They exempted small banks from reporting requirements. And they emphasized the institution's actual performance rather than paperwork.

The FDIC, the OTS, and the OCC support the application of CRA to small banks. FDIC Chairman Tanoue stated:

> Although the vast majority of institutions satisfactorily help to meet the credit needs of their communities, not all institutions may do so over time, including small institutions. Some institutions may unreasonably lend outside of their communities, or arbitrarily exclude low- and moderate-income areas or individuals within their communities. We believe that periodic CRA examinations for all insured depository institutions, regardless of asset-size, are an effective means to ensure that institutions help to meet the credit needs of their entire communities, including low- and moderate-income areas.

Before I turn to that subject, let me again stress how critical the flow of credit, which has resulted from CRA, has been to the redevelopment of low- and moderate-income areas. The bill brought out of the committee, S. 900, would really close down opportunity for large numbers of people in these low- and moderate-income communities to really improve themselves, to move to home ownership, to open small businesses, to carry out the sort of community renewal which gives them a better neighborhood in which to live.

I have heard these assertions, but we can take you through instance after instance in which the impact of CRA has been such as to provide hope to communities and to lift them up and to enable people to move up the ladder of opportunity. I do not know what could be more consistent with an American goal or objective than to give people this opportunity to advance. And particularly the financial institutions, which are subject to these CRA requirements, are prepared to abide by them. Many of them have given testimony about the beneficial impact it has had on the community and the beneficial impact on their relationship with the community.

Let me turn to the banking and commerce issue. Another aspect of the committee bill—and this is an important part of the substitute—that differs significantly from the substitute amendment is its approach to the separation of banking and commerce. In an important respect, the committee bill breaches the separation of banking and commerce, and this could lead to biased lending decisions and may well ultimately put the taxpayer-backed deposit insurance funds at risk.

Now, this separation of banking and commerce is a longstanding principle in American law, dating back over now almost 140 years to the National Bank Act of 1864, which specifically forbids banks to engage in or invest in commercial or industrial activities. Under existing law, a commercial firm, such as General Motors or Microsoft, may not own a bank or be owned by a bank. We have tried to draw a line there. There has been some fuzzing of that line, but not much.

In 1956, the Congress enacted the Bank Holding Company Act, which prohibited commercial firms from owning banks and prohibited holding companies owning two or more banks from owning commercial firms. This policy was strengthened by the Bank Holding Company Act Amendments of 1970, which extended the prohibition on owning commercial firms to holding companies owning just one bank. In other words, it drew a very sharp line.

In submitting the 1970 amendments, President Nixon said:

> The strength of our banking system depends largely on its independence. Banking must not dominate commerce or be dominated by it.

Now, why do we have this principle of separating banking and commerce in U.S. law? Because allowing banks to affiliate with commercial firms raises concerns relating to risk to the deposit insurance fund, the impartial granting of credit, unfair competition, and concentration of economic power. A bank affiliated with a commercial firm would have an incentive to make loans to that firm, even if the firm were less creditworthy than other borrowers. The bank would have a similar incentive not to lend to the firm's competitors, even if they were creditworthy.

Financial experts have pointed out these dangers. Secretary Rubin testified that mixing banking and commerce:

> . . . might pose additional, unforeseen and undue risk to the safety and soundness of the financial system, potentially exposing the federal deposit Insurance funds and taxpayers to substantial losses. . . . Equally uncertain is the effect such combinations might have on the cost and availability of credit to numerous diverse borrowers and on the concentration of economic resources.

The leading economist Henry Kaufman warned that mixing banking and commerce would lead to conflicts of interest and unfair competition in the allocation of credit. In his view:

> . . . a large corporation that controls a big bank would use the bank for extending credit to those who can benefit the whole organization. . . . The bank would be inclined to withhold credit from those who are or could be competitors to the parent corporation. Thus, the cornerstone of effective banking, independent credit decisions based on objective evaluation of creditworthiness, would be undermined.

Public interest groups have made the same point. Consumers Union testified that it opposes:

> . . . permitting federally-insured institutions to combine with commercial interests because of the potential to skew the availability of credit, conflict of interest issues, and general safety and soundness concerns from expanding the safety net provided by the government.

The difficulties experienced in Asia demonstrate the risks associated with mixing banking and commerce. Both Secretary Rubin and Chairman Greenspan testified that the financial crisis in Asia was made worse by imprudent lending by banks to affiliated commercial firms. In other words, if you cross that line and put the commercial firm in the bank—as it were, in the same pot—you run a heavy risk, as was exemplified in the Asian financial crisis, of imprudent lending.

Former Federal Reserve Chairman Paul Volcker wrote, recent experience with the banking crises in countries as different in their stages of development as Japan, Indonesia and Russia demonstrate the folly of permitting industrial financial conglomerates to dominate financial markets in potentially large areas of the economy.

The substitute amendment tries to sustain this line between banking and commerce. The committee bill crosses this line in a number of respects.

First of all, it permits bank affiliates to acquire any type of company in connection with merchant banking activities. However, the committee bill drops certain safeguards that are in the substitute and that were in last year's bipartisan bill. Those safeguards allowed merchant banking investment to be held only for such period of time as would permit the sale of the investment on a reasonable basis. It precluded the bank affiliate from actively participating in the day-to-day management of the company.

The committee bill drops those safeguards. In effect, it would allow a bank holding company to operate commercial companies of any size and in any industry for an unlimited period of time. This would break down the separation of banking and commerce.

The substitute restores the safeguards that were in last year's bill.

Secondly, both the committee bill and the substitute amendment allow holding companies that own banks to engage in activities that are financial in nature or incidental to such financial activities. But the committee bill goes further by authorizing holding companies to engage in activities that are complementary activities that are financial in nature. It provides no definition or limitation of these complementary activities and, therefore, raises the danger that these complementary activities would be commercial in nature and cross the separation between banking and commerce. The substitute does not permit those complementary activities.

Finally, the committee bill does not close the unitary thrift company loophole. That loophole refers to the fact that a company that owns just one thrift, called a unitary thrift holding company, may also own a commercial firm. There are currently over 500 thrifts owned by unitary holding companies. The vast majority of these are owned by financial firms. Now, both the committee bill and the substitute would prohibit the creation of new unitary thrift holding companies by commercial firms. However, there is a sharp difference in that the committee bill would allow a commercial company to acquire any of the 500 existing unitary thrift holding companies.

Now, obviously, if they can do that, if hundreds of commercial firms, in effect, can acquire a unitary thrift holding company, they can effectively obliterate the separation between banking and commerce. Financial leaders and banking industry groups advise the committee to prohibit commercial firms from acquiring control of thrifts. Chairman Greenspan recommended that financial services modernization legislation at least prohibit, or significantly restrict, the ability of grandfather unitary thrift holding companies to transfer their legislatively created grandfather rights to another commercial organization.

Secretary Rubin observed that, ''without such a limit on transferability, existing charters may tend to migrate to commercial firms and could become a significant exception to the general prohibition against commercial ownership of depository institutions.''

Both the ABA and IBAA—the American Bankers Association and the Independent Bankers Association of America—wrote to Senators yesterday expressing their support for closing the unitary thrift holding company provision, including restricting transferability of existing unitaries.

Now, let me turn briefly to some important consumer protection provisions that are in the substitute amendment, but that are not in the committee bill, and which we think make the substitute more desirable legislation than the committee bill.

Obviously, if you are going to have a financial services modernization bill, you must ensure adequate consumer protection. We need to be sure that consumer protections keep pace with changes taking place in the financial market. In recent years, banking securities and insurance products have become more similar. A wider variety of financial products is available through banks. This increases potential customer confusion about the risks of the product the customer is buying, who is selling it, and whether or not it is insured by the FDIC. Measures such as disclosure to customers and licensing of personnel can help keep such misunderstandings to a minimum, and such a provision should be included in any financial services modernization bill.

Unfortunately, the committee bill fails to include a number of important consumer protection provisions that passed the committee overwhelmingly last year, and which we have now included in the substitute that is now before the body.

Very quickly, on insurance sales, while some of the provisions of last year's bill relating to insurance sales have been substituted into the committee bill—that was done in the committee—but more remains to be done. The substitute amendment would require Federal bank regulators to establish mechanisms for receiving and addressing consumer complaints—something that is completely absent in the committee bill.

The substitute amendment would provide that Federal regulations would supersede State regulations when the Federal regulations afforded greater protection for consumers. The committee bill allows State regulations to prevail even if it offers less protection to consumers.

With respect to securities activities, the committee bill provides less protection for consumers than does the substitute amendment.

Currently, banks enjoy a total exemption from the definitions of ''broker,'' ''dealer'' and ''investment advisor'' under the Federal securities law. Because of this blanket exemption, consumers who purchase securities from banks do not receive any of the protections of the securities laws, which in many ways are superior to those offered by the banking laws. For example, broker-dealer personnel have an obligation to recommend to their clients only transactions that are suitable based on their client's tolerance for risk, overall portfolio, and so forth.

Bank personnel have no such obligation. Broker-dealer personnel must pass licensing exams and are subject to continuing education requirements. Bank personnel are exempt from these requirements. Disciplinary histories of broker-dealer personnel are made publicly available to investors. No such history is available regarding bank personnel. Broker-dealer managers have a duty to supervise their sales personnel, which is enforceable under the Federal securities laws. Bank managers do not.

Finally, customer disputes with brokerage firms are subject to arbitration, which offers a specialized, quicker and cheaper forum for settling disputes. No arbitration exists for customer disputes with banks.

Now, the committee bill, like the substitute amendment, would repeal the total exemption banks enjoy from the definition of broker and dealer. Also, like the substitute amendment, the committee bill contains a number of exceptions that allow certain securities activities to continue to take place directly within banks. However, the exceptions in the committee bill are significantly wider than those in the substitute amendment. Let me just mention some of those important differences.

The committee bill allows a bank trust department conducting securities transactions to be compensated on a transaction-by-transaction basis, just like a broker. Where the substitute amendment allows a bank to sell unregistered securities exclusively to sophisticated investors, the committee bill allows a bank to sell unregistered securities to all investors.

Finally, the committee bill prohibits the SEC from determining that a new product is a security and, therefore, must be sold by an SEC-registered broker-dealer, unless the Federal Reserve concurs. Over time, this will move even more securities activities directly into banks. The substitute amendment would afford the SEC the first opportunity to define new products as securities.

The committee bill also leaves the SEC with less authority over bank-advised mutual funds and with less ability to protect investors in those funds.

Now, the substitute amendment requires the Federal banking regulators to issue regulations regarding the sale of securities by banks and bank affiliates. The bank regulators would have established mechanisms to review and address consumer complaints. The committee bill does not include this provision.

No one of these provisions that I made reference to may seem to be of major import. But all of them taken together, I think, indicate that the protections for consumers that are contained in the substitute amendment significantly exceed those that are in the committee-reported bill.

Another area in which the committee bill departs from last year's agreement regards a special deposit insurance assessment paid by thrifts.

Prior to 1996, thrifts paid a higher assessment rate than banks did for interest payments on certain bonds issued to pay for the resolution of the savings and loan crisis, so-called ''FICO bonds.'' In 1996, Congress acted to close this assessment differential on FICO bonds. The rates were to be equalized until January 1, 2000, and the bill that we reported last year left the 1996 agreement intact. The committee bill now before us would extend this assessment differential for another 3 years, so that thrifts would continue to pay a higher assessment rate for another 3 years.

This may well lead institutions to shift their deposits from the thrift insurance fund to the bank insurance fund, which might well create stability problems for the thrift insurance fund.

Chairman Tanoue has written that this provision serves no positive public policy purpose. And it is not in the substitute amendment that is now before us.

Let me now turn to an issue in which my colleague, the chairman of the committee, has spent a considerable amount of time here on the floor today in pointing out the differences between the substitute that is now before us and the committee bill.

All of these provisions I have thus far enumerated were essentially contained in the bill that was reported last year by the committee on a 16-to-2 vote. The one area in which the substitute amendment differs from last year's bipartisan bill is its treatment of operating subsidiaries and banks.

Last year's bill contemplated that principal activities, such as underwriting securities and insurance, would take place in a holding company's subsidiary rather than bank subsidiaries. Certain agency activities such as sales of insurance were permitted in bank subsidiaries.

This approach was supported by the Federal Reserve. It was opposed by the Treasury Department. That was an important difference last year. It remains an important difference this year.

As the legislative process has proceeded, the Treasury Department has agreed to significant additional safeguards regarding the scope and regulation of bank subsidiaries' activities. With these safeguards, it appeared to us that banks should be given the option of conducting financial activities in operating subsidiaries. That approach is contained in the substitute amendment now before the Chamber.

President Clinton has indicated that he will veto the reported bill in part because ''it would deny financial services firms the freedom to organize themselves in a way that best serves their customers.''

Let me talk a bit about the safeguards, the changes in the sense that the Treasury has agreed to, which I think now warrant allowing the banking institution to have a choice. They wouldn't be required to do it in an op-sub. They could still do it in an affiliate. They could have a choice between the two as a matter of their own organizational preference.

Last year, the Treasury was clear that they would not do real estate in the operating-sub. And they continue to hold to that position this year. In addition, the Treasury last year agreed that insurance underwriting may not take place in a bank subsidiary. This prohibition on insurance underwriting would be in addition to an explicit prohibition on real estate development conducted by bank subsidiaries to which the Treasury agreed last year. So we have these two areas now that were provided for and placed outside of the op-sub umbrella.

On merchant banking, the Treasury has agreed that the Federal Reserve shall have the authority to define merchant banking activities and bank subsidiaries. This meaningful step on the part of the Treasury will contribute to bank subsidiary activities being structured in a prudent fashion.

Merchant banking presents a potential breach in the separation of banking and commerce. The possible dangers would be increased if two different regulators were to define separately the dimensions of permissible merchant banking activities. Then to avoid the possibility that would happen—that the dimensions of the permissible merchant banking activities would be defined by two different regulators who would have different concepts—in the substitute, we have the provision that the Federal Reserve would have the exclusive authority to define merchant banking activities and bank subsidiaries.

The Treasury has also agreed that the Secretary and the Federal Reserve should jointly determine which activities are financial in nature, both for a holding company subsidiary and for a bank subsidiary. Both the Secretary and the Federal Reserve would jointly issue regulations and interpretations under ''the financial in nature'' standard. This would eliminate a potential competition between bank regulators.

Further, to place activities on an equal footing, the same conditions would apply to a national bank seeking to exercise expanded affiliation through a subsidiary as a holding company seeking to exercise those affiliations. These conditions are that banks be well capitalized, well managed, and in compliance with CRA.

The Treasury also supports the application of the functional regulation of securities and insurance activities taking place in bank subsidiaries just as it applies to holding company subsidiaries.

These provisions are all reflected in the substitute amendment.

In addition, the Treasury supports a requirement that national banks with total assets of $10 billion or more retain a holding company, even if they choose to engage in expanded financial activities through subsidiaries. This is designed to preserve the oversight that the Federal Reserve now has over the Nation's largest commercial banks through their holding company. So this was an effort by the Treasury to accommodate one of the concerns that had been repeatedly expressed by the Federal Reserve.

Furthermore, the substitute amendment contains certain additional safeguards that the Treasury Department now supports for financial services modernization legislation. Every dollar of a bank's investment in a subsidiary would be deducted from the bank's capital for regulatory purposes. In this way, the bank would have to remain well capitalized, even after deducting the investment in the subsidiary, and even should it lose its entire investment.

Secondly, a bank could not invest in a subsidiary in an amount exceeding the amount the bank would pay to a holding company as a dividend.

And, thirdly, the strict limits that now apply to transactions between banks and their affiliates would apply to transactions between banks and their subsidiaries.

These restrict extensions of credit from banks to their affiliates guaranteed by banks for the benefit of their affiliates and purchases of assets by banks from their affiliates. All such transactions must be at arm's length, and fully collateralized, and the total amount of such transactions between a bank and all of the affiliates is limited.

In total, these safeguards pertaining to the regulation of bank subsidiaries should eliminate any economic benefit that may exist when activities are conducted in bank subsidiaries rather than holding company subsidiaries.

The provisions regarding the scope of activities permitted for bank subsidiaries should remove any opportunity for regulators to compete with one another to the detriment of the safety and soundness of the banking system, or the separation of banking and commerce.

FDIC Chairman Tanoue testified:

> From a safety-and-soundness perspective, both the bank operating subsidiary and the holding company affiliate structures can provide adequate protection to the insured depository institution from the direct and indirect effects of losses in nonbank subsidiaries or affiliates.

This position of the current FDIC Chairman was echoed by three former Chairmen of the FDIC in an editorial that I printed earlier in the remarks.

> On the basis of the provisions agreed to by the Treasury Department and the testimony given by the FDIC—

And I want to underscore the efforts on the part of the Treasury Department to address questions that had been raised last year; in other words, what we are containing in the substitute differs from what the Treasury was putting forward last year and has encompassed all of these various safeguards which they have sought to develop—

[it was our judgment that] permitting bank operating subsidiaries can be consistent with the goals of preserving safety and soundness, protecting consumers, and promoting comparable regulation.

Therefore, we have included the operating subsidiary provisions in this substitute amendment and regard it as a meaningful step toward enactment of financial services modernization legislation.

Let me simply close with these observations. The substitute amendment now before the body achieves the primary objective of financial services modernization; namely, allowing affiliation of banks, securities firms, and insurance companies. It does so while preserving safety and soundness, protecting consumers, providing for regulatory parity, and promoting the availability of financial services to all communities.

The committee bill, S. 900, falls short of these goals. It undermines the Community Reinvestment Act. It does not provide bank operating subsidiaries with the scope sought by the Treasury Department. Its protections for consumers are substantially less than in the substitute. And, finally, it enables the separation of banking and commerce to be breached with respect to the unitary thrift holding companies.

For all of these reasons, the President has declared he will veto it in its current form. I believe that the substitute amendment, the one that is now before the Senate and on which at the conclusion of this debate we will vote, represents a balanced, prudent approach to financial services modernization. It is legislation which has broad acceptance within the industry. In many ways, it is comparable to the activities of the legislation of the House Banking Committee.

I am frank to say that I clearly think it is the approach most likely to achieve the enactment of financial services modernization legislation. If Members want financial services modernization legislation, if Members want to manufacture a legislative vehicle that can go all the way through to Presidential signature and become law, then Members should vote for the substitute amendment.

I yield the floor.

Mr. GRAMM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

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

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

Mr. GRAMM. Mr. President, let me talk about simplicity and clarity in the two bills. I know that seldom in writing laws do we hear lawmakers talk about what makes sense and what is simple and what is readable.

I begin by asking people to look at the bill adopted by the Senate Banking Committee modernizing financial services. That bill is 150 pages long. The substitute which has been offered by Senator SARBANES is 349 pages long. Members might ask, What is the extra 200 pages for? The extra 200 pages is for a convoluted process that breaks the simplicity of the bill adopted by the Banking Committee.

What is very good about our bill is, it is very easy to understand. If a securities firm wants to set up a bank holding company and engage in securities activities, banking activities, and insurance activities, it can set up a bank holding company, and outside the bank it can be involved in insurance and securities and it can be involved in banking under the bank holding company. It is a very simple organization. It is an organization that provides any one of the three financial industries to become bank holding companies and participate in providing a broad array of services, including banking services. And it is an organization that is very easy to understand. It is an organization that you can set out in 150 pages with all the whistles and bells and all the icing on the cake.

The Sarbanes substitute is 200 pages more complicated, and it is more complicated because it goes about things in a very different way. You can have a bank holding company that can be in the banking business and in the securities business under the basic framework of the bank. You can have a financial services holding company, a totally new entity, and it can have an insurance company, a bank holding company, and a securities firm. And under the bank holding company, you can have a bank, and that bank can be in the securities business, and it creates another totally new entity, a wholesale financial holding company, and it can be in the insurance business, wholesale financial institution business, and securities firms. Finally, banks can be in the securities business.

So the first argument I want to make is based on simplicity—not that anybody ever gauged a Federal law based on, ‘‘Does it make sense, is it simple, could people actually employ it, what kind of roadmap is it for the development of new financial institutions in America?’’ But the reason our bill can do what it sets out to do in 150 pages, and the reason the substitute takes 300 pages, is the underlying bill adopted by the Banking Committee has a simple structure that everybody can understand and that securities firms, banks, and insurance companies could all participate in. Under our bill, it is easy for any one of the three to set up a bank holding company.

The substitute is a lot more complicated and brings in a lot of new institutions. It would be very hard, in terms of a user-friendly roadmap, as to how to do this. I do not know that sways anybody in the private sector or in any real world activity. But simplicity, and the sort of clear approach that people can follow—if they are buying a roadmap or if they are buying a computer program—is an important thing. Unfortunately, it is not something that is often mentioned in making the law of the land; but, quite frankly, it should be.

I am going to try to take less time in responding than I did in my opening statement on this. I want to break the proposal into eight areas and discuss the proposal in that way. There are eight key ways that this substitute is fundamentally different from the bill which was adopted by the Banking Committee and which is before us.

The first and most important difference is that the substitute before us—offered by Senator SARBANES, which is different from the bill that Senator SARBANES supported last year, different from the bill that was adopted by the Banking Committee last year, and far different from the bill that is before the Senate now—allows banks to engage in broad financial services within the legal framework of the bank.

Alan Greenspan, the Chairman of the Board of Governors of the Federal Reserve, has said—and I want to read this quote because I think it is important. I think, No. 1, everybody in America takes Alan Greenspan seriously. Second, I want to remind people that the majority of the Governors of the Federal Reserve Board were appointed by this President, Bill Clinton. This is a statement that Chairman Greenspan made just last week before the House Commerce Committee in opposition to exactly the proposal which is the heart of the Sarbanes substitute. When Chairman Greenspan refers to ‘‘colleagues,’’ he means every member of the Federal Reserve Board, including those appointed by Bill Clinton:

I and my colleagues are firmly convinced of the view that the long-term stability of U.S. financial markets and the interests of the American taxpayer would be better served by no financial modernization bill rather than one that allows the proposed new activities to be conducted by the bank. . . .

I want to be sure everybody understands this quote. It is as clear as you can be clear. The most respected economic mind in America, the man who more than any other person on this planet has been responsible for the financial stability that has created over 20 million jobs and enriched working Americans by driving up equity values and by creating unparalleled prosperity in America, said last week that he and every member of the Board of Governors of the Federal Reserve believe it would be better to have no financial services modernization bill than to adopt the Sarbanes substitute.

That is pretty clear. I think it is a profound position to take. Let me make the point: Everybody who knows Alan Greenspan knows that Alan

Greenspan goes out of his way not to be confrontational. Everybody who knows Chairman Greenspan knows that if there is a way of saying something around the barn, something which might be offensive to somebody, he sort of walks all the way around the barn and let's you understand—where you can hope nobody else understands—that he said your idea is a bad idea. That is the way Alan Greenspan works.

But in front of God and everybody at the House Commerce Committee last week, Alan Greenspan said if the alternative is the Sarbanes substitute or no bill, he and every member of the Board of Governors of the Federal Reserve are convinced that ''no bill'' is better than the Sarbanes substitute.

Why does he say this? In a dozen other quotes, he basically says two things: No. 1, since we have deposit insurance, where the taxpayer is on the hook for bank failures that threaten insured deposits, he is concerned that allowing banks to get into these other kinds of financial businesses within the framework of the bank itself endangers deposit insurance and threatens the taxpayer. So the first reason that Chairman Greenspan made this extraordinary statement—in fact, the strongest statement he has made as Chairman of the Board of Governors of the Federal Reserve—is concern about the insurance fund and the taxpayer being on the hook.

The second concern is that if banks provide these expanded activities, such as securities and insurance or whatever activities are ultimately allowed within banks, the subsidy that banks have in deposit insurance—something no other institution has besides banks, S&Ls, and other institutions that have Federal guarantees, and when I am saying banks I mean broadly defined—plus the ability to borrow from the Federal Reserve at the lowest interest rates at which anybody in the world borrows, and the ability to use the Fed wire, where they can wire money that instantly becomes bank reserves and it is guaranteed by the Federal Reserve bank, Chairman Greenspan and the Federal Reserve have estimated that if banks were allowed to provide these services within the bank, they probably have an effective subsidy of around 14 basis points. And this subsidy is due to the access to these three items: Deposit insurance, the Fed window, the Fed wire.

Chairman Greenspan has explained to anybody who would listen that if you let banks perform these services within the banking structure itself, banks will have an advantage over those who are providing securities services and selling securities outside of banks; that if you allowed banks to do insurance within the bank, they would have an advantage over insurance companies that are not banks.

Chairman Greenspan has tried to alert us to the fact that if we adopted the Sarbanes substitute we could literally, within 10 or 20 years, have a financial system where virtually all of the securities activities and all of the insurance activities, if banks were allowed to do insurance within the bank itself, would be dominated by a handful of big banks. In other words, our economy would look very much like the Japanese economy, in terms of its financial structure.

Chairman Greenspan says, if your choice is no bill or doing what the Sarbanes substitute wants to do, for safety and soundness reasons, for the protection of the taxpayer, for the protection of competition, for the protection of the competitiveness of the American economy, Chairman Greenspan says: Kill the bill before you do what the Sarbanes substitute would do, in terms of letting banks in these other lines of financial services within the structure of the bank.

Chairman Greenspan said let banks do these things—let them sell insurance, let them provide securities services—but make banks do them outside the bank where they have to take capital out of the bank to capitalize these companies and where they compete with nonbanks on an equal footing.

This is a critically important issue, and it is an incredible paradox, an absolutely astounding paradox that Senator SARBANES, who supported Chairman Greenspan's position in the bill last year, is now taking exactly the opposite position. It is my understanding that perhaps all the Democrat Members of the Senate may be inclined to take this position, a position that many of them, perhaps two out of every three, would have opposed as any kind of freestanding measure. I hope that is not the case, but perhaps it is.

If for no other reason, if you do not have 101 other reasons to vote against the Sarbanes substitute, listen to Alan Greenspan: Spare the taxpayer, spare deposit insurance, and spare the economy by rejecting this proposal.

The pending substitute dramatically expands CRA. It dramatically expands CRA in several ways. For the first time in the history of CRA, the Sarbanes substitute provides that financial institutions that fall out of compliance with CRA will now be deemed to be in violation of banking law and, therefore, potentially subject to fines of up to $1 million a day.

Let me remind those who do not follow these issues—and why would you unless you are in this line of work?—currently under the Community Reinvestment Act, while banks are evaluated every year and while banks take a legitimate pride in getting good scores on their evaluations, they are not required to be in compliance. The only time CRA imposes a ''penalty'' is if a bank wants to take an action that requires CRA evaluation—such as the opening or closing of a branch, or selling or buying a bank, or merging with another bank.

The Sarbanes substitute would vastly expand CRA by making it a violation of Federal banking law simply to be out of compliance with CRA and, in the process, potentially subject not just the bank, but an individual bank officer and an individual board member, to a fine of $1 million a day.

The Independent Community Bankers of America sent a letter today raising a very important issue. Little banks have trouble getting people of substance to serve on their bank boards. It is hard because there are liability issues involved, and one of the big struggles that little banks have is getting city leaders to be on the bank board. We want the best people to serve on bank boards because they are the people who ultimately make decisions that affect safety and soundness, that affect the well-being of the depositor, that affect lending policy, and that affect the taxpayer through Federal deposit insurance.

I want you to listen to the president of the Independent Community Bankers of America. This is an organization that represents small, independent banks all over America. Listen to this paragraph:

> We also have grave concerns about expanding CRA enforcement authority to include the levying of heavy fines and penalties against banks or their officers and directors. An ongoing challenge for many community banks in small communities is finding willing and qualified bank directors. Legislation following the savings and loan crisis of the 1980s and early 1990s greatly increased the amount of civil monetary penalties to which bank officers and directors may be subject. Any increase in the potential for fines and penalties could provide further disincentive for serving on a bank board.

All Members should realize that this does not apply just to small banks, it applies to big banks. If you had a bank with 200 branches and just one branch fell out of compliance, you could potentially be subjected to this fine. This is regulatory overkill. This is totally unjustified.

Our colleague, Senator SARBANES, says we have not presented enough data about abuses. Where is the abuse that could possibly call for such a provision? This is punitive legislation at its worst, and if you think we have a problem now with community groups intervening and demanding cash payments, you add to it a possibility that a bank officer or board member could be fined $1 million a day and you are going to multiply the abuse a thousandfold. This is a proposal which was clearly written, and I can tell you where and when, when there was a desperate effort in the House to get their bill passed last year. It passed by one vote, and they basically gave this provision to groups that wanted to massively expand CRA. That is how it got into this whole debate.

I cannot believe anybody seriously would want to subject bank officers and bank directors to a potential $1-million-a-day fine for temporarily falling out of compliance with CRA.

The Sarbanes substitute expands CRA by requiring CRA compliance to engage in new financial activities, including insurance and securities. No CRA test is now required for such banking activities.

Here is the whole issue. Today, some banks do sell insurance. Today, some 20 banks engage in securities activities, and virtually every bank, through their holding company, engages in activities which, under the Sarbanes substitute, would be pushed out of the trust department and into an affiliate or an operating sub and, therefore, would subject that bank to this new regulation.

The point is, current law does not require a bank to get CRA approval to sell insurance. Current law does not require a bank to get CRA approval to sell securities. This is, again, a massive expansion in CRA. And if the Senator is justified in questioning our justification for wanting to adopt two modest reforms of CRA, I think it is reasonable to ask what is the justification for this massive expansion in CRA.

Finally, on CRA, for the first time in American history, the Sarbanes substitute would expand CRA to a noninsured institution. The justification for CRA was that banks and other banking-type institutions, S&Ls, have deposit insurance.

And that is a subsidy to the bank. Therefore, asking the bank to provide these resources, on a broad basis, to the community or to allocate capital based on a Government dictate rather than the market had a justification. That was the justification for CRA.

The SARBANES substitute would expand CRA coverage to a new institution, the wholesale financial institution, or WFI, which does not have FDIC insurance. This is a clear expansion of CRA beyond anything that has ever been enacted into law. In addition, the SARBANES substitute would repeal the two reform provisions that are in the bill.

I am not going to get into a long dissertation on this subject, because we are going to have an opportunity to debate this subject at length tomorrow— and believe me, I am ready to debate it—but I just want to make a couple points about the provisions that would be stricken by the SARBANES substitute.

First of all, our first provision is an integrity provision. Put simply, consider a bank that is in compliance and has been in continuing compliance with CRA for 3 years in a row, so that in the mind of the regulator, based on the information they have been presented—and any group in America can have an input into those evaluations— this bank is a good actor, they have a good record of compliance.

The SARBANES substitute would strike our provision that says that while anybody can present any information they want to the regulator— and the regulator can demand a new evaluation when the bank in question seeks, for example, to merge with another bank or sell or buy a bank—but unless the protesting group presents some substantial evidence that this bank is out of compliance—something that their regulators had said three times in a row they were not—unless they can present some substantial evidence, then based on that objection alone, the regulator cannot turn down the proposal or delay it.

I went through earlier today—and I hope people heard it and remember it— but I went through what ''substantial evidence'' means. The most important thing to remember about it is, the law already requires it. All banking law requires decisionmaking to be based on ''substantial evidence,'' and bars decisionmaking based on arbitrary and capricious action. All banking law currently requires it. All appeals of banking regulator decisions must be based on the absence of substantial evidence.

So really what we are trying to do here is force the regulator to comply with the normal administrative convention, which is, if somebody wants to enter a process—at the last moment, in this case—and demand that someone not be allowed to do something that they have earned a right to do, then they must present substantial evidence to show that they are not complying.

Senator SARBANES suggested that the evidence can only be on items which have occurred since the last evaluation. Not so. In fact, what our bill says is that the regulator may not delay or deny an application unless ''substantial verifiable information arising since the time of [the bank's] most recent examination under that Act demonstrating noncompliance is filed with the appropriate Federal [regulator].''

Our provision provides that any new information may be presented. It is not something that has occurred since the last evaluation. It is something that the banking examiners did not have before when they said the bank was complying with the law.

I went through at great length the 900—I did not go through all 900 of them—but 900 times in Federal statutes we refer to ''substantial evidence.'' We have 400 court cases that have defined it. What does it mean? ''More than a scintilla of information,'' a factual basis under which a reasonable person might reach a conclusion— not that they would reach a conclusion, but that they might reach a conclusion.

So what Senator SARBANES is determined to kill is a simple proposal that certainly does not repeal CRA or overturn CRA or do violence to CRA. All it says is, if a bank has a long record of being in compliance with CRA, if they are in compliance with CRA now, and they want to undertake an action that requires CRA evaluation, that if somebody wants to come in and object, they can say anything they want, they can present any information they want, but the regulator cannot overturn their established record unless the protester presents substantial information or data to back up their claim.

You might ask, why could anybody be opposed to that? Can you imagine that you have a bank which is trying to buy another bank, and they have been in compliance with CRA for three evaluations in a row and are currently in compliance, they have hundreds of millions of dollars at stake in consummating this agreement, a decision that can affect thousands of people, and you let one protester, who often is from not just another State but another region of the country—a protester from Brooklyn, NY—and he comes in and protests a bank merger in Illinois and will not go away until he gets his ''expenses paid'' and until he gets a cash payment? Now, under our provision, anybody can come in and protest, but in order for them to be able to stop the process, they have to provide substantial information.

I cannot understand how anybody can be opposed to that.

The second provision of our bill that would be overturned by the SARBANES substitute is the small bank exemption. Let me try to explain this, I think, in a way that everybody can understand.

I have two colleagues here. Let me say that I am sorry, but Senator SARBANES took an extended period of time to present this, and I have to go through and be sure it is responded to comprehensively. So I am probably going to talk for another half an hour or 45 minutes. If either one of my colleagues has just a few minutes, I will stop and let them speak. But I do not want them staying around here, standing up and thinking that I am about to finish. So with that, if either one of you just has an announcement you want to make or a unanimous consent request, I will yield. OK.

Here is the problem. You have little banks in rural areas. They have, most of them, between 6 and 10 employees. They are serving communities that do not even have a city, much less an inner city, and they are being forced to comply with this law called CRA.

It would be one thing if there were a record showing that these small, rural banks are not lending in their communities. But the plain truth is, as I pointed out earlier, since 1990 there have been 16,380 examinations conducted by bank regulators of small banks and S&Ls in rural areas, that is, outside standard metropolitan areas. And in those 16,380 examinations, only 3 rural banks have been found to be in substantial noncompliance. These examinations and the regulatory burden imposed in complying with this law costs the average rural bank between $60- and $80,000. Imagine, you have a bank with 6 to 10 employees and they have to pay $80,000 to comply with a law that has found, since 1990, 3/100 of 1 percent of them out of compliance.

You might ask, is this overkill? It is interesting, because in other financial laws that relate to similar issues, we exempt banks outside standard metropolitan areas. In the HMDA statute related to similar areas, if you are very small, you are exempt if you are outside a standard metropolitan area. And that is what we are talking in our provision—exempting very small banks in very rural areas.

Instead of my speaking for the problem, let me let the people who are affected speak. They are a lot more articulate on these issues than I am. Let me just run over some numbers with you.

We have received hundreds of letters from small banks all over America urging us to adopt the provision in this bill; we have received 488 as of today. What these small banks tell us is that CRA compliance is costing them between $60- and $80,000 a year.

The First National Bank of Seiling, OK, has estimated it takes the equivalent of one full-time employee to comply with CRA. The Chemical Bank of Big Rapids, MN—with assets of $94 million—agrees that it takes one full-time employee. Crosby State Bank of Crosby, TX, agrees with the one full-time employee. The First National Bank of Cortez, CO, thinks that they spend a minimum of 100 hours annually of CRA compliance officer time.

Let me read from some of the letters that have been submitted to the committee. I am only going to read from five or six of them, but I think they tell the story.

The first letter is from the Cattle National Bank. The Cattle National Bank, for those of you who don't know, and you should, is in Seward, NE. Here is what the vice president and cashier of the Cattle National Bank in Seward, NE, says:

Let me add that since the origination of public disclosure of CRA examinations we have not had one person from our community ever request the information. The only requests that we have had have come from bank consultants wanting to glean some tidbit from our disclosure.

This is a letter from Copiah Bank, which is a national bank in Crystal Springs, MS. This is written by the president and chief executive officer.

Our Compliance Officer, Gary Broome, and his assistant have spent many research hours and reams of paper in their efforts to comply with the mandated requirement's paper work. We have even had to outsource some of its checkpoints to a compliance consultant from time to time. As an $83 million community bank . . . that means they probably have 6 or 7 employees . . . we feel an obligation to help in your efforts toward easing our paper work burden.

Lakeside State Bank, ND.

As a former bank examiner for the Federal Deposit Insurance Corporation, which included consumer compliance experience, and as a banker for over 15 years I believe I have a good understanding of the intent and the workings of CRA. Over 47 years of our existence we have provided financing to virtually every main street business in our town, our customer base includes approximately 80 percent of the area farms and for the last several years over 50 percent of our loans have been to American Indians. The law—

And he means CRA.

. . .is a heavy burden because of the expansiveness of the regulations and the paper requirements of compliance. We spend hours documenting what we have already done rather than spending that time more efficiently by doing more for our community.

This is from Farmers and Merchants Bank, and this is in Arnett, OK, written by the executive vice president and CEO.

I am the CEO as well as the chief loan officer, compliance officer and CRA officer. I have to wear so many hats because we are small and have a staff of only 7 including myself. CRA compliance, done correctly, takes a lot of time, which takes me away from my primary responsibility of loaning money to my community. It has almost gotten to the point that lending is a secondary function. It seems like we have the choice of lending to our community or writing up CRA plans showing how we would lend to the community if we had time to make the loans.

It is funny how wisdom just leaps off the page.

Large banks can hire full time CRA officers and other compliance personnel to administer CRA programs, but small banks cannot . . .

This is from the Redlands Centennial Bank, and it is in Redlands, CA.

We spent approximately $80 thousand dollars of our shareholders' money last year supporting this ill-defined regulation. Even the regulators who examined us were hard pressed to give us specific definitions on how we might better implement this regulation. I am urging you to get rid of this nonsensical CRA yoke. Keep up the fight, because there are a lot of us out here who are too busy balancing making a living with government regulations in this crazy business . . .

Chemical Bank North, which is a little bank in Grayling, MI. It is a $74 million bank, which means it probably has 6 to 10 employees.

As it is, we must devote disproportionate resources to creating and maintaining the ''paper trail'' that the current CRA regulations require. Our board members must attend time consuming CRA Committee meetings and our officers and staff members spend significant valuable time preparing reports and keeping records that serve no purpose other than to keep us in compliance with a regulation that attempts to enforce from a regulatory standpoint what we do everyday in the normal course of our business . . . I would estimate that we devote the equivalent of a full time employee to all aspects of CRA compliance.

I mean, does anybody care that, for this little bank, that one-tenth of their payroll is needed to comply with a government regulation that in 9 years, in 16,000 such audits, has found only 3 banks substantially out of compliance? In 9 years, in 16,000 audits of banks like the Chemical Bank in Grayling, MI, government regulators have found only 3 banks out of the 16,000 evaluations where there was substantial noncompliance. And yet, we are making these banks pay $80,000 a year. Does anybody care? You know, we talk about the little guy and why aren't we here debating this and that. Does anybody care that a little bank, trying to serve consumers in a small town, a little independent bank in an era when a lot of people are worried about all the banks being taken over by big banks, here is a little bitty bank trying to stay in business, and 1 out of every 10 people they employ—because they only employ 10—has to spend time complying with one regulation, which, over 9 years, in 16,000 audits, has found 3 violators? Yet, our colleague, Senator SARBANES, is so outraged that we would lift this paperwork burden that he has offered a substitute. I don't understand it. I don't understand it. But I don't guess I have to understand it.

First National Bank, founded in 1876, in Wamego, KS, spelled W-A-M-E-G-O. I ask the Chair, am I pronouncing it right?

The PRESIDING OFFICER (Mr. BROWNBACK). The Chair notes that the correct pronunciation is Wamego.

Mr. GRAMM. The occupant of the Chair knows because he knows and loves everybody that lives in that State, and I appreciate that. Wamego, KS. This is a little bitty bank, the First National Bank of Wamego, KS, founded in 1876. In other words, it has been in business for 123 years. How big do you think it is after 123 years of service? They have $65 million in assets, and it is the lifeblood of Wamego, KS. It is struggling with paperwork. It is a small bank and has 6 to 10 employees. People in that town are proud they have a bank. In a lot of towns that size, the bank has already gone broke and moved off to the big city. This bank has not deserted its customer base. They are trying to make a living. Let me read to you from their letter:

Our bank was listed 2 years in a row as the best bank in Kansas to obtain loans for small businesses by Entrepreneur Magazine.

They have received an outstanding rating under CRA—the best rating you can get.

Our outstanding grade did not make us a better bank. CRA did not make us make more loans than we would have made. CRA did take a lot of employee time to document that we were an outstanding bank.

Here is the point. This is a little bank that has been doing the job for 123 years. It only has $65 million in assets. This is a very small bank. It probably does not have 10 employees. It has been evaluated as being outstanding. But in 16,000 evaluations over the last 9 years, bank regulators nationwide found only 3 banks that were in substantial noncompliance. Why are we tormenting this little bank in Wamego, KS, which is doing a great job, and imposing $60,000 to $80,000 in costs on them to discover that only 3 banks out of 16,000 evaluations aren't doing a good job?

The next letter is from Nebraska National Bank, which is in Kearney, NE. They have $34 million in assets. This has to be one of the smallest banks in America. It has been in business for an extended period of time. I don't know how many employees they have, but I would guess five or six employees in the whole bank:

We do not make foreign loans. We don't speculate in derivatives. We don't siphon deposits from this area to fund loans elsewhere. Instead, like virtually all banks under $250 million in assets [remember, they are only $34 million in assets], we provide home loans, business loans, farm loans, construction loans. We don't do this because of the Community Reinvestment Act, but because it makes good business sense. I bitterly resent every minute of my time and that of my staff spent to comply with this regulation because it takes time away from productive duties. I feel the regulation is now being used by consumer activist groups to shake down banks seeking regulatory approval for expansion of mergers.

Now, that is a strong testament. Nothing I could say could give a stronger testament than that.

Let me give you one final one. Like I said, we have 488 just like it. They don't understand why it is unreasonable to lift this heavy regulatory burden when only 3 substantial noncompliant banks have been discovered in 9 years after 16,000 audits. You take 16,000 audits at $80,000 apiece, for the banks, that is a lot of money for these little towns.

The last letter is from American State Bank, an independent bank in Portland, OR. It is signed by the chairman and the CEO:

As one of the oldest and most strongly capitalized African American owned banks west of the Mississippi River, Portland based American State Bank supports your position on CRA exemption for nonmetropolitan banks. We also urge you to explore exempting from CRA requirements minority-owned commercial banks. Today, minority-owned banks still maintain their focus on serving our Nation's minority communities and their citizens. It is redundant at best to impose CRA requirements on banks whose sole purpose is to serve minority citizens. At worst, it compels minority banks to sustain burdensome, expensive administrative costs and subjects banks to a bureaucracy largely unaware of the realities of the inner-city marketplace.

Now, I could go on and on, Mr. President, in outlining the arguments related to small banks, but let me stop there on this issue and go back to the other provisions of the bill.

Let me say to my colleague that to go through and respond to each of the points Senator SARBANES made is probably going to take me another half hour. If the Senator has a unanimous consent request, or a short statement, I would be glad to yield. But if not, I want him and others to know that I should be finished maybe by 7 o'clock.

Mr. SARBANES. Will the Senator yield?

Mr. GRAMM. I am happy to yield.

Mr. SARBANES. Senator KERRY has been trying to make a statement all day. I guess, by this process he won't be able to do it now. What is the Senator's intention for tomorrow? How can we carve out some time?

Mr. GRAMM. It was my hope tonight that we could finish debate on this amendment, and that we would have a vote tomorrow. Our problem, as you know, is that we have the two Senators from Oklahoma who have flown home to participate in the evaluation and assistance with the terrible tragedy that happened there with the tornadoes. We are hopeful that they are going to be back tonight or in the morning. Then we are going to have a vote on Senator BYRD's resolution commending the Rev. Jesse Jackson, and other clergy leaders who participated in his trip. That vote is going to occur in the morning; I am not sure exactly what time. But the idea would be to have that vote in the morning and then, at that point, either I or the majority leader would move to table the amendment and we would have a vote on it. We would then offer one of our amendments at that point.

Mr. KERRY. Will the Senator yield?

Mr. GRAMM. I am happy to yield.

Mr. KERRY. Unaccustomed as I am to speaking from this side of the aisle, maybe it will get me extra credit from the Senator from Texas. Would it be possible to carve out some time because of my complications on the schedule? I have been here a number of times today trying to get in on the schedule to speak prior to the vote. Would I be able to have 20 minutes set aside for that purpose?

Mr. GRAMM. I would assume we will have a debate in the morning and that we will probably have at least a half an hour on each side. I see nothing unreasonable about having time in the morning. I would strongly suggest that we do it. Any Member can object to any unanimous consent request. Otherwise, if the Senator wishes to have time, we will divide the time equally tomorrow. I don't see any reason why he couldn't have a chance to speak tomorrow.

Mr. KERRY. Mr. President, if the Senator will further yield, I don't want to disturb the schedule of the Senator from Maryland or concept of how he wishes to proceed managing our side of the aisle, if that would fit within his framework.

Mr. SARBANES. If we have sufficient time before we vote on this substitute to take care of the Senator and a couple of others who want to speak on it, including the minority leader, I don't have a problem with that. But if the time period is extremely short, then we would be precluded from accomplishing this objective.

Mr. GRAMM. Why don't I do this. Just reclaiming my time, why don't I try to finish up here in 20 minutes and yield and let the Senator speak?

Mr. KERRY. Mr. President, the problem is that isn't going to work on the schedule I have now this evening. I simply say to the Senator, Mr. President, that it would seem to me, in furtherance of what the Senator from Maryland has said, that if we were to write in the order for the morning for tomorrow that X amount of time will be set on both sides, taking into account the amount of time I have requested from the Senator, we could accomplish all of the goals, if the Senator were willing to try to make that the order.

Mr. GRAMM. I don't know whether we have 30 minutes equally divided or 1 hour equally divided, but within that constraint, it seems to me, the Senator could speak.

Mr. KERRY. I thank the Chair. I thank the Senator from Texas. I thank the Senator from Maryland.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, let me just touch on four more issues in the Sarbanes substitute that I take strong issue with. I see Senator GORTON is here and he wanted to say something.

The next concern that I have and that the majority has with the Sarbanes substitute is that it adopts security law revisions making it significantly more difficult for small banks to engage in trust and fiduciary activities. These activities currently make up about 15 to 20 percent of the revenues of small banks.

Here is the problem. Our bill goes to great lengths to say to some small bank in some small town that doesn't intend to get into financial services, that nothing in this bill is going to force them to take their trust department activities that they are now engaged in and either set up an operating subsidiary or set up an affiliate.

I believe the provisions of the Sarbanes substitute could adversely affect virtually every small bank in America and endanger the operations that they currently can do within a bank only under regulation by the bank in the name of trust department activities. I believe the provision offered by Senator SARBANES could force many of these banks to set up operating subsidiaries, or set up affiliates, and in the process drive up their costs and threaten their revenues.

Now we come to the so-called unitary thrift holding company. If you listen to Senator SARBANES, you get the idea that somehow we are expanding commercial activities of banks. The reality is that the Sarbanes substitute, by allowing banks to hold a commercial basket for 15 years, expands commercial activities of banks substantially more than our bill does.

Our bill restricts the ability of commercial companies—an ability they have under current law—our bill restricts their ability to apply for charters and to set up a unitary thrift.

Unitary thrifts are legal under current law. So, for example, General Motors can get an S&L charter and can go into the S&L or banking business through that charter. That is the law of the land today. As a result, a substantial number of commercial companies have gotten those charters.

Our bill ends that practice. And effective on the day that the underlying committee bill was released as a committee print, any application for a unitary thrift received after that date would not be acted upon.

The difference between the Sarbanes substitute and what we do is that, in addition, the Sarbanes substitute goes back and says that those unitary thrifts that already exist would have an ex post facto change in law that would limit their ability to sell their thrift—which is a change in the regulations under which they set up or bought the charter.

I believe that this is a takings of property, that it violates the fifth amendment of the Constitution. In fact, we have recently had a Supreme Court ruling striking down another ex post facto law that Congress passed that took away provisions that were in contracts that banks—and in this case S&Ls—had negotiated with Federal S&L regulators.

So we create no new commercial powers. There is nothing in our bill that in any way expands the ability of banks to hold commercial assets, whereas the substitute will allow them to hold them for 15 years under a grandfather provision, a provision that is not in our bill.

I was somewhat stunned to hear the presentation by Senator SARBANES that we were expanding commercial powers when in reality his substitute has a 15-year grandfather for existing activities, a provision that our bill does not have. Our bill not only does not expand commercial activities but it cuts off the issue of new unitary thrift licenses. But we do not go back and change the rules of the game on S&Ls that invested good money, many of them during the S&L crisis, saving the taxpayer billions of dollars. We don't go back and change the rules of the game on them.

I talked about No. 7. That is the commercial basket issue. The substitute offered by Senator SARBANES allows commercial banks to hold these commercial assets for up to 15 years. There is no similar provision in our bill.

Finally, the Sarbanes substitute strips away power from State insurance regulators. Under the Sarbanes substitute, States could only collect information but could not act on information, nullifying the authority of State insurance commissioners to review and approve or disapprove applications.

The National Association of Insurance Commissioners opposes this provision.

So basically those are the differences. I think the differences are very clear and very stark. I hope my colleagues will look at them and will reject this substitute.

This substitute would create a bill that Alan Greenspan and every member of the Federal Reserve Board, speaking as a body through the Chairman, has said would be worse, in terms of danger to the taxpayers, danger to the insurance fund, danger to the economy, than passing no bill at all.

This bill would repeal two very simple, very targeted, very minor reforms of CRA, and would institute the most massive expansion of CRA in America history.

I think if people look at any one of these eight areas that I have outlined, they will conclude that the committee acted properly in rejecting the Sarbanes substitute. But the Sarbanes substitute wasn't rejected just because it was deficient in, say, five of these eight areas. It was rejected because in each and every one of these areas it was inferior—in terms of the well-being of the taxpayer, the well-being of the depository insurance system, the well-being of the economy—to the underlying bill that was adopted by the Banking Committee.

I urge my colleagues to reject this substitute. There will be a tabling motion tomorrow on some basis yet to be agreed to.

I yield the floor.

Mr. GORTON. Mr. President, I support the distinguished Senator from Texas, the chairman of the Banking Committee, in his advocacy of his own proposal and in his desire that we defeat the substitute which is before the Senate at the present time.

He has stated in great detail his reason for his support and the majority support for his financial reorganization bill. I mention only three differences that seem to me to be very significant.

One is the arcane but vitally important difference between a holding company structure and a structure of making subsidiaries. In this respect, it seems to me the holding company system has worked well for this country, literally for generations. The advice of the Chairman of the Federal Reserve Board, Alan Greenspan, overwhelmingly supports the proposition of the choice that has been made in this regard by the committee majority itself.

Second, with respect to the Community Reinvestment Act, it also seems to me that the chairman's modest reforms are steps in the right direction. They do not destroy that system by any stretch of the imagination but, they do fire a warning shot across the bow of those who would use that bill for extortion purposes.

Finally, and most important to me in my own State, is the way in which the bill, is against the proposed substitute, deals with unitary thrifts. A unitary thrift is authorized to affiliate with both financial and commercial companies. This authority is balanced both by lending restrictions and by safeguards prohibiting thrifts from extending credit to a commercial affiliate. This chartering structure has been available for more than 30 years. To the best of my knowledge, during that 30-year period of time, 30 years during which thrifts have been allowed to combine with commercial firms, there have been no major scandals, no serious corruption, no sapping of America's capitalism vigor. In other words, to limit the authority of thrifts while we are extending the authority of commercial banks in the bulk of this bill is to deal with an evil that simply does not exist.

Financial modernization should be about expanding choices for consumers and chartering options, not constricting those options and stripping existing authorities from consumer-oriented institutions without sound policy justification.

I do not believe we should limit the unitary thrift chartering option at all. Unitary thrifts have a longstanding record of serving their communities. There is a glaring absence of any evidence that their commercial affiliations have led to a concentration of economic powers or posed risks to consumers or taxpayers. This legislation includes a provision that grandfathers the commercial affiliation authorities of unitary thrifts chartered or applied for before February 28 of this year. Given the lack of any evidence that those affiliations are harmful, financial modernization should, at the minimum, not roll back the authority of existing unitary thrifts.

Limiting the ability of commercial firms to charter thrifts in the future is debatable policy, but there is no question in my mind that the authorities of existing unitary thrifts should not be abolished.

For these reasons, I oppose the Democratic substitute and intend to fight any later amendment which deals with this issue alone.

With the expression of my support for the position taken by the distinguished chairman of the Banking Committee, I yield the floor.

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

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

THE UNITED STATES CAPITOL POLICE AND RECRUIT CLASS 116

Mr. LOTT. Mr. President, the past year has been a trying one for the United States Capitol Police. The deaths of Officer Jacob Chestnut and Detective John Gibson struck a chord with the American people and the Congress. We are keenly aware that we rely on the men and women of the U.S. Capitol Police to protect the Capitol Complex and all of those who work and visit here. In doing so, they ensure that the national legislative process proceeds unhindered and that citizens are safe and free to visit their Capitol, view the House and Senate in session, and meet with their elected representatives.

Protecting the Capitol Complex requires well trained, highly-motivated, and dedicated police officers. On April 27, the U.S. Capitol Police added such officers to its ranks when it graduated Recruit Class 116. The twenty-four recruits in this class proudly became police officers after successfully completing five months of exhaustive training. These officers came from all walks of life and from a number of states around the nation. Many had prior military experience, others had previous experience in the law enforcement profession, while some just recently graduated from college. The