

have to make a choice between the safety of the financial system and the free market, the financial system will win. There is no free market and there never will be. It's the height of hypocrisy to talk about the free market in one breath and bail out Long-Term Capital . . . in the next breath." Mr. President, I oppose this legislation because in this environment, we need more oversight and enforcement in our financial services, not less.

Beyond these concerns that this is not the right time to enact these sweeping changes buttressed by the follies of the free market, I have other, structural concerns with the proposed changes to our financial services laws.

First, I am concerned that if we relax the laws about who can own and operate financial institutions, an unhealthy concentration of financial resources will be the inevitable result. The savings of the many will be controlled by the few. If we relax banking regulations in this country, Americans will know less about where their deposits are kept and about how they are being used.

Marylanders used to have savings accounts with local banks where the teller knew their name and their family. We have already seen the trend toward mega-mergers, accompanied by higher fees, a decline in service, and the loss of neighborhood financial institutions. This bill accelerates that trend.

With a globalization of financial resources, the local bank could be bought by a holding company based in Thailand. Instead of the friendly teller, consumers will be contacting a computer operator in a country half-way around the globe through an 800 number. Their account will be subject to financial risks that have nothing to do with their job, their community, or even the economy of the United States. I know impersonalized globalization is not what banking customers want when we talk about modernization of the financial services.

Second, I am concerned that complex financial and insurance products will now be sold in a cluttered market by untrained individuals. Investment and insurance planning for families is a very important process, one of the most important decisions a family makes. It should be done with a professional who is certified and who is someone you can trust. By breaking down these firewalls and allowing various companies to offer insurance and complex investment products, we run the risk that consumers will be confused, defrauded, and treated like market segments and not individuals with unique needs and goals.

Finally, I believe that any modernization of our financial services law should not just retain, but expand the important consumer protections and community investment policies currently in place.

Consumers need protections and regulations to guarantee the safety of their deposits and the availability of

basic banking services and credit to help their communities grow. If we have a Consumer Product Safety Commission to protect children from flammable sleepware, I believe we should also have a strong regulatory framework to protect consumers, not just investors, in the financial services marketplace.

A strong regulatory framework will not be provided by the Federal Reserve, as is proposed in this legislation. I share the concerns of John Hawke, Undersecretary of the Treasury Department, that shifting the regulatory power from the Office of the Controller of the Currency to the Federal Reserve Board is a highly questionable regulatory protection. This would be like letting the bankers regulate themselves. The decision making of the Federal Reserve is directly linked to the banking industry that it would regulate. Bankers elect two thirds of the Federal Reserve directors. It is true that the Federal Reserve is independent of the administration, but it is not independent of the bankers and finance companies that it would regulate.

Mr. President, I am not opposed to a necessary reform of our financial services laws. But this is not the legislation and this is not the time to do it. The U.S. stock market has had one of the worst quarters since 1990 and world leaders are currently strategizing about how to stanch the global economic crisis.

The Congress will be back in 90 days. Hopefully, the world market will be calmer, it will be after the election, and we will be able to study the lessons learned from the financial events of the past three months. For all the hard work and all the negotiating and compromise, now is not the time to go forward and add more fuel to what is already a very troubling global financial firestorm.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

FINANCIAL SERVICES ACT OF 1998—MOTION TO PROCEED

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to vote on the motion to proceed to the consideration of H.R. 10, which the clerk will report.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 588, H.R. 10, the financial services bill.

Trent Lott, Alfonso D'Amato, Wayne Allard, Tim Hutchinson, Dan Coats, Rick Santorum, Robert F. Bennett, Jon Kyl, Gordon Smith, Craig Thomas, Pat Rob-

erts, John Warner, John McCain, Frank Murkowski, Larry E. Craig, and William V. Roth, Jr.

Mr. DORGAN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call under the rule is waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the motion to proceed to Calendar No. 588, H.R. 10, the financial services bill, shall be brought to a close? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Ohio (Mr. GLENN), is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 88, nays 11, as follows:

[Rollcall Vote No. 301 Leg.]

YEAS—88

Abraham	Enzi	Lott
Akaka	Faircloth	Lugar
Allard	Feinstein	Mack
Ashcroft	Ford	McCain
Baucus	Frist	McConnell
Bennett	Graham	Moseley-Braun
Biden	Grams	Moynihan
Bingaman	Grassley	Murkowski
Bond	Gregg	Murray
Boxer	Hagel	Nickles
Breaux	Harkin	Reed
Brownback	Hatch	Reid
Bryan	Helms	Robb
Burns	Hollings	Rockefeller
Byrd	Hutchinson	Roth
Campbell	Inhofe	Santorum
Chafee	Inouye	Sarbanes
Cleland	Jeffords	Smith (NH)
Coats	Johnson	Smith (OR)
Cochran	Kempthorne	Snowe
Collins	Kennedy	Specter
Conrad	Kerrey	Stevens
Coverdell	Kerry	Thomas
Craig	Kohl	Thompson
D'Amato	Kyl	Thurmond
Daschle	Landrieu	Torricelli
DeWine	Lautenberg	Warner
Dodd	Leahy	Wyden
Domenici	Levin	
Durbin	Lieberman	

NAYS—11

Bumpers	Gramm	Sessions
Dorgan	Hutchison	Shelby
Feingold	Mikulski	Wellstone
Gorton	Roberts	

NOT VOTING—1

Glenn

The PRESIDING OFFICER. On this vote, the yeas are 88, the nays are 11. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

INTERNET TAX FREEDOM ACT

CLOTURE MOTION

The PRESIDING OFFICER. Under a previous order, the cloture motion having been presented under rule XXII, the

Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Calendar No. 509, S. 442, the Internet tax bill:

Trent Lott, John McCain, Wayne Allard, Connie Mack, Gordon Smith, Paul Coverdell, Spencer Abraham, Mike DeWine, Conrad Burns, James Inhofe, Judd Gregg, Rod Grams, Craig Thomas, Olympia Snowe, Rick Santorum, and Larry E. Craig.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call under the rule is waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on S. 442, the Internet Tax Freedom Act, shall be brought to a close?

The yeas and nays are required under the rule.

The clerk will call the roll.

Mr. BYRD. Mr. President, the Senate is not in order. Will the Chair repeat what the question is upon which the Senators will be voting?

The PRESIDING OFFICER. The Senator is correct. The Senate is not in order.

By unanimous consent, the mandatory quorum call under the rule is waived.

The question is, Is it the sense of the Senate that debate on S. 442, the Internet Tax Freedom Act, shall be brought to a close?

The yeas and nays are required under the rule.

The clerk will call the roll.

Mr. BYRD. Thank you.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Vermont (Mr. JEFFORDS) is necessarily absent.

Mr. FORD. I announce that the Senator from Ohio (Mr. GLENN) is necessarily absent.

The result was announced—yeas 94, nays 4, as follows:

[Rollcall Vote No. 302 Leg.]

YEAS—94

Abraham	Daschle	Kempthorne
Akaka	DeWine	Kennedy
Allard	Dodd	Kerrey
Ashcroft	Domenici	Kerry
Baucus	Durbin	Kohl
Bennett	Enzi	Kyl
Biden	Faircloth	Landrieu
Bingaman	Feingold	Lautenberg
Bond	Feinstein	Leahy
Boxer	Ford	Levin
Breaux	Frist	Lieberman
Brownback	Graham	Lott
Bryan	Gramm	Lugar
Burns	Grams	Mack
Byrd	Grassley	McCain
Campbell	Gregg	McConnell
Chafee	Hagel	Mikulski
Cleland	Harkin	Moseley-Braun
Coats	Hatch	Moynihan
Cochran	Helms	Murkowski
Collins	Hutchinson	Murray
Conrad	Hutchison	Nickles
Coverdell	Inhofe	Reed
Craig	Inouye	Reid
D'Amato	Johnson	Robb

Roberts	Smith (NH)	Thurmond
Rockefeller	Smith (OR)	Torricelli
Roth	Snowe	Warner
Santorum	Specter	Wellstone
Sarbanes	Stevens	Wyden
Sessions	Thomas	
Shelby	Thompson	

NAYS—4

Bumpers	Gorton
Dorgan	Hollings

NOT VOTING—2

Glenn	Jeffords
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The PRESIDING OFFICER (Mr. HUTCHINSON). On this vote, the yeas are 94, the nays are 4. Three-fifths of the Senators having voted in the affirmative, the motion is agreed to.

IMPEACHMENT INQUIRY

Mr. LEAHY. Mr. President, as we wind down this session, certainly this body and the other body have much on their mind regarding the actions of the House Judiciary Committee and the whole area of an impeachment inquiry. Every Member will have to speak for himself or herself in both bodies in deciding what they believe is or is not an impeachable offense.

Many times we speak about what is an impeachable offense without discussing what it is not. I ask unanimous consent to have printed in the RECORD an excellent article written in Sunday's Washington Post by Professor Sunstein, entitled "Impeachment?" I feel it will be helpful, as his writings usually are, on this issue.

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

[From the Washington Post, Oct. 4, 1998]

IMPEACHMENT? THE FRAMERS

(By Cass Sunstein)

We all now know that, under the Constitution, the president can be impeached for "Treason, Bribery, or other high Crimes and Misdemeanors." But what did the framers intend us to understand with these words? Evidence of the phrase's evolution is extensive—and it strongly suggests that, if we could solicit the views of the Constitution's authors, the current allegations against President Clinton would not be impeachable offenses.

When the framers met in Philadelphia during the stifling summer of 1787, they were seeking not only to design a new form of government, but to outline the responsibilities of the president who would head the new nation. They shared a commitment to disciplining public officials through a system of checks and balances. But they disagreed about the precise extent of presidential power and, in particular, about how, if at all, the president might be removed from office. If we judge by James Madison's characteristically detailed accounts of the debates, this question troubled and divided the members of the Constitutional Convention.

The initial draft of the Constitution took the form of resolutions presented before the 30-odd members on June 13. One read that the president could be impeached for "malpractice, or neglect of duty," and, on July 20, this provision provoked extensive debate. The notes of Madison, who was representing Virginia, show that three distinct positions dominated the day's discussion. One extreme view, represented by Roger Sherman of Connecticut, was that "the National Legislature should have the power to remove the Execu-

tive at pleasure." Charles Pinckney of South Carolina, Rufus King of Massachusetts and Governor Morris of Pennsylvania opposed, with Pinckney arguing that the president "ought not to be impeachable whilst in office." The third position, which ultimately carried the day, was that the president should be impeachable, but only for a narrow category of abuses of the public trust.

It was George Mason of Virginia who took a lead role in promoting this more moderate course. He argued that it would be necessary to counter the risk that the president might obtain his office by corrupting his electors. "Shall that man be above" justice, he asked, "who can commit the most extensive injustice?" The possibility of the new president becoming a near-monarch led the key votes—above all, Morris—to agree that impeachment might be permitted for (in Morris's words) "corruption & some few other offences." Madison concurred, and Edmund Randolph of Virginia captured the emerging consensus, favoring impeachment on the grounds that the executive "will have great opportunity of abusing his power; particularly in time of war when the military force, and in some respects the public money, will be in his hands." The clear trend of the discussion was toward allowing a narrow impeachment power by which the president could be removed only for gross abuses of public authority.

To Pinckney's continued protest that the separation of powers should be paramount, Morris argued that "no one would say that we ought to expose ourselves to the danger of seeing the first-Magistrate in foreign pay without being able to guard against it by displacing him." At the same time, Morris insisted, "we should take care to provide some mode that will not make him dependent on the Legislature." Thus, led by Morris, the framers moved toward a position that would maintain the separation between president and Congress, but permit the president to be removed in extreme situations.

A fresh draft of the Constitution's impeachment clause, which emerged two weeks later on Aug. 6, permitted the president to be impeached, but only for treason, bribery and corruption (exemplified by the president's securing his office by unlawful means). With little additional debate, this provision was narrowed on Sept. 4 to "treason and bribery." But a short time later, the delegates took up the impeachment clause anew. Mason complained that the provision was too narrow, that "maladministration" should be added, so as to include "attempts to subvert the Constitution" that would not count as treason or bribery.

But Madison, the convention's most careful lawyer, insisted that the term "maladministration" was "so vague" that it would "be equivalent to a tenure during pleasure of the Senate," which is exactly what the framers were attempting to avoid. Hence, Mason withdrew "maladministration" and added the new terms "other high Crimes and Misdemeanors against the State"—later unanimously changed to, according to Madison, "against the United States" to "remove ambiguity." The phrase itself was taken from English law, where it referred to a category of distinctly political offenses against the state.

There is a further wrinkle in the clause's history. On Sept. 10, the entire Constitution was referred to the Committee on Style and Arrangement. When that committee's version appeared two days later, the words "against the United States" had been dropped, probably on the theory that they were redundant, although we have no direct evidence. It would be astonishing if this change were intended to have a substantive effect, for the committee had no authority to