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House of Representatives

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore (Mr. COSTA).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
May 12, 2009.

I hereby appoint the Honorable JIM COSTA to act as Speaker pro tempore on this day.

NANCY PELOSI,
Speaker of the House of Representatives.

MORNING-HOUR DEBATE

The SPEAKER pro tempore. Pursuant to the order of the House of January 6, 2009, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning-hour debate.

The Chair will alternate recognition between the parties, with each party limited to 30 minutes and each Member, other than the majority and minority leaders and the minority whip, limited to 5 minutes.

REPAYMENT OF TARP FUNDS

The SPEAKER pro tempore. The Chair recognizes the gentleman from California (Mr. SHERMAN) for 5 minutes.

Mr. SHERMAN. Mr. Speaker, my speech builds on two themes.

The first is the continuing effort of administrations of both political parties to turn Congress into a mere advisory body. One of the more effective ways of doing this is to embrace those statutory sections that they like and to ignore those statutory sections that they don't like.

The second theme is, it's not illegal if Wall Street wants it.

Now let us illustrate these two themes on the TARP legislation, the

legislation that provided \$700 billion to bail out Wall Street and provided the Secretary of the Treasury with enormous authority and discretion as to how that money would be used.

Now I thought \$700 billion was more than enough. For many reasons I voted against this bill. But there was at least one code section in the bill that seemed to make sense, and that was a provision that stated clearly and unequivocally that whatever money came back from whatever investments were made by the Secretary of the Treasury would go to the general fund, would pay down the national debt, would go into the same fund that our money went into on April 15 when we mailed in our tax returns.

And that's why section 106(d) of the bill that created the act states very simply, "Revenues of, and proceeds from the sale of troubled assets purchased under this Act, or from the sale, exercise, or surrender of warrants or senior debt instruments acquired under section 113"—and here are the key words—"shall be paid into the general fund of the Treasury for the reduction of the public debt."

How is this code section relevant? How does it fit into the overall statute? Well, the statute envisions the idea that the Secretary of the Treasury would use our \$700 billion to purchase certain investment assets defined in the bill as troubled assets, and then at some subsequent point those assets would be sold. Whatever money we got from that sale or from the redemption, when we traded in those assets, whatever we got would go into the general fund.

It is being widely accepted in the press, in Washington and on Wall Street that whatever the Secretary of the Treasury gets back from the banks will instead be part of some revolving fund from which the Secretary of the Treasury may make additional bailouts in addition to the first \$700 billion of expenditures.

Well, the statute is very clear to the contrary. Whatever is returned to the Treasury goes into the general fund.

Now one thing to keep in mind is this statute uses the term "troubled assets" so that the Secretary of the Treasury might say, well, what we're selling is the preferred stock that Secretary Paulson originally invested in. These aren't troubled assets. They're happy assets, and therefore, section 106(d) would not apply.

This is a complete misreading of the statute because if you turn to section 3(9)(B) of the statute, "troubled assets" is defined as, "any other financial instrument that the Secretary, after consultation with the Chairman of the Board of Governors of the Federal Reserve System, determines the purchase of which is necessary to promote financial market stability, but only upon transmittal of such determination, in writing, to the appropriate committees of Congress."

The preferred stock that we are about to sell or that the companies are about to repurchase from us is exactly this kind of troubled asset. It was purchased by the Secretary of the Treasury after a determination that doing so was necessary to promote financial stability, and to make it very clear that they were relying on section 3(9)(B), which defines troubled assets, the Secretary of the Treasury sent the appropriate committees a written determination.

So when we bought the assets, they were defined by the Treasury Department as being troubled assets. They are clearly subject to this code section.

But one more thing, if for some reason the preferred stock wasn't within the ambit of the definition of troubled assets when it was purchased, then the purchase was illegal to begin with because the only code section in the bailout bill that allows for that purchase is section 101(a)(1), which authorizes only the purchase of troubled assets.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.



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