than a check on it. Americans do not want judges to view any group or individual who walks into the courtroom as being more equal than any other group or individual. They expect someone who will apply the law equally to everyone, so everyone has a fair shake.

Americans expect, and should receive, equal treatment whether they are in small claims court or the Supreme Court. And any judge who pushes for an outcome based on their own personal opinion of what is fair undermines that basic trust Americans have always had and should always expect in an American court of law.

The President is free to nominate whomever he likes. But picking judges based on his or her perceived sympathy for certain groups or individuals undermines the faith Americans have in our judicial system. So throughout this nomination process, the impartiality of judges is a principle that all of us should strongly defend.

In a nation of laws, the question is not whether a judge will be on the side of one group or another. It is not ''whose side,'' the judge is ''on,'' as a senior Democrat on the Judiciary Committee framed the issue during another debate over a Supreme Court nominee. The issue is whether he or she will apply the law evenhandedly.

Once the President chooses his nominee, Senate Republicans will work to ensure the Senate can conduct a thorough review of their record, and a full and fair debate over his or her qualifications for the job. This is a responsibility we take seriously, and one that the American people expect us to carry out with the utmost deliberation.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DODD. What is the pending business before the Senate?

HELPING FAMILIES SAVE THEIR HOMES ACT OF 2009

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 896, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 896) to prevent mortgage foreclosures and enhance mortgage credit availability.

Pending:

Dodd/Shelby amendment No. 1018, in the nature of a substitute.

Corker amendment No. 1019 (to amendment No. 1018), to address safe harbor for certain servicers.

Dodd (for Grassley) amendment No. 1020 (to amendment No. 1018), to enhance the oversight authority of the Comptroller General of the United States with respect to expenditures under the Troubled Asset Relief Program.

Dodd (for Grassley) amendment No. 1021 (to amendment No. 1018), to amend Chapter 7 of title 31, United States Code, to provide the Comptroller General additional audit authorities relating to the Board of Governors of the Federal Reserve System.

Mr. DODD. Mr. President, my understanding is my friend and colleague from Tennessee has an amendment which is in order. I am prepared to defer to him. Then when he completes his remarks, I will respond.

I believe Senator MARTINEZ of Florida may be coming over as well. I understand we have an agreement to have a vote at 10:50. Is that correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. DODD. I yield the floor.

AMENDMENT NO. 1019

The ACTING PRESIDENT pro tempore. The Senator from Tennessee is recognized.

Mr. CORKER. Mr. President, I rise to speak on amendment No. 1019. Let me start by saying I appreciate the work Senators DODD and SHELBY have done to bring the bill to the floor. I know they are trying to solve a number of problems that exist right now as relates to homeowners in our country trying to reposition where they are with their homes.

I know there are a number of issues with HOPE for Homeowners that was passed last summer that they are trying to solve. I say to the Senator from Connecticut, I appreciate his efforts. I appreciate the efforts of Senator SHELBY.

The amendment I am offering and on which we will be voting tries to make the safe harbor arrangement that exists in this bill something that is fair to all folks involved in these loans. Most people are aware of pooling arrangements where, in essence, there are servicers who take care of the indebtedness against a homeowner. They pool these together through the securitization that has taken place in the past in order to deal with homeowners. There has been great difficulty in the past in trying to move programs along so we can modify these mortgages.

The problem with this bill, though, is that under the safe harbor arrangement that has been put in place, it does not necessarily do what is best for the homeowner and doesn't necessarily do what is best for the investors, as many Americans have these in their 401(k)s. What it does do is an excellent job of taking care of the large four banks that do the bulk of the servicing: J.P. Morgan, Wells Fargo, Citigroup, and Bank of America. This bill actually incents them. We are paying them money to do what is in their best interest.

Most of these large banks actually hold the second mortgages, not the first mortgages. The first mortgages are the ones I think most of us realize have priority. Those are the loans that allowed you to go into and actually purchase the home in the first place. Then these banks came along, in some cases unwittingly, and participated in predatory-type lending. So these banks, in essence, own most of the second mortgages, the home equity loans. They also own a huge portion of the credit card debt that many of these consumers have. We are paying them in this bill to actually deal with these mortgages in a way that is in their best interest. They have the lesser amount of security, but they also have built-in conflicts of interest where, in essence, if they can do things to cause these consumers to have the secondary debt taken care of, it is in their best interest to do that.

I think this is a huge problem. I find it incredible that we, in essence, in this body would pass a bill where we, in essence, are paying the fox to guard a chicken house that is in their best interest. That is what this bill does.

What our amendment would do is say to these servicers, these people who are taking care of these mortgages, which is servicing the first and second mortgage—again, them owning mostly the second mortgages—what it would do is say they have to look at all options, not just the ones cited in the bill.

For instance, if a homeowner would be better served by having forbearance, meaning for reduction of principal or something such as that, or maybe a short sale, something else that might be in much better stead for the homeowner and for the investor, the servicer doesn't have to do that. All the servicer has to do in this bill is look at one of two programs—the Obama administration's modification program or the HOPE for Homeowners modification program, just one, not both—and compare it to foreclosure. If it is better off going with one of these two programs, they move it into those programs, even though it may not be in the homeowner's best interest and even though it may not be in those many Americans across our country who have these first mortgages in their 401(k)s, not in their best interest. Typically, though, it is going to be in the servicers' best interest, these four large banks that are being paid money by this bill to actually pursue this servicing in a manner that is in their best interest.

I hope everyone will join me in asking these servicers to not just look at what is in their best interest but to actually first look and see what is in the best interest of those people who own the first mortgages and for those people who actually are in these homes who are trying to stay in these homes. There are provisions here that actually