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Senate

The Senate met at 5 p.m. and was called to order by the Honorable MARK L. PRYOR, a Senator from the State of Arkansas.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Only You, Lord, are a mighty rock. Be our strong refuge, for we trust Your loving providence.

Guide our Senators. Show them the tasks that need to be done, enabling them to order their priorities with Your wisdom. Direct them to common ground so that united they can accomplish Your purposes. Inspire them to serve You with passion, for You are the author and finisher of their destinies. Strengthen them with the zest, verve, and vitality of authentic hope.

We pray in Your sovereign Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable MARK L. PRYOR led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 23, 2008.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MARK L. PRYOR, a Senator from the State of Arkansas, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. PRYOR thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

ORDER OF PROCEDURE

Mr. REID. Mr. President, under the rules of the Senate, 1 hour after we come in there is an automatic cloture vote. Tonight, it is on H.R. 2831, the Lilly Ledbetter Fair Pay Act. I ask unanimous consent that both sides have a full half hour. I designate Senator KENNEDY to appropriate the time however he feels appropriate. Following the usage of that 1 hour, I ask unanimous consent that Senator MCCONNELL, if he wishes to speak, be recognized using leader time and following his remarks, that I be recognized in leader time prior to the vote.

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

Mr. REID. Mr. President, I say to all Senators within the sound of my voice, after we complete work on this legislation, Senator MCCONNELL and I are trying to work to inform everyone what the schedule will be in the future—that is, this evening, tomorrow, Friday, and the beginning of next week. We do not have that worked out yet, but we are getting very close.

RESERVATION OF LEADER TIME

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

LILLY LEDBETTER FAIR PAY ACT OF 2007—MOTION TO PROCEED—Resumed

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 6 p.m. is equally divided and controlled between the two leaders or their designees. Each side will have a full 30 minutes.

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I yield myself such time as I might use.

Mr. President, our Nation was founded on the basic principle of fairness, justice, and equality. Over the years, a continuing march of progress has brought these shared ideals to ever more Americans. The ''Whites only'' signs that were a stain on America are a thing of the past. We have opened the door of opportunity to African Americans, Latinos, Asians, and Native Americans. Glass ceilings that limited the opportunities of women and persons with disabilities are shattered. We have improved protections for persons of faith who suffer discrimination and intolerance because of their beliefs. Opportunities for older workers are greater now than perhaps at any previous time in our history. The march of progress represents America at its best. It has brought us ever closer to the ideal of Dr. Martin Luther King that Americans will one day be measured not by the color of their skin, their gender, their national origin, their race, their religion, or their disability, but by the content of their character.

The Senate has been an important part of the progress in guaranteeing fairness and opportunity. We passed strong bipartisan laws to protect basic civil rights, and we must not turn back the clock again. Time and again, the Senate has gone on record in favor of fairness and against discrimination, and we have done so by overwhelming majorities. We will have an opportunity in a few moments to do so again.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

This chart shows the record of the Senate in ensuring pay equity for those whose skin is a different color, on the basis of age, disability, gender, religion, or national origin. Here it is: The Equal Pay Act was passed on a voice vote. An overwhelming majority in the Senate, Democrats and Republicans, said equal pay, equal work should be the law of the land. It was passed in 1963.

The Civil Rights Act of 1964, title VII, equal pay for equal work, passed 73 to 27.

Age discrimination that says you will not discriminate on the basis of age passed the Senate under President Johnson by a voice vote.

The Rehabilitation Act of 1973 provided the same kind of protections for disabled individuals, individuals who have some disability but are otherwise qualified to do work. You cannot discriminate against them. That was passed on a voice vote under President Nixon. And this was repeated in the Civil Rights Restoration Act of 1988, the Americans with Disabilities Act of 1990, and the Civil Rights Act of 1991.

Look at the Presidents: Kennedy, Johnson, Johnson, Nixon, Reagan, Bush, Bush. And now in the Senate our Republican friends want to say: Oh, no, we are going to permit discrimination against women because they did not have adequate notice that the discrimination was taking place because the employer did not give them that notice when they gave them a paycheck that was unequal to their male counterparts. That was a 5-to-4 decision.

We have an opportunity to go back on the right track that Republican and Democratic Presidents and Congress led us down. Let's restore the fairness, the equity, the decency, and the humanity this Senate of the United States has gone on record with regard to equal pay for women, disabled, and the elderly in our society. Let's do that. We have a chance to do so in just 45 minutes.

I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Georgia.

Mr. ISAKSON. Mr. President, I ask that I be recognized for up to 10 minutes.

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

Mr. ISAKSON. Mr. President, the distinguished Senator from Massachusetts makes an eloquent and passionate statement, but everyone within the sound of my voice needs to understand something. This debate today is not about allowing, favoring, or supporting discrimination. It is about preserving the Civil Rights Act to which the distinguished Senator just referred, because the Civil Rights Act stated clearly that if a complaint was filed, it needed to be filed within 180 days of the act of discrimination, or as, as current EEOC practice allows, 180 days from the date which a reasonable person should have known.

Let's make sure everyone understands all this. Since 1964, 44 years ago, that has been the provision in the statute. No one is trying to keep that from happening.

Secondly, everybody needs to understand this: It is very important to people, regardless of whether they are a woman, a man, a Methodist, African American, Latino, whatever, if they are discriminated against, we need to make sure there is timely evidence so the handling of these claims can be completed thoroughly and completely.

The Ledbetter Fair Pay Act changes the civil rights law provisions from 180 days from the time a discriminatory act was made or a reasonable person should have known they had been discriminated against to 180 days from any ''economic effect.'' This means that someone can work for a company for 30 years, go on retirement and pension, get a pension check, declare the 180 days just started, and file a complaint from 30 years ago.

We are about having integrity in the system so we have timely complaints, we have timely evidence, and the parties who are there can quickly be remedied.

I would like my staff to put up a chart because I would like to review the history of the Ledbetter case.

In 1982, Mrs. Ledbetter filed a complaint for sexual harassment against her supervisor. That complaint was settled between her and the company, Goodyear, in a timely fashion, and she was satisfied.

In 1992, Mrs. Ledbetter, under testimony, testified that she became aware she was being paid less than her peers, but she filed no complaint.

In 1993, she did not file a complaint.

In 1994, she did not file a complaint.

In 1995, Mrs. Ledbetter said:

I told him at that time that I knew definitely that they were all making a thousand at least more per month than I was and that I would like to get in line.

But she did not file a complaint.

In 1996, she did not file a complaint.

In 1997, she did not file a complaint.

And then on July 21, 1998, a complaint was filed, shortly after her supervisor died. That is the reason for the statute of limitations on the complaint to begin with—to ensure you have contemporary and timely information and the parties who might have committed the act of discrimination are alive and can be held accountable.

No less than Justice John Paul Stevens, the first time this particular provision of statute of limitations was taken to the Court, in a 7-to-2 decision in 1977 said the following:

A discrimination act which has not made the basis for a time charge is merely an unfortunate event in history which has no present legal consequence.

Some will argue—and I am sure Senator KENNEDY will—about hidden, or concealed, discrimination, whereby a person might not become aware they are being victimized. Essentially, you can rope-a-dope someone and fool them. Current EEOC practice clearly states that it is 180 days from the time a reasonable person should have known or would have known they were discriminated against.

It is very important for us to understand that we have a case, the Ledbetter case, where the individual testified under oath in deposition that she was aware she was being underpaid and did not file. We also have a person in 1982, a decade before the alleged act, who did file a case for sex discrimination. So it was not ignorance of the system, ignorance of the law, or ignorance of the court; it was violation of the time provided.

Just to make sure the record is clear, in a deposition of Mrs. Ledbetter on July 18, 2000:

Question: So you had this conversation with Mike Tucker about the 1995 evaluation. You told him then that you wanted to try to get your pay more in line with your peers?

Mrs. Ledbetter: That is correct.

Question: How did you know that your peers were earning more?

Mrs. Ledbetter: Different people I worked for along the way had always told me my pay was extremely low.

Again in a deposition later on:

Question: And so you knew in 1992 that you were paid less than your peers.

Mrs. Ledbetter: Yes, sir.

Mr. President, I abhor discrimination. I share the reverence of the quote of Martin Luther King, a citizen of my home State, quoted by Senator KENNEDY, that we all yearn for the day that a man will be judged by the content of his character and not the color of his skin. We respect that today. That is why the Civil Rights Act we discuss today was passed. That is why, when they passed the Civil Rights Act, Congress put in a standard of 180 days from the date of discrimination to ensure the evidence was there, the supervisors were there. That way an aggrieved person could take action to remedy quickly this situation could. The Lilly Ledbetter Fair Pay Act changes that to a distant time in the future when people could have passed away, records could have been destroyed, and the ability to prove the allegation would be impossible.

I submit, in an environment in 2008 in the United States of America where equity, nondiscrimination, and freedom are available to all Americans, that it is this timeliness is important so that anybody who is injured and anybody who is aggrieved gets a swift and just action in the courts of the United States of America.

I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I will take 30 seconds.

We are attempting to restore the law prior to the Supreme Court decision. That is all we are trying to do. The law before the Supreme Court's decision is that when the paycheck reflects discrimination the time to file starts.

Here is a chart. All light green and dark green. That was the law of the

land. That was the law of the land, Mr. President. That is what our bill does. Let's not confuse the facts. We want to go back to what the law of the land was—that and only that.

Mr. President, I yield 3 minutes to the Senator from New York.

The ACTING PRESIDENT pro tempore. The Senator from New York.

Mr. SCHUMER. Mr. President, I thank Senator KENNEDY for his brilliant leadership on this and so many other issues.

First, I have to say that I sat and listened to my good friend from Georgia, and I noted that Lilly Ledbetter is in the gallery, and I was just thinking of having her listen to all of this talk, a lot of it sort of legalese and parsing hairs. Just think of who she is—a hardworking woman from Gadsden, AL, a supervisor in a tire plant working just as hard as the men alongside her and every day and every week and every year not getting paid the same as they simply because she was a woman. It was not because she did a worse job, not because of any other reason. She has had to listen first to the Supreme Court and then to some of my colleagues parse hairs, and it is just not fair, it is not right, and it is un-American.

Now, let me say this: As a male, this is something that is very difficult for men to understand, and yet women, whether they make $20,000 or $70,000 or $200,000, they know it and live with it every single day. It is not a surprise that Ruth Bader Ginsburg was so upset at this decision—a mean decision, a decision that makes people dislike the law—that she read her entire dissent from the bench, a highly unusual practice on the U.S. Supreme Court.

Equal pay for equal work is as American as it comes. Equal pay for equal work is as American as apple pie. And to have a bunch of lawyers, whether they are Senators or Supreme Court Justices, parse hairs and deny simple, plain justice is as un-American as can be as well.

So I hope this body will rise to the occasion. This is not a decision where you need a Harvard law degree to understand how backward it is. All you have to do is know who Mrs. Ledbetter is and who the millions of other American women are who are put in the same position as she is, and you know the cry for justice, justice, justice should ring from these Halls.

So I hope we in this body, again, will rise to the occasion. I hope this body will do right by Mrs. Ledbetter in her long struggle to right this wrong, and to the millions of American women, our wives, our daughters, our friends, our relatives, and the many others we all do not know who are working hard, by the sweat of their brow, trying to support their family, trying to move up the ladder of decency and honor and success so that they, too, when they work, will be treated like their male counterpart.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Georgia.

Mr. ISAKSON. Mr. President, I yield myself 30 seconds.

The distinguished Senator from Massachusetts referred to restoring the law to pre-2002. The Supreme Court, in 1977, through John Paul Stevens' majority opinion, 7 to 2; 1980 and 1986, in all three of those rulings they upheld the 180-day provision of the Civil Rights Act of the United States of America. That was the law prior to Ledbetter, and that is what the court reaffirmed in Ledbetter.

Mr. President, I yield up to 10 minutes to the distinguished Senator from Wyoming, Mr. ENZI.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming.

Mr. ENZI. I thank the Senator from Georgia.

Mr. President, I rise today to voice my strong opposition to both the substance of H.R. 2831, the so-called Ledbetter Fair Pay Act, as well as the process—or more accurately, the lack of process—that has brought this matter to the Senate floor today.

Welcome to ''gotcha politics 2008.'' When we really are intending to pass a bill, particularly with our Health, Education, Labor and Pension Committee, this is not the way we do it. We sit down, we talk about the principle, we list the mechanisms for solving that principle, and we work together to come up with a solution. That is not the case on this one. There has been a lack of any meaningful legislative process regarding this bill.

Earlier in this session, the Supreme Court upheld a Circuit Court decision regarding the limitations period for filing claims under the discrimination statutes I have noted. In my view, this decision was unquestionably correct and completely consistent with the intent of those statutes. However, even for those who might ultimately disagree with that view, there can be no debate Congress's subsequent action was a slapdash response and a transparent attempt to score political points at the expense of responsible legislating.

No sooner was the ink dry on the decision from the Supreme Court, than this legislation was introduced in the House. It was rushed through committee without change and rammed through the House on an essentially party-line vote just 5 days later. The bill was debated under a rule that allowed only 1 hour of debate and no amendments. Does that seem a little familiar? Yesterday, we heard a diatribe on the Senate floor about how Republicans are holding up everything and insisting on these motions to proceed being brought up. Then, after cloture was approved 94 to 0 on a veterans bill, we weren't allowed to vote on it again anytime that day, and we didn't even go into session until 5 o'clock tonight. That was to keep any discussion or any votes from happening and to limit any debate on this issue.

That is not the way the Senate is supposed to operate, but it is the way we are operating on this bill, just as they did in the House—not going through the normal process of making sure that concerns were being solved. That is the only way anything ever makes it through this body. A look at the House vote reveals this was not the result of any groundswell of unanimity in that body. The margin was razor thin. The bill was then sent to the Senate, where by regular order it is supposed to come before the appropriate committee for debate and amendments, but that hasn't happened. This body has consistently and rightfully taken pride in the care and thorough negotiation of its deliberative process.

Now, despite the deceptive name, this legislation doesn't restore anything. Quite to the contrary, it completely destroys a vital provision of title VII of the Civil Rights Act that was intentionally included by the drafters of that legislation. Employment discrimination based on race, sex, age, national origin, religion, or disability is intolerable, and the drafters wanted to ensure any claims of sex discrimination could be promptly addressed.

Beyond this consideration, the drafters of those laws also recognized two practical realities: First, in the employment context, unaddressed claims of discrimination are particularly corrosive. Federal discrimination policy must ensure that bias is rooted out and remedied as quickly as possible. And, second, it is virtually impossible to discover the truth with respect to such claims based on events in the distant past. With the passage of time, memories fade, critical witnesses become unavailable for one reason or another, and records, documents, and other physical evidence are destroyed or otherwise not available. Under this bill, that claim can go until the time of retirement and then be claimed back to the time of whenever this supposed discrimination was, where the witnesses aren't available. But, most importantly, the accounting records aren't available anymore. How can you go back and figure that amount without the records?

It is for these reasons that all statutes granting the right to take legal action contain a limitation period for commencing such actions. These general considerations of discrimination in the workplace led the drafters of title VII to intentionally establish a relatively short period with respect to such claims. They selected a period of 180 days from the discriminatory act, a period that, depending upon the State where the claim arises, could extend to 300 days.

This bill doesn't restore this well-reasoned and plainly intended limitation period and policy; it would eliminate it in virtually all employment discrimination cases. Under this bill, an individual could file a timely charge of discrimination based on an event or act that occurred years, even decades before.

We are told, however, that such a change is necessary because employees may not know they are being discriminated against, or that employers will hide the fact from employees in order to prevent the timely filing of a claim. These appear on their face to be appealing arguments; however, they ignore and they misrepresent the actual state of the law. The law already provides remedies in these instances. The limitations period for filing employment discrimination claims is not nearly as inflexible as the proponents of this bill would lead people to believe.

What about individuals who simply don't know the facts that would lead a reasonable person to conclude they have been discriminated against? Would they be barred from bringing a claim with the Equal Employment Opportunity Commission? If an employee doesn't know the facts, wouldn't their employer just get a free pass on discrimination? The EEOC has addressed this directly. Here is what the EEOC's own compliance manual says:

> Sometimes a charging party will be unaware of a possible EEO claim at the time of the alleged violation. Under such circumstances, the filing period should be tolled until the individual has, or should have, enough information to support a reasonable suspicion of discrimination.

Under the well-recognized doctrine of a continuing violation, all that the law requires is that there be a single act of discrimination within the applicable filing period, and the other context is properly swept into the charge from the reasonable time of knowing it.

Now, this flawed legislation also hides another vast expansion of workplace discrimination laws that must not go unmentioned. Since 1968, the law has been that the individual who is discriminated against is the person with the standing to file a lawsuit. But under this bill, any individual affected by application of a discriminatory compensation decision or other practice has standing to sue. So now it isn't just at retirement or death when the person can bring this up, it is other family members or other dependents who can bring it up, long after the last paycheck.

Practitioners we have consulted agree that this incredibly broad language would easily cover dependents, such as spouses and children benefiting from pension payments and family health care coverage. It could also be construed by courts to extend liability long after pension payments are completed, if the money is invested in an annuity, for example. This is a huge expansion that we have never talked about in committee.

And, before I close, I want to mention my greatest concern in dealing with the legislation. If we were really concerned about helping the greatest number of workers, we wouldn't be focused on changing the law to help improve their chances of a successful lawsuit. Instead, we would be extending a helping hand and providing a source for them to obtain the training they need to keep their current jobs and work toward better ones—the flexibility to move.

Such a change would come if we were able to convince the majority to finish the job we started on the Workforce Investment Act. It is 5 years overdue for reauthorization, and we passed it through the Senate twice, but we have never been able to have a conference committee. This legislation would mean 900,000 people a year could have better job training. So our inability to get this bill signed into law is a shame.

Again, I say this has not gone through the proper process here in the Senate and it was rushed through the House. I guess some think it is always easy to be able to catch a little publicity based on some articles in the paper and try to push something along, but if you actually want to pass a bill it doesn't work. It has to go through a normal process to pass the Senate, and that is what I am sure will happen on this bill.

I yield the floor.

Mr. KENNEDY. Mr. President, I yield 5 minutes to the Senator from Maryland.

The ACTING PRESIDENT pro tempore. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I take this opportunity to thank the Senator from Massachusetts, Mr. KENNEDY, for his leadership on this issue and for the way his staff worked with the women in the Senate to overcome what we thought was a flagrant abuse of power.

In May of last year, the Supreme Court issued a decision called the Ledbetter case that was basically sexist and biased. It didn't reflect the spirit of the civil rights law on discrimination. It didn't reflect the reality of the workplace or the reality of women's lives. The Supreme Court overturned the opinions that had been given by the appellate court, by precedent, by history, and so on.

What did the Supreme Court say? That it was OK to discriminate, unless you knew 180 days from the time you were discriminated against and brought an action or brought this to the attention of your employer. Well, it just doesn't work that way. Anyone who knows the reality of the workplace knows that you don't know if you are being discriminated against.

What is the reality of the workplace? You can talk about sex at the water cooler, you can talk about religion by your computer, you can talk politics in the lunchroom, but if you open your mouth about your pay and whether you have gotten a raise, you are in trouble. If a woman begins to go and ask: Hey, George, what do you get paid, mum's the word.

If, then, Bill gets a raise, the guys are sitting around at the ball game downing a few beers and they say: Hey, George, you have done a great job, we are going to give you a promotion, how do you know about this? The only way you know about it is over time.

What we are doing in this legislation, led by Senator KENNEDY—we have a bipartisan bill—is to right the Supreme Court decision. We are doing this at the urging of Justice Ginsburg. The Supreme Court decision was so bad that Ruth Bader Ginsburg, the only woman on the Supreme Court, took the unusual step of reading her dissent from the bench, and she said:

> In our view the Court does not comprehend or is indifferent to the insidious way in which women can be victims of pay discrimination.

She said this needed to be fixed by Congress, and Congress has a remedy we are voting on today.

I was appalled to read that not only was the Supreme Court decision bad, but now the President has issued a veto threat. He said this bill is going to ''impede justice.'' That is baloney. This bill doesn't impede justice, it restores justice. It reinstates a fair rule for both workers and employers. He said it is going to mess up the process. This bill does not slow down the process, it gives people a way of getting into the process if you can't bring a claim in more than 6 months after you have been hired.

President Bush also says he wants to veto this because this bill would eliminate the statute of limitation in wage discrimination cases. That is not true. This bill does not change the 180-day time limit. It only changes when the clock starts to run. The bill restarts the clock with each time you get a paycheck that discriminates, so each time you get a paycheck that discriminates, the 180-day clock starts to run again. This is critical. How many people, as I said, know the salary of their coworkers? If you are hired at an equal rate with your male counterpart but he gets a raise in a few months and you don't, what should you do?

This is what Lilly Ledbetter found. She was a faithful employee at the Goodyear Company, Over time and with great risk she had to fight in her workplace, she had to fight in her courtroom.

The ACTING PRESIDENT pro tempore. The Senator has used 5 minutes.

Ms. MIKULSKI. Now it is time to fight for Lilly Ledbetter and the 150 million women in her position. The CBS poll on women says the No. 1 issue they face is equal pay for equal or comparable work. If in fact this is not a problem, why does every woman in every poll make this a No. 1 issue?

I ask that we make it a No. 1 issue in the Senate. We are now on a vote, as we faced with Anita Hill. I have a terrible feeling that tonight the Senate will not get it, but the women will get it and we are going to start a revolution as Abigail Adams asked us to do.

Mr. KENNEDY. I yield 2 minutes to the Senator from Washington.

Ms. CANTWELL. Mr. President, I am surprised that my colleagues say this is all about publicity. How can it be about publicity when, in reality, women make less than men in their everyday jobs? Last week in Pittsburg I

attended an equal pay forum and found young children carrying handmade signs about justice: Gussie, a young girl, said, ''I will work for justice;'' Sofia, another young girl, said, ''I will work for justice;'' Leo, who wanted to join in with these young ladies, said, ''I will work for change and for justice.'' The children planned to walk around and collect 23 cents on street corners, begging for an amount of change that represents the difference between what men and women get paid.

This young generation of Americans wants to know that they are going to grow up in a world where they are going to get equal pay for equal work.

Women, on average, make 77 cents per every dollar their male counterparts make and stand to lose $250,000 dollars in income over their lifetime. We are talking about real dollars. The pay gap follows women into retirement. A single woman in retirement, making less pay in her career, could receive $8,000 dollars less in retirement income annually than a man—this is an issue of justice.

I appreciate that the Senator from Massachusetts has led the charge on this. I want to remind my colleagues that we had a similar Supreme Court decision on identity theft, which passed by a 9–0 vote, that limited a victim's ability to recover when it is held that the statute of limitations begins at the time of the initial violation, rather than when the victim discovers the injury. It was the same issue. You did not know that your identity had been stolen, but the courts maintained a very narrow definition of how long you had to recover. What did we do? We acted. Congress extended the statute of limitations to two years after the individual knew their identity had been stolen or 5 years after the violation. That is what Congress did. We corrected that. That is what we need to do to give equal justice to women so they can have equal pay.

The ACTING PRESIDENT pro tempore. The Senator has used 2 minutes.

Mr. KENNEDY. Mr. President, I yield myself 2 minutes.

If I could have the attention of the Senator from Maryland, can the Senator explain to me why there would be reluctance in this body to vote for equal pay for equal work? We voted on this now more than five times in a 40-year period, to knock down the prejudice and discrimination to women, to minorities, to the disabled, and to the elderly. Under the Supreme Court decision, that discrimination can take place in the United States of America today. This legislation can halt it. Can the Senator possibly think about why we should hesitate in taking the action to restore the law to what it was prior to the Supreme Court decision?

Ms. MIKULSKI. First, I believe in this matter the Senate would be out of touch with the American people. The American people want fairness, they want justice, and they believe women should be paid equal pay for equal or comparable work.

I also believe, though, there is opposition to the bill because people make profits off of discrimination. If you pay women less, you make more.

Also I believe when they talk about when the law was passed—the workplace has changed. There are now more women in the workplace than there were when the original laws were passed. But as the Senator from Washington State said, my gosh, this adds up to real money. You know, 20 cents an hour that we make less than the guy next to us—unless we are in the Senate; we do have equal pay here—this, over a lifetime, adds up to over a quarter of a million or a million dollars. When we look at its impact on Social Security, it is tremendous. Then if we look at its impact on a 401(k), if you have one, it adds up.

I believe discrimination is profitable, but I think it is time that justice is done.

Mr. KENNEDY. I yield myself 1 minute.

If I can ask the Senator from Washington, in this downturn in our economy we find that women have less savings, they are participating less in pension plans, they are subject to more foreclosures in housing. At a time when women are under more pressure, can the Senator possibly explain why there should be reluctance in this body to restore fairness?

Ms. CANTWELL. It is quite simple to correct this issue today. We are asking that more women be a part of the math and science and engineering workforce, be part of the information technology age. But if they cannot ask how much their male counterparts are making and find out later that they are only making 77 cents per every dollar their male counterparts make, that is not fair.

We could correct that by now by not only allowing people to come forward at the first instance of unequal pay—but every instance.

It is critical that we address this simple correction. This body has corrected other Supreme Court decisions on these same statute of limitations issues. This is the least we can do.

I see my colleague from New York has come to the floor. We ought to get this bill passed and get on to her legislation that is even more robust—to make sure that employers are treating women fairly and giving them information. This is basic. We should pass it and make sure we send this to the President's desk.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired. Who yields time?

The Senator from Georgia is recognized.

Mr. ISAKSON. Mr. President, I owe the distinguished Senator from Massachusetts an answer to the rhetorical questions he has asked. Everybody within the sound of my voice should understand we are not debating whether anybody in here believes in discrimination. We have voted over and over in this body for 44 years. We have the Equal Pay Act, as the Senator had on his chart there. That passed the Senate on voice vote. That is not the issue. The issue in this case is the tolling provisions of the 1967 Civil Rights Act, Title VII, which dealt with discrimination in wages based on race, religion, sex, or national origin. I will debate what tolling period is appropriate, but I am not going to stand here and allow this to be described as a debate over one side being for discrimination and another being against it. We are for the timely reporting of claimants and the ability of people to be remedied expeditiously if they have been discriminated against.

How much time is left on our side?

The ACTING PRESIDENT pro tempore. There is 13 minutes.

Mr. ISAKSON. I yield the distinguished Senator from Utah, Senator HATCH, 11 minutes.

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

Mr. HATCH. Mr. President, I rise today in opposition to the bill that would overturn the Supreme Court's ruling in Ledbetter v. Goodyear Tire. At the outset, let me be perfectly clear about the basis for my opposition to the so-called Fair Pay Restoration Act. I know of no one on either side of the aisle in this Senate who condones any form of unlawful employment discrimination, including pay discrimination.

Indeed, all forms of unlawful employment discrimination under Title VII of the 1964 Civil Rights Act, including pay discrimination, should be confronted promptly, efficiently, fairly and forthrightly, consistent with the enforcement scheme provided for by the Congress which enacted that law.

Yet, once again we open debate on another of the magnificently misnamed and misleading bills—the so-called Fair Pay Act which its proponents claim will ''restore'' the intent of Congress in enacting the 1964 Civil Rights Act.

In fact, this bill does not restore anything, certainly not the rights of individuals under the Civil Rights Act and clearly not the statute of limitations set by Congress for the timely filing of unlawful employment discrimination charges, including pay discrimination charges, with the U.S. Equal Employment Opportunity Commission, the EEOC, or similar State agencies.

In fact, Congress fully intended the charge-filing period to be 180 days, or 300 days where there are similar State agencies, so as to encourage prompt, effective investigation, conciliation, and resolution of pay discrimination charges and charges of other forms of unlawful employment discrimination.

It was for that reason that Congress carefully chose and designed the current enforcement scheme, which has been consistently upheld by the Supreme Court for over 40 years.

Over that time, Congress and the courts have wisely and consistently encouraged cooperation and voluntary

compliance, in the first instance, by the parties themselves and with the timely assistance of the EEOC or similar State agencies, as the preferred method for addressing alleged unlawful employment discrimination.

Where voluntary compliance and conciliation are unsuccessful, title VII provides for vigorous enforcement by the private parties and the EEOC through litigation.

In other words, voluntary compliance and conciliation first, litigation thereafter whenever necessary.

So, in fact, the so-called Fair Pay Act does not restore the intent of Congress or the original statute of limitations for the filing of pay discrimination charges, and neither does it restore lost rights under the 1964 Civil Rights Act.

In fact, this bill dramatically expands the charge filing beyond all recognition and expectations of the Congress which passed the 1964 Civil Rights Act. If this bill were to become law there would be no statute of limitations, no time limit for the filing of alleged pay discrimination charges. Not 180 days, not 300 days, not years or even decades, as in the Ledbetter case, or even after the employee has long since retired and is receiving pension checks.

This bill not only expands the statute of limitations for filing charges of alleged unlawful pay discrimination, it also expands the class of individuals who can file such charges. And, beyond reversing the Supreme Court's Ledbetter decision, which was an intentional discrimination case, this bill expands the time for filing the type of unintentional, disparate impact, or adverse impact, charges involving pay practices which are facially neutral but could have some type of unintended consequences adverse to women or other protected groups.

As to the expansion of charge filing under the 1964 Civil Rights Act to individuals outside the protected groups, the so-called Fair Pay Act would eliminate the existing requirement that to have standing there must be an employer-employee or employer-applicant relationship. This bill expands the standing to sue requirements to include individuals affected by application of a discriminatory compensation decision or other practice. This language would appear to include spouse and other relatives, as well as anyone else affected indirectly.

I am not imagining this. In fact, when questioned about whether such a radical expansion of the law's standing requirements was intended by the bill's proponents, they responded that it was their intention to do so.

Thus, under this bill, not only could employees and retirees file charges of pay discrimination at any time, years or decades after the current statute of limitations, but so too could anyone affected by alleged pay discrimination file charges, presumably even after the employee is dead since the relatives or others were affected.

Let's also be candid about the type of pay discrimination alleged. The Ledbetter case involved only claims of intentional discrimination or disparate treatment of individuals in a protected group. This bill would apply also to unintentional discrimination—so-called disparate impact, or adverse impact, discrimination. Those are cases where the pay practices are neural and nondiscriminatory on their face, but through statistical analysis such pay practices may have an unintended, attenuated disparate impact on a protected group, such as women. Indeed, the challenged pay practices may not have been intentionally discriminatory treatment, or even have had a disparate impact at the time of their enactment, but sometime later a social scientist or statistician may assert that the pay practices subsequently may have had an adverse impact on one group or another.

Thus, in fact this bill goes well beyond simply reversing the Supreme Court's decision in Ledbetter as its proponents claim.

I am also convinced that the so-called Fair Pay Act which we are debating today would turn the system of enforcement established by Congress in 1964 on its head in a way that is most unfair.

At the heart of title VII and every other employment nondiscrimination statute—indeed, at the heart of every civil law enacted in this country—there is a statute of limitations within which claims and charges must be brought. Actions brought outside those statutory time periods are time barred.

The Supreme Court has consistently held in a long line of well-settled and well-recognized case law that under title VII the statutory period for filing a charge begins to run when the alleged discriminatory decision is made and communicated, not when the complaining party feels the consequences of that decision.

Proponents of this act are, in essence, permitting an open-ended period for filing charges of pay discrimination with every paycheck and every decision that contributed to current pay, or even with receipt of pension or other retirement checks. The so-called Fair Pay Act would result in a litigation ''gotcha'' strategy, or a ''litigation first and ask questions later'' enforcement scheme which is directly contrary to congressional intent in enacting title VII.

The current statutory charge-filing period for allegations of employment discrimination, including pay discrimination, did not suddenly pop up under the current Supreme Court's Ledbetter decision.

In fact, the Supreme Court has long upheld that the current statute of limitations for filing charges under title VII. In an often quoted passage from the 1974 Supreme Court decision American Pipe v. Utah, the title VII statutory limitation on the filing of charges beyond the 180- or 300-day period ''promote(s) justice by preventing surprises through the revival of claims that have been allowed to slumber until evidence has been lost, memories have faded, and witnesses have disappeared.''

In its 1979 decision in United States v. Kubrick, the Supreme Court said that the charge-filing period under title VII is ''balanced'' and ''fair'' to both employers and employees.

The current 180- or 300-day charge filing period allows the employer and the EEOC (1) to investigate the pay discrimination charge: (2) to seek compromise, conciliation, settlement and fair resolution of the charge; and (3) to allow both parties to prepare for litigation, if necessary, by gathering and preserving evidence for trial where resolution is not possible outside of litigation.

Now let's look at how the current system would change under the so-called Fair Pay Act.

The plaintiff's charges of pay discrimination could be brought years, decades, or even after the plaintiff's retirement from the company, or as I have stated earlier, by charges filed by relatives or other affected parties even after the employee's death. The employer's ability to defend its actions or decisions will have dissipated. Managers and decision-makers may no longer be available. Business units may have been reorganized, dissolved, or sold, and operations may have changed or been eliminated. Relevant documents and records which are not required to be preserved by law might have been disposed of, or are otherwise unavailable. In effect, as the Supreme Court stated in defending the current charge-filing period under title VII, unless an employer receives prompt notice of allegations of employment discrimination it will have no ''opportunity to gather and preserve the evidence with which to sustain (itself). . . .''

I am convinced that the only beneficiaries of the so-called Fair Pay Act—the only ones who will see an increase in pay—are the trial lawyers.

So, if the so-called Fair Pay Act:

(1) does not restore lost rights under the 1964 Civil Rights Act and other employment non-discrimination statutes it amends, but greatly expands them;

(2) does not restore the statute of limitations under title VII but eliminates any statute of limitations creating open-ended, unlimited liability;

(3) does not further the intent of Congress in title VII of the 1964 Civil Rights Act to encourage prompt investigation, conciliation and resolution of unlawful discriminatory pay practices; and

(4) does not result in increased pay except for the plaintiff's trial lawyers who will gain an unfair advantage when the employer's witnesses are unavailable, memories have faded, records are long gone, and the jury trial becomes a ''he said, she said'' based solely on the word of a corporation against that of an individual plaintiff;

Then what does the bill do?

I believe this bill undermines one of the bedrock principles of all Judeo-Christian jurisprudence—the statute of limitations. Frankly, I may be mistaken, but I know of no other civil statute that allows an unlimited, open-ended time for filing an action. Criminal statutes, of course, may be open-ended in bringing indictments for such felony crimes as murder, but even criminal misdemeanors generally have a statutory period within which prosecutions must be brought.

For all these reasons, I suggest that this largely political vote on this misnamed and misunderstood bill is one that is designed to place opponents of the bill in a false light of being unsympathetic to victims of pay discrimination. That is simply untrue.

I urge a ''no'' vote on cloture on the motion to proceed to this bill.

Mrs. HUTCHISON. Mr. President, I have always supported efforts to ensure fair pay and fair process. I would support a longer statute of limitation for gender discrimination in the workplace, but the bill before us eliminates any statute of limitation. A reasonable statute might be 1 or 2 years after the discovery of the inequity. The purpose of statutes of limitation is to ensure that witnesses are available and defendants have records to defend themselves fairly. That is the reason that statutes of limitation are an integral part of our legal system.

Mr. TESTER. Mr. President, I rise today to offer my support for protecting American workers from willful pay discrimination. To show my support, I will support cloture on the Lilly Ledbetter Fair Pay Act of 2007, H.R. 2831. I appreciate Chairman KENNEDY and the bipartisan coalition he has built around this legislation to ensure equal pay for equal work.

Every employee deserves to earn the same pay for doing the same work.

Our country was founded on the principle that all men and women are created equal.

Our workers should be paid equally for doing the same job.

As President Kennedy stated when he signed the original Equal Pay Act in 1963, protecting American workers against pay discrimination is ''basic to democracy''. We owe our workers the same protection today that President Kennedy did in the 1960s.

Despite our obligation to this issue, our work is far from complete. Forty-five years after he signed that historic piece of bipartisan legislation, American women still only make 77 cents for every dollar a man makes for doing the same work. African-American workers make 18 percent less than white workers for doing the same work and Latinos make 28 percent less for doing the same work. Unfortunately for all of us, American Indians make even less for doing the same work.

Congress cannot ignore this kind of discrimination. We have a duty to support this bill and speak out against pay discrimination.

This bill will merely restore the law to what it was before the Supreme Court's decision in Ledbetter. This bill merely states that a pay discrimination claim accrues when a pay decision is made, when an employee is subject to that decision, or at any time they are injured by it.

Lilly Ledbetter had worked at Goodyear for 19 years when she discovered she was being paid significantly less than her male counterparts for doing the exact same work. A jury agreed and awarded her $223,776 in back pay, and over $3 million in punitive damages. The United States Supreme Court however, interpreted the law to take away her jury award, saying that the 180-day filing limit had begun way back when her very first paycheck showed lesser pay, nearly 18 years earlier. So because too much time had elapsed the Court said, her claim was invalid. Despite Goodyear's willful wage discrimination, the Court offered her no protection. In fact, it reversed the protection the jury awarded her.

We are here today to undo this wrongheaded decision and clarify this law to make it fair to American workers.

Opponents will argue that this bill will lead to a flood of litigation, benefiting nobody but trial attorneys. They forget, however, that this bill merely returns the law to how the vast majority of States, including the great State of Montana, interpreted it before the Ledbetter decision. This bill will only change the way courts interpret the law in 7 States.

Opponents will also argue that this bill will punish businesses for acts of discrimination in some cases, decades ago, before management and corporate culture changed. The argument is hollow, however, because the bill contains a provision to limit claims filed to a 2-year maximum. In the spirit of negotiation, proponents had to limit potential awards. Take Lilly Ledbetter's case, for example. If this law would have been in effect for her, 16 out of the 18 years that she suffered pay discrimination would still go unpunished.

This bill is not perfect. We still have a long ways to go to protect American workers from pay discrimination. But this bill is a step in the right direction and the time is now. The House of Representatives passed this important bill last July, and It is time for this body to do the same. President Kennedy was absolutely right to support the Equal Pay Act in 1963. Forty-five years later, this bill will ensure that we turn the clock forward, not backward, on pay discrimination.

I hope my colleagues will join me in supporting this important legislation.

Mr. AKAKA. Mr. President, yesterday was Equal Pay Day in America. It is befitting that it was on a Tuesday because Tuesday is the day on which women's wages catch up to men's wages from the previous week. It is most unfortunate that women continue to be discriminated against by employers, in particular those who routinely pay lower wages for jobs that are dominated by women.

However, today my colleagues in the Senate will have an opportunity to begin the process to restore the intent of Congress as it relates to the fundamental fairness to millions of workers. We will have a chance to override a decision by the Supreme Court last June, in the case of Ledbetter v. Goodyear Tire & Rubber Company. In this case, the Court, in a 5-to-4 ruling, reversed a longstanding interpretation, used by nine Federal circuits and the Equal Employment Opportunity Commission, EEOC, under which the statute of limitations for pay discrimination begins to run each time an employee receives a paycheck or other form of compensation. Instead, the Court ruled that the 180-day statute of limitations on filing a discrimination claim with the EEOC begins to run when the original discriminatory decision is made and conveyed to the employee, regardless of whether the pay discrimination continues beyond the 180-day period. This is an unfair and unjust ruling. For employees who are prohibited from having access to data reflecting the wages of other employees, it is impossible for them to ascertain whether they have been a victim of wage discrimination—let alone, to know from the original time of the discriminatory act. In many cases, employees may not know until years later that they have been discriminated against on the basis of pay.

I urge my colleagues to support cloture on the motion to proceed to this important legislation, and to support enactment of this bill. The Lilly Ledbetter Fair Pay Act of 2007 will restore the interpretation that the statute of limitations begins to run each time an employee receives a paycheck or other form of compensation reflecting the discrimination, otherwise known as the ''paycheck accrual'' rule. It would ensure that employees who can prove pay discrimination based on race, color, religion, sex, national origin, age, or disability will not be forever barred from seeking redress because they did not learn that they were victims of pay discrimination within 6 months after the discrimination first occurred.

Although women still only earn 77 cents for every $1 earned by men, we should not be moving backwards. It is simple, this legislation will restore an employee's right to seek restitution against wage discrimination at the time the employee discovers it. In addition, it is important to note that this legislation is not just about gender pay discrimination. In 2007, EEOC received more than 7,000 pay discrimination charges. While some are on the basis of gender, others are on the basis of race, disability, national origin, and age.

Mr. President, I urge my colleagues to do what is right and support cloture and passage of the Lilly Ledbetter Fair Pay Act.

Mr. BINGAMAN. Mr. President, I rise today in support of the Fair Pay Restoration Act, which is currently before the Senate.

On May 29, 2007, the Supreme Court handed down a decision in the case of Ledbetter v. Goodyear Tire & Rubber Co., Inc. After her retirement from Goodyear in 1998, Lilly Ledbetter filed a sex discrimination case against her employer. Ms. Ledbetter claimed that she had been paid significantly less than her male counterparts during her work as one of the few female supervisors at Goodyear. Unfortunately, due to a company policy that prohibited employees from discussing their pay, Ms. Ledbetter couldn't confirm the discrimination until she received an anonymous note that detailed the salaries of three of the male managers. This note confirmed that Ms. Ledbetter had been paid 20 +percent to 40 percent less than the male managers throughout her employment with Goodyear. A jury found that this pay discrepancy was based, at least in part, on sex discrimination.

Ms. Ledbetter is an example of an employee who has done all that is expected of her. By all reports, she performed her job admirably, the same work being performed by her male counterparts. She raised concerns about her pay level and eventually brought suit against her employer.

Through this process came the Supreme Court decision which limits an employee's right to collect backpay to 180 days after the issuance of a discriminatory paycheck. This is true even if the employee was unaware of the discrimination or, as in the case of Ms. Ledbetter, was unable to discover proof of such discrimination through the deliberate efforts of her employer.

The Fair Pay Restoration Act is a return to the rational, reasonable approach that had been applied by Federal circuit courts in most States, including my home State of New Mexico, prior to the Ledbetter decision. Under the previous rule, an employee could bring a claim within 180 days of the last discriminatory paycheck. This bill would also implement a limitation on backpay claims to 2 years, providing businesses a protection against claims that are allowed to accumulate over years and encouraging employees to act with all due diligence in pursuing discrimination claims. The Congressional Budget Office has determined that the Fair Pay Act is unlikely to increase the number of claims brought in discrimination cases.

We must work to ensure that the courts remain a source of redress for employees many of whom are fighting much larger and better financed employers. Employees should not face unreasonable obstacles in their efforts to pursue a discrimination claim and to seek appropriate remedies. By placing an undue burden on employees to quickly prove discrimination, the Ledbetter decision has negatively altered the use of the courts as a remedy for discriminatory conduct by employers. Employers who are more successful at hampering their employees' efforts to prove discrimination and delay are now afforded more protection than those employers who treat their employees justly under the law. The Fair Pay Restoration Act seeks to restore this equity and to ensure that employees and employers have full and equal access to the courts.

Mr. FEINGOLD. Mr. President, I am a cosponsor of the Fair Pay Restoration Act, legislation that protects American workers from pay discrimination, and I am glad the Senate is debating it.

This bill is designed to overrule an incorrect court decision that cut off one woman's efforts to seek recourse for pay discrimination she experienced at the hands of her employer. As one of the few female supervisors at her company's plant, Lilly Ledbetter was paid substantially less than male employees in the same position who performed the same duties. This information about unequal pay was kept confidential. It was only after Ms. Ledbetter received an anonymous note revealing the higher salaries of other managers who were male that Ms. Ledbetter recognized that she was being paid less because she was a woman. Ms. Ledbetter's case went to trial and a jury awarded her full damages and back pay.

Last year, in a sharply divided opinion, the Supreme Court ruled that Ms. Ledbetter had filed her lawsuit too long after her employer originally decided to give her unequal pay. Under title VII of the Civil Rights Act of 1964, an individual must file a complaint of wage discrimination within 180 days of the alleged unlawful employment practice. Before the Ledbetter decision, each time an employee received a new paycheck, the 180-day clock was restarted because every paycheck was considered a new unlawful practice.

The Supreme Court changed this longstanding rule. It held that an employee must file a complaint within 180 days from when the original pay decision was made. Ms. Ledbetter found out about the decision to pay her less than her male colleagues well after 180 days from when the company had made the decision. Under the Supreme Court's decision, Ms. Ledbetter was just too late to get back what she had worked for. It did not matter that she only discovered that she was being paid less than her male counterparts many years after the inequality in pay had begun. And it did not matter that there was no way for her to find out she was being paid less until someone told her that was the case.

Mr. President, to put it simply, the Supreme Court got it wrong. It ignored the position of the Equal Employment Opportunity Commission and the decisions of the vast majority of lower courts that the issuance of each new paycheck constitutes a new act of discrimination. It ignored the fact that Congress had not sought to change this longstanding interpretation of the law.

The decision also ignores the workplace reality for millions of American workers just like Ms. Ledbetter. Workers often have no idea when they are not being compensated fairly because their companies do not disclose their employee's salaries. Because of the secrecy surrounding salaries, pay discrimination is one of the most difficult forms of discrimination to identify. Unlike a decision not to promote or hire, discrimination on the basis of pay can remain hidden for years. The Supreme Court's decision leaves victims of pay discrimination who do not learn about the discrimination within 6 months of its occurrence with no ability to seek justice. In the wake of this decision, employers can discriminate against employees by unfairly paying them less than what they are due, and as long as the employee does not learn about the discrimination and file a complaint within 6 months, the employer gets off scot free.

The financial impact of a late filing is felt for years, even into retirement. Even a small disparity in pay can add up to thousands of dollars over multiple years. This is because other forms of compensation such as raises, overtime payments, retirement benefits, and even Social Security payments are calculated according to an employee's base pay. Thus, the Supreme Court's decision harms American workers even after their careers are over.

The Fair Pay Restoration Act reestablishes a reasonable timeframe for filing pay discrimination claims. It returns us to where we were before the Court's decision, with the time limit for filing pay discrimination claims beginning when a new paycheck is received, rather than when an employer first decides to discriminate. Under this legislation, as long as workers file their claims within 180 days of a discriminatory paycheck, their complaints will be considered.

This bill also maintains the current limits on the amount employers owe once they have been found to have committed a discriminatory act. Current law limits backpay awards to 2 years before the worker filed a job discrimination claim. This bill retains this 2-year limit, and therefore does not make employers pay for salary inequalities that occurred many years ago. Workers thus have no reason to delay filing a claim. Doing so would only make proving their cases harder, especially because the burden of proof is on the employee, not the employer.

Opponents say that this bill will burden employers by requiring them to defend themselves in costly litigation. This is simply not the case. Most employers want to do right by their employees, and most employers pay their employees fair and equal wages. This legislation will only affect those employers who underpay and discriminate against their workers, hoping that employees, like Ms. Ledbetter, won't find out in time. The Congressional Budget

Office has also reported that restoring the law to where it was before the Ledbetter decision will not significantly affect the number of filings made with the EEOC, nor will it significantly increase the costs to the Commission or to the Federal courts.

Yesterday, individuals from across the country observed Equal Pay Day, a day which reminds us as a nation that a woman is still paid 77 cents for every dollar earned by a man. This disparity is all too real. Ending it will require commitment, and we can show that commitment by passing this bill. The last thing American women need is a Supreme Court decision that prevents them from seeking compensation from employers who have engaged in outright discrimination.

In addition to passing the Fair Pay Restoration Act, Congress needs to do more to ensure all of America's citizens receive equal pay for equal work. Wage discrimination costs families thousands of dollars each year. This is hard-earned money that working women and men simply cannot afford to lose. We should pass the Fair Pay Act introduced by Senator TOM HARKIN and the Paycheck Fairness Act introduced by Senator HILLARY RODHAM CLINTON. Senator HARKIN's legislation would amend the Fair Labor Standards Act to prohibit wage discrimination on account of sex, race, or national origin. Senator CLINTON's legislation would strengthen penalties for employers who violate the Equal Pay Act and require the Department of Labor to provide training to employers to help eliminate pay disparities. I can think of no better way to commemorate Equal Pay Day than to pass these three pieces of legislation now.

Wage discrimination is not just a women's issue. Individuals and organizations from every part of our country, of different political beliefs and racial backgrounds, men and women, older Americans, religious groups, and individuals with disabilities have come out in support of the Fair Pay Restoration Act. These supporters understand that this legislation not only assists female workers who are trying to fight discrimination based on their sex. Because the Ledbetter decision established a general rule for all title VII employment discrimination claims, they know that this legislation is needed to restore the ability of employees across the Nation to redress discrimination based on factors such as race, national origin, age, religion, and disability.

Congress has repeatedly passed landmark bipartisan legislation to eliminate discrimination in the workplace. These laws include the Equal Pay Act of 1963, title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Americans with Disabilities Act of 1990, and the Civil Rights Act of 1991. Indeed, we have made great progress in securing equal pay rights, but we must continue to defend these rights. Justice Ginsburg, in her sharply worded dissent in the Ledbetter decision, called on Congress to do something to rectify the inequity that the Supreme Court's decision left to our country. The Fair Pay Restoration Act is our answer to Justice Ginsburg's call.

Lilly Ledbetter turned 70 years old this month. For almost two decades, Ms. Ledbetter worked hard for a company that discriminated against her by not paying her what it was legally required to pay. The Supreme Court, in its decision last year, ended Ms. Ledbetter's long quest for justice. She can no longer recover what was rightfully hers. Since the Ledbetter decision, other workers have already had their cases dismissed. These unjust outcomes will continue to mount until Congress acts. Each case is a new injustice, and it is an avoidable injustice because Congress can take steps right now to reverse the Supreme Court's erroneous decision.

Passing the Fair Pay Restoration Act is an essential step in the right direction—a step toward the day when the basic right of American workers to equal pay for equal work will be realized. I urge my colleagues to stand up for the rights of women and all American workers by voting for this vital legislation.

Mr. BROWN. Mr. President, our country has lost 230,000 jobs in just the first 3 months of this year. The unemployment rate has gone up to 5.1 percent. In Ohio, unemployment hovers around 6 percent.

Women are also disproportionately at risk in the current foreclosure crisis, since women are 32 percent more likely than men to have subprime mortgages. Existing pay disparities for women exacerbate the economic strain on women and on households run by women, since women earn only 77 cents for every dollar earned by men. Women have significantly fewer savings to fall back on in a time of economic hardship. Nonmarried women have a net worth 48 percent lower than nonmarried men, and women are less likely than men to participate in employer-sponsored retirement savings programs.

These facts make this bill—the Lilly Ledbetter Fair Pay Restoration Act—all the more timely. Lilly Ledbetter was one of just a handful of female supervisors in the Goodyear tire plant in Gadsden, AL. For years, she endured insults from her male bosses because she was a woman in a traditionally male job. She worked 12-hour shifts—which often stretched to 18 hours or more when another supervisor was absent. But she did not know she was being paid less than men until later in her career. She had no way of knowing how much her coworkers made.

Late in her career with the company, Lilly got an anonymous note in her mailbox informing her that Goodyear paid her male counterparts 20 to 40 percent more than she earned for doing the same job. She then filed a complaint with the Equal Employment Opportunity Commission. She also filed a lawsuit. In court, a jury found that Goodyear discriminated against Lilly Ledbetter. The jury awarded Ms. Ledbetter full damages, but the Supreme Court said she was entitled to nothing because she was too late in filing her claim.

The Court's Ledbetter decision reversed decades of precedent in the courts of appeals. It also overturned the policy of the EEOC under both Democratic and Republican administrations. The Bush EEOC was on the side of Lilly Ledbetter until the Solicitor General took over for the Bush administration. The Ledbetter decision leaves workers powerless to hold their employers accountable for their unlawful, unjust conduct. Employers who can hide discrimination from their workers for just 180 days get free rein to continue to discriminate.

The Fair Pay Act, of which I am a proud cosponsor, will allow workers to file a pay discrimination claim within 180 days of a discriminatory paycheck. It only makes sense that as long as the discrimination continues, a worker's ability to challenge it should continue also. This legislation would simply restore the law to what it was in almost every State in the country the day before the Ledbetter decision. We know it is workable and fair—it was the law of the land for decades.

Now, some in this Chamber will say this will result in more litigation. That is wrong. The Fair Pay Act restores the law to what it was before the Supreme Court decision. In fact, the Congressional Budget Office says the bill will not establish a new cause of action for claims of pay discrimination. Restore the Fair Pay Act. I urge my colleagues to support this bill.

Mr. LAUTENBERG. Mr. President, I want to express my strong support for the Lilly Ledbetter Fair Pay Act of 2007. I want to thank Senator KENNEDY for his leadership on this issue and on so many civil rights issues throughout his Senate career.

Earlier this week, we observed Equal Pay Day. Equal Pay Day is the day up until which a woman had to work past the end of 2007 to make as much money as a man made in 2007 alone. That means that a woman has to work almost 16 months to make what a man makes in 12.

Every day in this country, women get up and go to work, just like men. Women—who make up nearly 50 percent of the American workforce—put in 8, 10, 12 or more hours every day. And just like men, women go home each night to families that rely on the money they earn. In the millions of households led by single mothers, these women's paychecks are the only source of income.

But there is one day that looks very different for men and women—payday.

A woman makes only 77 cents for every dollar that a man makes. These

inequalities cut across educational divides. In my State of New Jersey, a college-educated woman makes only 72 cents for every dollar a college-educated man makes.

This wage gap costs working families $200 billion in income every year. And the strain on working families is only getting worse in today's struggling economy, which is hitting women especially hard. In 2007, women's wages fell 3 percent, while men's wages fell one-half of 1 percent. Unemployment for women also rose faster than for men during the past year.

Yet last year, the Supreme Court reached a decision that made it even harder for women.

After spending almost 20 years working long hours as a supervisor at a Goodyear plant in Alabama, Lilly Ledbetter discovered that she was making 20 percent less than the lowest paid male supervisor.

A jury awarded her back pay and damages, but the Supreme Court said that she filed her lawsuit against her employer too late. The Supreme Court said that she could not sue her employer more than 180 days after the discrimination first began.

That simply does not make sense. Every time a worker receives a discriminatory paycheck, the employer is discriminating against the worker. So every paycheck should start a new clock for challenging that discrimination.

That was the rule in all but four States up until the day that Ledbetter was decided. I am proud to say it was the rule in New Jersey. And it should be the rule again.

It is important to recognize that, although Ledbetter involved gender discrimination, its implications are much more far-reaching. The Ledbetter decision will have the same effect on cases brought for discrimination based on race, national origin, religion, disability, and age. In all of these cases, victims of pay discrimination will be without recourse as long as their employers can get away with it for 180 days.

The Lilly Ledbetter Fair Pay Act would simply restore the pre-Ledbetter rule that every paycheck is an act of ongoing discrimination. It would not create any new right or remedy.

I am proud to be a cosponsor of the Senate version of this bill, and I support it wholeheartedly. I hope that my colleagues will join me in voting for this important civil rights law. It is the right thing to do for America's working families.

Mr. SANDERS. Mr. President, yesterday was Equal Pay Day. Equal Pay Day is the day that marks the extra months into the next year that a woman needs to work in order to receive pay equal to what a man would make for the equivalent job in only 12 months. Yes, Mr. President, as astonishing as it is, in the year 2008, it takes nearly 4 extra months for a woman to bring home the same amount of money as her male counterpart. According to the U.S. Census Bureau and Bureau of Labor Statistics, women earn, on average, only 77 cents for every dollar earned by men in comparable jobs. What a truly unthinkable, and frankly disgraceful, circumstance—one that we must do everything within our power to change.

And today we can take a small but very significant step to make sure that Americans have the legal opportunity to challenge pay discrimination by supporting the Lilly Ledbetter Fair Pay Act. Before I begin, let me thank Senator KENNEDY for his efforts to ensure that we don't just stand by doing nothing, following an ill-advised Supreme Court ruling that takes us a step back in time by making it extraordinarily difficult for victims of pay discrimination to sue their employers.

This Congress must not stand by while the Court forces an unreasonable reading of the law. Through this decision, it tosses aside its own precedent and weakens protection provided by the Civil Rights Act to rule in favor of an employer that had underpaid a female employee for years. That is why I call on all of my colleagues, on a bipartisan basis, to stand together today to send a clear signal that pay discrimination is unacceptable and will not be tolerated by voting to move forward to debate the Lilly Ledbetter Fair Pay Act.

This legislation overturns the Court's decision in Ledbetter v. Goodyear Tire. The Court held employees who are subjected to pay discrimination must bring a complaint within 6 months of the discriminatory compensation decision, meaning the day the employer decides to pay her less, and that each paycheck that is lower because of such discrimination does not restart the clock. Under this decision it doesn't matter if the discrimination is still ongoing today or if the worker initially had no way of knowing that others were being paid more for the same work just because of age, race, gender or disability. Most inexplicably, the majority insisted it did not matter that Goodyear was still paying her far less than her male counterparts when she filed her complaint. Mr. President, if you asked anyone on the street, they would tell you that this decision simply defies common sense. In fact, it is so clearly contrary to Americans' sense of right and wrong that everyone should be outraged.

Lilly Ledbetter, a loyal employee for 19 years, discovered she was being paid significantly less than the men in her same job. At first, her salary was in line with that of her male colleagues, but over time she got smaller raises creating a significant pay gap. How was she to know that this discrimination was happening? Hardworking Americans do not have the time to sit around talking about their salaries. It is clearly not her fault she didn't discover this inequity sooner.

In closing, it is disturbing that the Court chose to gut a key part of the Civil Rights Act that has protected hardworking Americans from pay discrimination for the past 40 years. It is our duty to send a message to employers that this type of discrimination is unacceptable. Fortunately, Congress can amend the law to undo this damaging decision. And, it should do so without delay.

Mr. REED. Mr. President, I strongly support passage of H.R. 2831, the Lilly Ledbetter Fair Pay Act. We must continue to ensure that workers are protected from pay discrimination and treated fairly in the workplace.

As an original cosponsor of the Senate companion of this legislation, I am pleased that this bipartisan bill seeks to address and correct the Supreme Court's Ledbetter decision from last spring that required employees to file a pay discrimination claim within 180 days of when their employer initially decided to discriminate, even if the discrimination continues after the 180-day period. The Ledbetter decision overturned longstanding precedent in courts of appeals across the country and the policy of the Equal Employment Opportunity Commission under both Democratic and Republican administrations.

H.R. 2831 returns the law to the pre-Ledbetter precedent and would make clear that each discriminatory paycheck, not just the first pay-setting decision, will restart the 180-day period. This allows workers to demonstrate and detect a pattern or cumulative series of employer decisions or acts showing ongoing pay discrimination. As Justice Ginsburg noted in her Ledbetter dissent, such a law is ''more in tune with the realities of the workplace.'' The Supreme Court majority failed to recognize these realties, including that pay disparities typically occur incrementally and develop slowly over time, and they are not easily identifiable and are often kept hidden by employers. Many employees generally do not have knowledge of their fellow coworkers' salaries or how decisions on pay are made.

Yesterday was Equal Pay Day, an opportunity to recognize the progress we have made as a nation on ensuring fairness, justice, and equality in the workplace. But there are barriers still to be overcome to close the pay gap and make certain that an individual's gender, race, and age are not an impediment to their economic and employment growth. The Lilly Ledbetter Fair Pay Act is one step forward in the direction of ensuring this growth and I urge my colleagues to support it.

Mr. KERRY. Mr. President, Lilly Ledbetter was the only female manager working alongside 15 men at a Goodyear tire plant in Gadsden, AL. One day, she learned that, for no good reason, she had been receiving hundreds of dollars less per month than her male colleagues—even those with far less seniority.

Unfortunately, the wrongs done to Lilly Ledbetter are familiar to far too

many women who work every bit as hard as men do but take home a smaller paycheck.

We must continue to fight to guarantee equal pay for women everywhere and justice for those women who are discriminated against.

It is disgraceful that women still make just 77 cents for every dollar earned by men. In fact, yesterday marked Equal Pay Day—the symbolic day on which a woman's average pay catches up to a man's average earnings from the previous year. Think of all the hours of work done since January 1—those are hours that women have worked just to bring home the same amount of money as a man. It is equivalent to months of working with no pay—something I am sure the bosses doling out unequal paychecks wouldn't stand.

Unequal pay for women is an injustice whose poison works on multiple levels. Women aren't just paid less for doing the same work—they are also given a none-too-subtle message that their thoughts and efforts are less valued just because of their gender.

I have two wonderful daughters, Alex and Vanessa. Alex is a filmmaker and Vanessa is a doctor. If it weren't for the women who came and marched before them, they wouldn't have had the access to high school and college sports that made such a difference in their development. But that cause isn't yet complete. The progress isn't yet perfected. We are fighting today so that they are never told that a man deserves a penny more for doing the same hard work they have done.

In the face of injustice, Lilly Ledbetter and many women like her have had the courage to stand up to sexist bosses, demand her legal right to equal pay for equal work, and say ''enough is enough.'' The trial was difficult, but Lilly stood strong—and the jury awarded her a large legal settlement.

Then Lilly's case ran head-on into a group of men—and one woman—above whose heads she could not appeal: the U.S. Supreme Court. The Court's 5-to-4 ruling went against common sense and most people's sense of basic fairness. They ruled that the Equal Rights Act of 1964 requires an employee to file a discrimination claim within 180 days of a boss's decision to discriminate—rather than 180 days from the last discriminatory paycheck. Amazingly, Lilly Ledbetter didn't just lose her settlement and her standing to seek justice—she also lost future retirement benefits which will now be awarded according to decades of discriminatory pay.

The ruling goes against common sense and the practical realities of the workplace. It goes against our basic sense of fairness. People often don't know what their colleagues are being paid and thus don't find out for some time that they are being discriminated against. Many never find out at all that they have been discriminated against for a lifetime—and many who do choose to stay quiet rather than rock the boat, confront their bosses, or be perceived as angry when they have every right to be.

As Justice Ruth Bader Ginsburg wrote, ''In our view, the court does not comprehend, or is indifferent to, the insidious way in which women can be victims of pay discrimination.'' The Court's only woman took the rare and defiant step of delivering her eloquent dissent out loud.

Five male Justices denied justice to thousands of women who could now be denied legal standing in similar cases, not because these women hadn't been discriminated against but because too much time had passed between the moment when their bosses started discriminating against them and the moment they either found out about it or took action to stop it. In effect, it rewards bosses for stringing out their deceit.

One of these five male Justices was Samuel Alito—against whose hasty confirmation I waged a lonely filibuster battle for which I was widely criticized back in 2006. Back then, I worried and warned that Alito would create a 5-to-4 majority to deny hard-working Americans their day in court. Which is exactly what happened to Lilly Ledbetter. I don't regret my filibuster one bit—it was an important statement drawing a line in the sand against this administration's radical judicial nominees. I just wish we could have won that fight.

Would Sandra Day O'Connor, the woman Alito replaced, have voted this way? I strongly suspect not. And so, with Sam Alito's decisive vote, our judicial branch struck a major blow against justice, against fair treatment for all, and against women's rights. The good news is that Congress still makes the laws—and we have the opportunity to make clear the intent of our fair pay laws and ensure that female victims of pay discrimination have their day in court.

The Lilly Ledbetter Fair Pay Act clarifies what the Court ought to have known—that the laws against pay discrimination apply to every paycheck a worker receives—not to the moment a boss begins discriminating. A person only gets 180 days to file a discrimination claim—and the clock should be reset to zero every time a discriminatory paycheck goes out. We should make it easier for discrimination to be rooted out not harder.

Businesses have nothing to fear from this bill—unless they are acting disgracefully, in which case they should be afraid—they should be very afraid. But employers will not be asked to make up for salary difference from decades ago—current law, rightly or wrongly, limits backpay awards to 2 years before the worker filed a job discrimination claim. This bill wouldn't change that limit.

We should and must do whatever we can to chip away at discrepancies that still exist in pay between men and women. When the Equal Pay Act of 1963 passed, women were making 59 cents a dollar. Forty five years later, that number is 77 cents. In other words, women are narrowing the gap by less than half a penny a year. We must do better.

If I am lucky enough to have them, I don't want my future granddaughters and great-granddaughters to wait another 45 years for equal wages.

In so many ways, discriminatory pay contributes to our worst shortcomings as a society. It discriminates against children in poverty—who are far more likely than other children to be raised by single mothers. It also discriminates against women of color—who are more likely to live in households without a male income-earner.

Each paycheck and each discriminatory raise compounds injustice upon injustice. Unfortunately, the pay gap runs across industries and education levels. This isn't something that fixes itself at higher levels of income. Comparing men and women with comparable education, work title, and experience, over the course of their lives, women with a high school diploma earn $700,000 less. Women with a college diploma earn $1.2 million less. And women with advanced degrees earn $2 million less over time.

To our enduring shame, it was once true that American slaves were treated as three-fifths of a human being. But it remains true today that women are paid as just three-quarters of a man.

We can't unravel or erase hateful attitudes toward women in a single day or with a single vote. But we have a bill before us today that will restore women's right to seek equal justice under the law. We should pass the Lilly Ledbetter Fair Pay Act today and do all that we can to live according to the truth that, while self-evident to Thomas Jefferson, remains elusive to employers everywhere: that all of us are created equal.

Mr. BIDEN. Mr. President, America has come a long way in addressing discrimination in the workplace since the days my ancestors faced ''No Irish Need Apply'' signs. Yet discrimination today still exists. Even now, women still earn on average 77 cents for every dollar a man earns performing the same work. This is not fair. And with a record 70.2 million women in the workforce, this wage discrimination hurts American families across the country.

Since passage of title VII of the Civil Rights Act of 1964, working women have been able to challenge discriminatory pay. Most appellate courts, including the Third Circuit that incorporates Delaware, and the Equal Employment Opportunity Commission operated under a rule that gives workers a reasonable time limit to file complaints and receive a fair hearing in our country's courtrooms.

Last year, the Supreme Court in Ledbetter v. Goodyear Tire and Rubber

Co., ignored the basic reality of how—and indeed, when—workers discover that they have been the victim of paycheck discrimination. The Court ruled that employees must sue within 180 days of the employer's pay decision. That Supreme Court's ruling, in the words of Justice Ginsberg, is at best a ''cramped interpretation'' of title VII and at worst reverses the hard-won gains women have made in the workplace.

As a practical matter, employees often do not know what their peers earn, the amount of annual raises, or how wages are determined. Given the typical confidentiality rules covering pay issues, the Supreme Court's ruling means that women will in many instances be shut out from recovering what they are owed after years of unfair pay. This interpretation makes title VII of the Civil Rights Act an empty promise.

The Supreme Court's decision will hurt Americans from all walks of life. It perpetuates inequality by allowing workers to receive lower pay because of their age, gender, religion, ethnicity, or disability. It threatens to stop and reverse the steady progress we have made toward job equality by letting employers off the hook for prolonged discrimination. The House took the first step toward correcting this injustice when it passed the Lilly Ledbetter Fair Pay Act of 2007. The Senate now has the opportunity, and an obligation, to do the same. I am a cosponsor and strong supporter of this bill, which would simply clarify and restore the rule the country operated under before the Supreme Court's decision. That rule was strong and simple—each separate paycheck based on a previous discriminatory decision is itself an unlawful employment practice.

Mr. President, this Fair Pay Restoration Act isn't a radical change of direction. It is really nothing new. We know the consequences of the act because for years American businesses and their workers operated under the standards it restores. It will not open the floodgates for litigation or force employers to fork out exorbitant sums of money—it will just restore the rules of the game before the Court changed them. It gives Americans who are doing the same job as someone else—but for lower pay—access to courts and equality.

In today's economy, coping with a recession and a housing crisis, American workers need our help. The basic social compact that built our economy, that created our middle class, that provided opportunities for millions—that compact is breaking down. This is one small step to restore some fairness.

Mr. President, equal work should mean equal pay. I urge my colleagues to join me and restore that principle.

Mr. LEAHY. Mr. President, the Supreme Court's recent decision in Ledbetter v. Goodyear Tire struck a severe blow to the rights of working women in our country. More than 40 years ago, Congress acted to prevent discrimination in the workplace based on an employee's sex, race, color, national origin or religion. The Ledbetter decision is yet another example of the Supreme Court misinterpreting congressional intent and denying justice to a victim of discrimination.

For nearly two decades, Lilly Ledbetter, a supervisor at Goodyear Tire, was paid significantly less than her male counterparts. Nonetheless, a thin majority of Justices on the Supreme Court found that she was ineligible for title VII protection against discriminatory pay because she did not file her claim within 180 days of Goodyear's repeatedly discriminatory pay decisions.

The Supreme Court's ruling sent the message to employers that wage discrimination cannot be punished as long as it is kept under wraps. At a time when one third of private sector employers have rules prohibiting employees from discussing their pay with each other, the Court's decision ignores a reality of the workplace—pay discrimination is often intentionally concealed. Ms. Ledbetter only found out that she was earning as much as $15,000 less per year than a male coworker with the same job and seniority when an anonymous letter appeared on her desk weeks before her retirement. By the time she retired in 1997, Ms. Ledbetter's monthly salary, despite receiving several performance based awards, was almost $600 less than the lowest paid male manager and $1,500 less than the highest paid male manager.

Congress passed title VII of the Civil Rights Act to protect employees like Lilly Ledbetter from discrimination because of their sex, race, color, national origin or religion—however the Supreme Court's cramped interpretation guts the purpose and intent of the bipartisan and historic effort to root out discrimination. Ms. Ledbetter argued that her claim fell within the 180 day window provided under title VII for filing claims because she suffered continuing effects from her employer's discrimination. After filing a complaint with the Equal Employment Opportunity Commission, a Federal jury found that she was owed almost $225,000 in back pay. However, five Justices of the Supreme Court overturned the jury's decision, holding that Ms. Ledbetter was not protected under the law because she filed suit more than 180 days after her employer's discriminatory act.

This Supreme Court decision contradicts both the spirit and clear intent of title VII of the Civil Rights Act, which was created to protect workers from discriminatory pay. The Court's 5-to-4 decision undercuts enforcement against discrimination based on sex, race, color, religion, and national origin. In Justice Ginsburg's dissent, she wrote that the Court's decision ''is totally at odds with the robust protection against workplace discrimination Congress intended Title VII to secure.''

This October, my wife Marcelle and I will host Vermont's 12th annual Women's Economic Opportunity Conference, a chance for women to come together to learn new career skills. Thousands of women in my State have used these skills to advance their careers. It is a shame that despite such initiatives and years of hard work, women continue to suffer pay discrimination. I commend the Vermont Legislature for passing laws requiring equal pay for equal work and barring employers from retaliating against employees for disclosing the amount of their wages. Unfortunately, not all States offer these protections.

For all of the gains that women have made in the past century, there remains a troubling constant—women continue to earn less than men—on average, only 77 cents on the dollar. Discriminatory pay not only affects women it affects their children, their families, and all of us who believe in the words inscribed on the Vermont marble of the Supreme Court building ''Equal Justice Under Law.''

The Lilly Ledbetter Fair Pay Act would correct the unfortunate and cramped ruling of the Supreme Court which denied Ms. Ledbetter equal justice. It would amend the Civil Rights Act of 1964 to clarify that an unlawful employment practice occurs not only when that discriminatory decision first goes into effect but each time an individual is affected by it, such as each time compensation is paid.

The House of Representatives passed this bill in a bipartisan vote last summer. It also has bipartisan support here in the Senate, but unfortunately some Republicans have objected to even considering the bill. I hope their filibuster can be broken so that we can clarify that discrimination against hard-working men and women in their own workplaces is not the American way. The law and our justice system should protect working people when it happens. Our bill underscores this vital American principle against efforts to devalue it.

Mr. DODD. Mr. President, I wish to speak about an issue of economic fairness that affects the very dignity and the security of millions of Americans: the right to equal pay for equal work. Before I begin, let me thank the chairman of the HELP Committee for his leadership on this important issue. The Fair Pay Restoration Act goes a long way toward ensuring that right. In a perfect world, of course, we could take that right for granted; we could take it for granted that the value of work lies in a job well done, not in the race or gender of the person who is doing it. But we don't live in that world. We know that, even now, employers can cheat their employees out of equal pay, and equal work.

That is what happened to Lilly Ledbetter. For almost two decades, from 1979 to 1998, she was a hard-working supervisor at a Goodyear tire plant in Gadsden, AL. And it is telling

that she suffered from two types of discrimination at the same time. On the one hand, there was sexual harassment, from the manager who said to her face that women shouldn't work in a tire factory, to the supervisor who tried to use performance evaluations to extort sex. And on the other hand, there was pay discrimination: by the end of her career, as the salaries of her male coworkers were raised higher and faster than hers, she was making some $6,700 less per year than the lowest paid man in the same position.

Now, the two kinds of discrimination faced by Ms. Ledbetter have a good deal in common. Morally, they both amount to a kind of theft: the theft of dignity in work and the theft of the wages she fairly earned. Both send a clear message: that women don't belong in the workplace. But there is a clear difference between sexual harassment and pay discrimination. The former is blatant. The latter far too often stays insidiously hidden.

In fact, Lilly Ledbetter didn't even know she was being paid unfairly until long after the discrimination began, when an anonymous coworker gave her proof. Otherwise, she might be in the dark to this very day. And that is hardly surprising. How many of you know exactly how much your coworkers make? What would happen if you asked? At some companies, you could be fired.

Armed with proof of pay discrimination, Ms. Ledbetter asked the courts for her fair share. And they agreed with her: she had been discriminated against; she had been cheated; and she was entitled to her back pay.

Regrettably, the Supreme Court ruled against her, and took it all away. Yes, she had been discriminated against—but she had missed a very important technicality. She only had 180 days—6 months—to file her lawsuit. And the clock started running on the day Goodyear chose to discriminate against her. Never mind that she had no idea she was even the victim of pay discrimination until years later—figure it out in 180 days, or you are out of luck for a lifetime.

One can clearly see how this ruling harms so many Americans beyond Ms. Ledbetter. In setting an extremely difficult, arbitrary, and unfair hurdle, it stands in the way of many Americans fighting against discrimination. It flatly contradicts standard practice of the Equal Employment Opportunity Commission and flies in the face of years of legal precedent and clear congressional intent. As Justice Ginsburg put it in her strong dissent, the Court's Ledbetter ruling ignores the facts of discrimination in the real world: ''Pay disparities often occur in small increments; cause to suspect that discrimination is at work develops only over time. Comparative pay information, moreover, is often hidden from the employee's view . . . Small initial discrepancies may not be seen as meet for a federal case, particularly when the employee, trying to succeed in a nontraditional environment, is averse to making waves.''

''The ball,'' Ginsburg concluded, ''is in Congress's court . . . The legislature may act to correct this Court's parsimonious reading.''

That is precisely what we are here to do today. If the Fair Pay Restoration Act passes, employees will have a fair time limit to sue for pay discrimination. They will still have 180 days, but the clock will start with each discriminatory paycheck, not with the original decision to discriminate. After all, each unfair paycheck is in itself a decision to discriminate—it is ongoing discrimination. And if this legislation passes, employees like Ms. Ledbetter will no longer be blocked from seeking redress, through no fault of their own, except a failure to be more suspicious.

Mr. President, millions of Americans depend on the right to equal pay for equal work: to earn a livelihood, to feed their families, and to secure the dignity of their labor. We ought to make it easier for Americans to exercise that right, not harder. We ought to get unfair roadblocks, hurdles, and technicalities out of their way. We ought to pass this bill.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. KENNEDY. I yield 4 minutes to the Senator from New York.

Mrs. CLINTON. Mr. President, I think it is important we go back to the facts and remind ourselves in this Chamber about the person, the real live woman, for whom this legislation is named, Lilly Ledbetter.

She was a supervisor at a Goodyear Tire and Rubber plant in Gadsden, AL, from 1979 until her retirement in 1998. For most of those years, she worked as an area manager, a position normally occupied by men.

Now, initially, Lilly Ledbetter's salary was in line with the salaries of men performing substantially similar work. Over time, however, her pay slipped in comparison. And it was slipping in comparison with men who had equal or less seniority. By the end of 1997, Lilly Ledbetter was the only woman working as an area manager, and the pay discrepancies between her and her 15 male counterparts were stark.

She was paid $3,727 a month. The lowest paid male area manager received $4,286 a month and the highest $5,236. In other words, Goodyear paid her male counterparts 25 to 40 percent more than she earned for doing the same job.

Now, when she discovered this, which she had not for years, because it is somewhat difficult, if not impossible, to obtain information about the salaries of your counterparts—and lots of times why would you ask? You are doing the same job; you show up at the same time; you have the same duties. Who would imagine that you would be paid less than the younger man who came on the job a year or two before, or the older man with whom you had worked for years?

So when she discovered that, she rightly sought to enforce her rights, and a jury agreed, a jury of her peers, that she had suffered discrimination on the basis of her gender.

And the district court awarded her $220,000 in backpay, and more than $3 million in punitive damages. The court of appeals reversed that, claiming she had not filed her charge of discrimination in a timely manner. The Supreme Court agreed.

Now Lilly Ledbetter is retired from her job. Nothing we do today will have any impact on her, but she has tirelessly campaigned across this country for basic fairness. We thought we had ended discrimination in the workplace against women when the Equal Pay Act was passed all those years ago.

In fact, yesterday was the day we commemorated the passage of the Equal Pay Act, but clearly we have not finished the business of guaranteeing equality in the workplace; fair and equal pay to those who do the same job. Nearly a century after women earned the right to vote, women still make 77 cents to every man's dollar.

The affect of the recession we are in right now in many parts of our country is affecting women worse than their male counterparts. This is not about the women themselves, it is about their families. I came from Indianapolis, where I was introduced at an event by a young single mom. I meet young single moms all over America who work hard for themselves and their children. So when they are discriminated against in the workplace, they bring less home to take care of those children whom they are responsible for. We can talk about what needs to be done, and there are, I am sure, all kinds of legal reasons it does not make sense to end discrimination; that it does not make sense finally to have our laws enforced. But this is the law we had until the Supreme Court changed it. Until the Supreme Court said: No, wait a minute, you are supposed to actually know you are being discriminated against to dispute the conditions in the workplace, and file whatever action, make whatever complaint you can at that moment.

Well, Lilly Ledbetter acted as soon as she knew. She did not know until that information was made available to her. I am hoping this Chamber will stand up for fundamental fairness for women in the workplace. I am hoping you will stand up and vote to make it clear that women who get up every single day and go to work deserve to be paid equally to their male counterparts.

That is all Lilly Ledbetter wanted. That is what we should deliver today.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. KENNEDY. Mr. President, I believe there is 5 minutes 45 seconds remaining?

The ACTING PRESIDENT pro tempore. There is 4 minutes 45 seconds remaining.

Mr. KENNEDY. I yield 4 minutes to the assistant majority leader.

Mr. DURBIN. I thank Senator KENNEDY, Senator MIKULSKI, and many others for bringing this measure before the Senate.

You remember when we debated Supreme Court Justices, and do you recall their testimony; you saw it on television. I can recall Justice Roberts, the Chief Justice, he told us he was similar to an umpire in baseball; all he did was call balls and strikes. He was not going to write the law or change the law, he was going to apply the law to the facts. Well, lo and behold, as soon as Justice Roberts and Justice Alito, the new Justices on the Supreme Court, arrived, they took a precedent, a law that had been followed for years by the Supreme Court and turned it upside down.

Lilly Ledbetter, 19 years serving as a manager in this Goodyear Tire facility in Gadsden, AL, was the only female manager in a group of 15; all the rest were men. It was not until she was about to retire that someone said to her: Incidentally, you are not being paid as much as the men who are doing the same job.

She did not realize it. How would she? Employers do not go around publishing how much they pay their employees in the newspaper, and they certainly do not post it on the bulletin board. So she had no way of knowing until the last minute. She filed a discrimination claim and said: I did the work, I deserve the pay.

It went all the way up to the Supreme Court, to new Supreme Court Chief Justice Roberts and Justice Alito. You know what they said? Your problem, Lilly Ledbetter, is you should have discovered how much they were paying the other employees at the time the initial discrimination began. That is physically impossible. They held her to a standard she could not live up to. They knew what they were doing. They were throwing out her case of wage discrimination and thousands of others. Those Justices were not calling balls and strikes, they were making new rules; and the rules were fundamentally unfair.

We have a chance today to straighten that out. I hope we have bipartisan support for it. We should be against pay discrimination for women, men, disabled, minorities. Every American deserves to be treated fairly.

The Chicago Tribune, not always a paragon of liberal ideas, said this about the Ledbetter decision by the Supreme Court:

> The majority's sterile reading of the statute ignores the realities on the ground. A woman who is fired on the basis of sex knows she has been fired. But a woman who suffers pay discrimination may not discover it until years later, because employers often keep pay scales confidential. The consequences of the ruling will be to let a lot of discrimination go unpunished.

Those who vote against this effort to bring the bill to the floor will allow a lot of discrimination to go unpunished in America.

We owe the workers of America, the women of America, all workers a lot more. I encourage colleagues to support Senator KENNEDY and the motion to invoke cloture.

I reserve the remainder of my time.

Mr. ISAKSON. How much time remains on our side?

The PRESIDING OFFICER (Ms. CANTWELL). There is 2 minutes 5 seconds.

Mr. ISAKSON. I yield myself the remainder of the time.

Madam President, with all due respect to the Senator from Illinois, as was said earlier, in this case, in each and every year from 1992 to 1997, Ms. Ledbetter testified that she knew she was being discriminated against but didn't file a claim.

Secondly, this is not about restoring the Civil Rights Act to its state before Ledbetter was decided last year. This is about amending title VII of the Civil Rights Act passed in 1964 in terms of its statute of limitations.

The fact is that every one of us in this body is for precisely the same thing: Discrimination against no one for race, sex, color, creed, national origin; equal pay for everyone. As the distinguished Senator from Massachusetts showed in his chart, we have over and over again reaffirmed this. This is not about the issue of discrimination. This is about the rule of law, the Civil Rights Act as it was passed in 1964 and amended in 1967, and its statute of limitations that has been upheld by the Supreme Court—not once, not twice, not three times, but four separate opinions in 1977, 1980, 1989, and 2002. Ledbetter simply reaffirmed these cases.

If we have a problem, let's address it in committee. Let's fix it after open debate. Let's not eviscerate the committee process and bring a flawed bill to the floor of the Senate.

I urge my colleagues to vote against the motion to invoke cloture on the motion to proceed and yield back the remainder of my time.

Mr. KENNEDY. Madam President, I yield the remainder of my time to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 1 minute 30 seconds.

Mr. OBAMA. Madam President, today too many women are still earning less than men for doing the same work, making it harder not just for those women but for the families they help support to make ends meet. It is harder for single moms to climb out of poverty, harder for elderly women to afford their retirement. That kind of pay discrimination is wrong and has no place in the United States of America.

This evening, we have a chance to do something about it. Passing this bill is an important step in closing the pay gap, something I helped to do in Illinois and something I have fought to do since I arrived in the Senate. I have cosponsored legislation to ensure women receive equal pay for equal work and to require employers to disclose their pay scales for various kinds of jobs. It is this information which will allow women to determine whether they are being discriminated against, information they often lack now.

In addition to passing this bill, we need to strengthen enforcement of existing laws. In the end, closing the pay gap is essential, but it is not going to be enough to make sure that women and girls have an equal shot at the American dream, which is why we are also going to have to work on issues such as sick leave and prohibiting discrimination against caregivers. If you work hard and do a good job, you should be rewarded, no matter what you look like, where you come from, or what gender you are. That is what this bill is about. That is why I am supporting this legislation and urge my colleagues to do the same.

I yield the floor.

The PRESIDING OFFICER. All time has expired under time reserved for Senators ISAKSON and KENNEDY.

The Republican leader.

Mr. MCCONNELL. I yield myself leader time.

The PRESIDING OFFICER. The Senator has that right.

Mr. MCCONNELL. Madam President, I remind my colleagues that if we invoke cloture on this bill, we will actually be moving off the veterans bill. Let me repeat that. A vote to proceed to the Ledbetter bill is a vote to proceed away from the veterans bill. This is really highly ironic because my side was taking a pounding Monday and Tuesday for allegedly holding up, if you will, the veterans bill. Of course, that was not the case. We have ended up, in order to accommodate the schedules of those who are frequently not here—and understandably not here because they are running for President—we had the Senate, in effect, not in session until 5 o'clock this afternoon. While Americans are waiting for Congress to do something about the economy, jobs, and gas prices, our friends on the other side decided to close shop in order to accommodate the uncertainties of the campaign trail. Finding solutions for the concerns of all our constituents should be our top priority, not just accommodating the travel schedules of two of our Members.

The proper course of action is clear. We should vote to stay on the veterans bill and finish our work on behalf of American veterans. The best way to do that is to vote against cloture on the motion to proceed to the matter before us.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Madam President, first of all, for all Members, we are close to having agreement on the veterans bill when we get to it. Let me just say initially, I really like my counterpart, the Republican leader. But I have trouble understanding how he could stand on the floor and say that when we have been trying to do legislation on the veterans bill since last Thursday and

we have been prevented from doing that.

Understand, there is nothing we could do, unless by unanimous consent, to change this vote. It occurs automatically an hour after we come in. There is no secret. We have two Senators running for President of the United States—three, as a matter of fact. I am only concerned about two of them. Their schedules were very difficult recently. They could be here at 6 o'clock. So I made the suggestion, which I thought was reasonable—we haven't been able to legislate on the veterans bill since last Thursday; how about doing it on Wednesday, until 5 o'clock. That would be 6 hours more than we have done since last Thursday. There was a refusal to allow us to do that. To have my friend, the Republican leader, come here and say we haven't done anything today because we had a vote scheduled at their convenience—he didn't use the names, but Senators CLINTON and OBAMA—that is absolutely without any foundation. I have trouble understanding how my friend would have the gall to stand on the floor and make the comment he did, but he did.

Now to the issue at hand, Lilly Ledbetter. Put your mind to this. We have a woman who is working. She has worked for 20 years and worked hard, very hard, and after 20 years she comes to the realization that people are making a lot more money than she. They are men, and they are doing the same work as she is. That is what this is all about. As a foundation, understand that for a woman to make the same amount of money as a man in our country—that is, how much a man makes in our country for 1 year—for similar work, she must work not only that whole year but an additional 113 days. In fact, women who work full time earn about 77 cents for every dollar earned by a man who does the same work.

That is why yesterday, April 23, which was the 113th day of the year, was Equal Pay Day, to illustrate how women are treated unfairly in the workplace in America. I can think of no better way for us to honor Equal Pay Day than to pass the Lilly Ledbetter Fair Pay Act.

She was a manager at a Goodyear factory in Gadsden, AL. She worked there for 20 years. She was the only woman among 16 men at her same management level. She was paid at various times 20 percent less than some of her male colleagues doing the same work and as much as 40 percent less than other colleagues doing the same work. That included fellow workers who had a lot less seniority than she had. They got paid more because they were men.

At most jobsites, especially office work, salary is not a topic that you discuss. It is private. It wasn't until Ledbetter had been with the company for 20 years, as I have indicated, that Mrs. Ledbetter became aware of the disparity in her paycheck, and only then because someone anonymously tipped her off.

After she learned, after 20 years, that people were being paid more money than she was for doing the same work, she became concerned, and she did what we should do in a situation like that. She went to talk to a lawyer. She had been cheated for 20 years. A jury that was called in that court listened to what she had to say. They found she had been discriminated against. Why? Because she was a woman. The jury awarded her appropriate damages.

Her employer appealed all the way to the Supreme Court. No way are we going to let this happen. They overturned the lower court's verdict, claiming she was entitled to nothing because she waited too long. The statute of limitations had run. The Supreme Court upheld that decision. They upheld the reversal of the decision that she had gotten, the award by the jury that she had gotten. The Supreme Court held that the 180-day filing deadline for discrimination cases like hers should be calculated from the day of Ms. Ledbetter's first discriminatory paycheck. So using that faulty logic, this woman is only protected if, after the first 6 months, she had filed a lawsuit. Well, she didn't know. The ruling reversed the position that most courts had previously held—contrary to what my good friend Senator ISAKSON said—that each discriminatory paycheck represents a new case of discrimination and therefore the 180-day filing period applies to each subsequent paycheck.

The practical result of the Supreme Court decision is that women like Lilly Ledbetter must sue for discrimination no later than 6 months after their employment begins, 6 months after her first paycheck. The Supreme Court's ruling puts unfair conditions on legitimate discrimination claims, and it applies not only to millions of women in the workforce but also to those discriminated against on the basis of race, religion, age, or disability.

As Justice Ginsburg said—and rarely from the Supreme Court does one of the Justices read their opinion; she did that—she noted in her strong and compelling dissent that the Supreme Court's ruling is wrong because it overlooks the realities of the workplace and the realities of the world. Think about that. She had worked there 20 years. She had been cheated for 20 years. They are telling her she should have filed her lawsuit 19½ years ago.

Many employers explicitly or implicitly prohibit employees from discussing their salary with coworkers. Could Ms. Ledbetter be expected to have known the salaries of her male colleagues after just 6 months on the job? Of course not. And even if a new employee is aware of a discrepancy in pay, many choose not to make waves, preferring to hang on to their job, preferring to quietly build job security. But over the years, these initial discrepancies, which may start out small, will often widen considerably—in her case, to as much as 40 percent when compared to a man.

The Supreme Court's ruling ignores basic facts. As long as discrimination continues, an employee's right to challenge discrimination should continue as well. That is why the legislation now before us is so important. We can talk about court cases and hearings before the committee and doing things in regular order. Let's have some regular order of fairness. That is what this legislation is all about.

This legislation would restore the previously accepted interpretation of law: that each and every discriminatory paycheck constitutes a new act of discrimination and that restarts the 180-day clock.

By supporting this motion to proceed and voting in favor of this legislation, we have the opportunity to correct this important injustice for millions of women and millions of others who work hard but are unfairly deprived of compensation they deserve.

Some on the Republican side argue that this legislation would lead to a flood of litigation. Obviously, we know the Republicans are not excited about trial lawyers. We know their first attack to take care of the housing crisis was to lower taxes and do something about litigation. So it is no surprise they are concerned about litigation, even though they are wrong.

That argument has no basis in fact. The Congressional Budget Office has researched this issue and found no reason—no reason—to believe it would increase the number of discrimination cases.

Furthermore, this legislation maintains the current law's 2-year limit on back pay. Employers would not be liable for salary differences that occurred in years past. In her case, Ledbetter could sue, but she could only get 2 of the 20 years she had been cheated. That is what this legislation does. How much fairer could it be?

The U.S. Supreme Court is the highest Court in our country. But in this case, they simply got it wrong. I am sad to report, in my opinion, many times they have done the same thing since Justices Roberts and Alito have joined that Court.

Many of us have spoken against recent Supreme Court nominees for fear they would not uphold our Nation's proud tradition of civil rights and equal rights in law. This faulty judgment on the part of the Court, in a 5-to-4 decision, lends credence to our concerns that we must support judges with a reliable history of support for the values of equality that we cherish.

There is no reason for the Fair Pay Act to be a partisan issue.

I urge my Republican colleagues to join us in sending a strong and powerful message that in America, discrimination will never be tolerated and justice will always be blind. But no matter the result today, that message—and our commitment to those enduring values—will continue.