

When title VII was drafted, Congress consciously used the 180-day period because they wanted to ensure that all claims of employment discrimination were raised immediately and remedied quickly—get the relief to the person right away. However, what happens if the victim does not know he or she has been discriminated against? There are a lot of possible examples of this. Suppose an individual who is a member of a racial minority applies but is not selected for a job bid or a promotion yet learns, more than 180 days after being denied the job, that it was awarded to a White applicant with the same or lesser qualifications? Or suppose a female worker receives a wage increase but does not learn until well beyond 180 days from when she gets the wage increase that she has received less than her male peers? She may not know she is being compensated less because her employer has intentionally hidden those facts or simply because employees may simply not know such information. In either case, the result is the same—the employee, through no fault of his or her own, simply does not know they may be the victim of discrimination until well beyond the 180 days from the time they received their wage increase or lose their job bid.

Let us be completely clear. I do not believe there is anyone who believes an employee in any of those or similar circumstances should lose the right to file a discrimination claim because they did not have the necessary facts and did not have any reason to know they were being discriminated against before the 180 days passed. This was precisely the problem that S. 181, the Ledbetter bill, was allegedly designed to address. If that were actually the case, I would vote for the Ledbetter bill. But the Ledbetter bill goes way beyond addressing the kind of situations I have outlined here—so far beyond that it creates new problems that make supporting it impossible for me and many other fair-minded Members.

By contrast, the Hutchison bill directly addresses and solves the very problems I have outlined. Under the Hutchison bill, the denied job applicant who did not learn the facts until long after his bid was denied or the female worker who did not know her wage differential compared to her male peers, either because of conscious concealment or simple lack of information, are not prevented from filing and pursuing their discrimination claim, even if it is well beyond the 180 days from when they got the raise or did not get the job. The Hutchison bill does this by making the 180-day period a flexible one that can be readily extended in the kind of cases I have mentioned.

On the other hand, the Ledbetter bill does this by eliminating the 180-day limitation period completely. The Hutchison bill is a rifle shot to solve a problem that everyone agrees must be solved. The Ledbetter bill is a shotgun blast that causes collateral damage to important safeguards in our system of laws.

Limitation periods, such as the 180-day period for Title VII employment discrimination claims, are a feature in every law that grants the right to someone to bring a legal action against someone else. They are universal because such limitations serve two very important purposes.

First, the existence of a limitations period is an inducement to those who have claims to seek redress promptly. All of us have an interest in a society where the laws are promptly enforced and, where the beneficiaries of those laws are promptly protected and promptly compensated. This is particularly true in the area of discrimination where society benefits best when discrimination is immediately exposed and immediately remedied. It may affect more than just the one person.

Second, limitations periods serve to ensure fairness in our litigation process. The simple truth is that the more removed in time an event is, the less likely anyone is to remember it clearly or accurately. In a work setting, those who made compensation decisions 5, 10, 20 years ago, may no longer be around. And even if they are around, how could they possibly remember with any accuracy the basis for the decisions? Under our Tax Code, records are not kept nearly that long for individuals or for businesses.

The inability to fairly defend against a claim and the inability to develop reliable evidence are the exact reasons why laws invariably contain a limitations period. Limitations periods are why someone cannot come along and try to sue you over an automobile accident that took place 20 years ago, or commence a legal action to take your house away because of a claimed defect in the title that is decades old, and why the Government cannot pursue actions against citizens that have become stale with time.

But S. 181 would do away with such limitation periods in employment discrimination cases and allow individuals to reach back in time to raise claims about which there is no fair chance to defend, no evidence of any value, and possibly nobody who was even there. We do not have to do this to address the concerns raised by the proponents of S. 181. Senator HUTCHISON's bill addresses those concerns completely.

S. 181 has a number of other problems which will be explained by my colleagues as we proceed to this bill, such as the potential to severely destabilize defined benefit pension plans and the expansion of individuals with standing to sue under civil rights laws. These are normally the kind of discussions we would have in the committee of jurisdiction, which in this case would be the Health, Education, Labor, and Pensions Committee, where our members and staff are well-versed in employment laws. However, the majority's actions will require us to have those discussions on this floor. It is not the way I want to do it, and it is not the way

the American people expect us to do business, and it is not the way we will get things done.

Now, on this bill a vast number of people voted to proceed to the bill, and we all waived the 30 hours that could have been required before we could even make the first amendment. It was a nice concession on both sides; speeds up the process. But there are a number of opportunities—if the process were to get jammed—that huge hours can be added to the deliberations on this bill that do not need to be, that would not have been, probably, had it gone through the committee amendment process.

I just cannot emphasize enough how important that is to me. I made sure it happened when we were in the majority. I am hoping it will happen on future bills while I am in the minority. Cooperation around here gets a lot more done, and that is what the American people expect of us.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

COMMUNICATION FROM SENATOR HILLARY RODHAM CLINTON

The PRESIDING OFFICER. The Chair lays before the Senate the following communication.

The assistant legislative clerk read as follows:

U.S. SENATE,
Washington, DC, January 21, 2009.
Hon. JOSEPH R. BIDEN, Jr.
President, U.S. Senate,
U.S. Capitol, Washington, DC.

DEAR MR. VICE PRESIDENT: This letter is to inform you that I resign my seat in the United States Senate effective immediately in order to assume my duties as Secretary of State of the United States.

Sincerely yours,

HILLARY RODHAM CLINTON.

MORNING BUSINESS

THE INAUGURATION OF PRESIDENT OBAMA

Mr. McCONNELL. Mr. President, yesterday the Nation and the world witnessed the peaceful transfer of power from one President to the next.

While this now seems normal and fair, the idea that a head of state would relinquish his power willingly amazed many when George Washington willingly stepped down as commander-in-chief.

Two centuries later, that idea serves as one of the strongest principles of our democracy.

I congratulate President Obama, Vice President BIDEN, and their families.

I am proud to say that the Commonwealth of Kentucky was well represented during this week's historic celebration.

My office received thousands of requests from Kentuckians for inauguration tickets. While we only had about 400 tickets to give out, many more came for the event and for the celebrations.

The inauguration of the country's first African-American President is truly a reason for the whole country to celebrate.

It is no secret I wish he were a conservative Republican, but regardless of party, this is a proud moment for our country, and I congratulate him and his family. And I hope his beautiful daughters come to like their new home.

America certainly will face many challenges ahead, and the Congress will work with our new President to find solutions.

Where the President seeks to cut wasteful spending, reduce the national debt, provide tax relief for working Americans, or work towards energy independence, he will have Republican support.

When he works to tackle big issues, and does so by listening to and taking into account all sides he will find enormous support here in the Capitol.

And to help get his administration off to a smooth beginning, the Senate yesterday confirmed seven Cabinet-level positions.

Today we will consider the nomination of a fellow Senator, Mrs. CLINTON, as Secretary of State; more nominations will be considered in the days ahead.

It is my intent that Congress and the new administration can work together to find solutions that are equal to the moment. Confirming these administration nominees is a good step in that direction.

Now that the balls and parades are behind us, the hard work of governing lies ahead. I am eager to get started doing the business of the American people.

NOMINATION OF WILLIAM LYNN

Mrs. McCASKILL. Mr. President, on Tuesday our Nation witnessed the historic swearing in of President Barack Obama. President Obama has nominated Mr. William Lynn to the position of Deputy Secretary of Defense. In this time of war and economic crisis, the U.S. Senate has endeavored to rapidly take up the nomination of Mr. Lynn, as well as many other senior nominees to the Obama administration, to provide our new President the ability to begin his work with key members of his team from the outset.

Last week, Mr. Lynn faced the members of the Senate Committee on Armed Services in a hearing conducted to vet Mr. Lynn. I attended that hearing and posed questions to Mr. Lynn. The day prior I also visited privately with him to discuss his nomination.

I have significant concerns about the message the nomination and confirma-

tion of Mr. Lynn will send within the Department of Defense and across the Federal Government. While I will not object to Mr. Lynn's confirmation by the U.S. Senate today, I feel it important for me to express my concerns as a matter of record.

Following service in various defense "think tanks" and as a Senate aide, in 1993 Mr. Lynn joined the Department of Defense as an executive, first as Director of Program Analysis and Evaluation. In 1997 he was promoted to be the Department's Comptroller, where he served until 2001 when the Clinton presidency concluded.

After a short stint as a consultant, Mr. Lynn made a decision that many DOD executives before him have made. He decided to accept a senior position in defense industry, where his expertise, experience and contacts within DOD were greatly sought after and valued. Specifically, Mr. Lynn joined the defense giant Raytheon as a senior executive handling management and government relations.

Mr. Lynn has served with Raytheon since that time and continues there pending his confirmation today. Importantly, it appears that Raytheon substantially improved the integrity of its government contracting operations during Mr. Lynn's tenure, a time when Raytheon also built itself into the fourth largest defense contractor in the U.S. and the fifth largest in the world.

On repeated occasions in this body, I have expressed my deep concerns with the revolving door between industry and government. Those concerns are amplified when I speak of DOD, which is well known for its wealth of "insiders" and its closeness to the military-industrial complex. It is not uncommon to hear people speak of the fact that DOD is an insider's game. Some try to explain away this insider's notion by claiming that the complexity of DOD and its weapons and services buying operations require these types of relationships. Even as I acknowledge the complexity of the DOD operation, I tend to believe this "special knowledge" concept is a double-edged sword which at a minimum can lead to an appearance of impropriety.

Returning to Mr. Lynn, it is clear that his case presents a strong example of this industry-government executive revolving door phenomenon. Frankly, we live in a time when many Americans, not just those who watch DOD closely, know of concerns about the relationship of DOD with contractors. More specifically, many believe that defense contractors have the ability to influence DOD decisions for the profit of the contractor but not necessarily for the best interest of DOD or, for that fact, the taxpayer. With this backdrop, setting aside Mr. Lynn's merits, the narrative of his story alone is problematic. Further, it comes at a time when we are vigorously endeavoring to restore public confidence in government.

My concern perhaps might be mitigated were it not for the fact that Mr.

Lynn is nominated to what is fairly characterized as the most critical management position within DOD and perhaps the most important position in the making of significant decisions on major defense acquisition programs. In other words, Mr. Lynn will have possibly the most powerful position in the Department to influence how the Department does business with private industry and, in some cases, to influence with whom the Department does business.

To be frank, the way DOD does business with defense contractors must change because the status quo is unacceptable. In part because of Mr. Lynn's recent past, I am concerned that he will not bring the sense of urgency to or, worse yet, see the need for substantial reform in DOD's weapons and services procurement practices. Further, in my limited interaction with Mr. Lynn to date, I have not sensed a strong commitment to this type of change, although I understand he has communicated such a commitment to others with greater vigor.

To be clear, I am not questioning Mr. Lynn's integrity. His integrity has been testified to by many of his present and former colleagues. He is clearly highly regarded by our incoming President and his administration. And I am encouraged by the historic ethics guidelines that President Obama has put in place just today for officials in his administration. I am confident that Mr. Lynn will fully meet the letter of these new rules and act much more broadly in living up to their spirit both in his individual actions and in his oversight of other DOD officials.

Let me close by making mention of the exchange I had with Mr. Lynn at the Committee on Armed Services. I put much of what I have discussed here in regards to my concerns with the revolving door at DOD before Mr. Lynn. I further discussed concerns that he may face a conflict of interest because his former employer Raytheon is a major defense contractor. Mr. Lynn offered a limited response to my question, committing to meet every ethical requirement of the Department of Defense. I have no doubt that he will meet these requirements and frankly exceed them. But Mr. Lynn did not discuss his views on the revolving door at DOD, of the adequacy of the ethical controls at DOD or of any willingness to further study these issues if confirmed. I hope nonetheless that he will take these issues up during his tenure at DOD. I firmly believe that business as usual must come to an end at DOD, both as to these matters and in regards to many more. The chief management Officer at DOD, of which Mr. Lynn will serve, must be a reformer, a disciplinarian, a person committed to change and a person willing to challenge the system in order to drive change.

As stated earlier, I will not oppose the nomination of Mr. Lynn. Even as I have expressed my concerns today, I respect Mr. Lynn and the views of so

many of my colleagues and of his former colleagues about his abilities and his commitment to improving the state of affairs in business operations at DOD. I am excited by the opportunity he has before him. And I am optimistic about what he will accomplish alongside many others on the team that will form at DOD. But I will be watching closely because this is my duty to the people of Missouri, to the people of America and to the command of our constitution.

TRIBUTE TO SENATORS

BARACK OBAMA

Mr. FEINGOLD. Mr. President, today I want to take a moment to thank President Obama for his service in the Senate. Our new President has some very difficult challenges ahead, as he faces a serious economic downturn, and many critically important national security issues. But he has already shown his ability to handle tough challenges through his outstanding work here in the Senate since his election in 2004.

From the moment he arrived, Barack Obama showed himself to be an outstanding legislator and public servant. I was very pleased to work with him on ethics and lobbying reform issues, first authoring a bill together, and then working together to pass the Honest Leadership and Open Government Act. Passing that landmark legislation took a determined, focused effort over many months, and then-Senator Obama showed that he was both a deeply principled, and very effective, member of this body. I was also pleased to work with him on a number of other issues, including the presidential public funding legislation, and I look forward to his continued support on that issue in this new Congress.

I was proud to support his efforts, along with many other members, on the efforts to support our wounded warriors, which he championed. And, finally, I thank him for his support of my bill, authored with Majority Leader HARRY REID, to safely redeploy our troops from Iraq. His support helped to build momentum for our effort to redeploy the troops from Iraq and move toward a better national security strategy, and I thank him for it.

We will miss his presence here in the Senate, but of course the Nation needs his unparalleled skills, and deep commitment to public service, more than ever as he is now President of the United States. I look forward to continuing to work with him on issues important to the American people, and I thank him once again for his service here in the Senate.

JOSEPH BIDEN

Mr. President, it has been a pleasure to serve with Senator JOE BIDEN for the last 16 years. He is an outstanding colleague and a good friend, and I know that he will make a terrific Vice President. I have been pleased to work with him on so many issues over the years.

For instance, I was proud to support him in his tremendous work on the COPS program. In turn I appreciate his steadfast support of campaign finance reform issues over the years.

Most of all, I want to say how much I have enjoyed serving with Senator BIDEN on the Foreign Relations and Judiciary Committees. I also can attest to his mastery of the complicated issues he faced in both committees. It is a huge challenge to take on the chairmanship of a Senate committee, and to do it well, but to serve with such distinction as chair of two of the Senate's most important committees is very rare, and it speaks volumes about JOE BIDEN's service in this body.

I have always found Senator BIDEN to be someone who I could talk with seriously about issues of mutual concern, or when we disagree. He is open-minded and he really listens. That quality will surely serve him well in his new position. He also, in my view, can be uniquely persuasive. He is one of the few Senators who I have actually seen change people's minds during a committee debate. In a policy fight involving complex issues, JOE BIDEN is someone who you want to have on your side.

Now Senator BIDEN becomes Vice President, and I know he will serve the Nation with the same outstanding commitment and skill with which he served the people of Delaware. I thank him for his many years of distinguished service in the Senate, and look forward to continuing to work with him, and President Obama, in the years to come.

HILLARY RODHAM CLINTON

Mr. President, I am pleased to join my colleagues in thanking Senator HILLARY RODHAM CLINTON for her outstanding service in the Senate, and wishing her our very best as she becomes our Secretary of State. One of the many reasons I strongly support her nomination for Secretary of State is because I have had the pleasure of working with Senator CLINTON, and I know what a skilled legislator and committed public servant she is. We have worked on a number of issues together over the years, including fighting for family farmers and especially the dairy farmers that are so important to both New York and Wisconsin. Finding common ground, we worked together to make sure dairy markets functioned properly, to improve the milk income loss contract or MILC program, and pushing for country-of-origin labeling, or COOL, legislation for dairy products. I was also proud to support the Paycheck Fairness Act, which she authored, and to work with her on many other issues.

I also had the opportunity to travel with Senator CLINTON and a number of other senators on an official trip to Afghanistan, Iraq, Kuwait and Pakistan, where we listened to service men and women on the ground, as well as local leaders. On that trip Senator CLINTON deeply impressed me with her depth of knowledge on foreign relations and na-

tional security issues. Later I was very pleased to have her support for my effort with Majority Leader HARRY REID to safely redeploy our troops from Iraq, and I look forward to continuing to work with her on these critically important issues as she becomes our next Secretary of State. Once again, I thank her for her service in this body, and I wish her all the best as she continues her service to the American people.

KEN SALAZAR

Mr. President, I join my colleagues in thanking KEN SALAZAR for his outstanding service to the people of Colorado over the last 4 years. It has been a pleasure to work with him on a number of issues; he is extremely easy to work with, both someone of integrity and great personal decency. In particular, he has been one of the Senate's leaders when it comes to protecting the rights and freedoms of the American people as we work to strengthen our national security. I was proud to work with him and a bipartisan coalition of Senators on the SAFE Act to change flawed provisions of the PATRIOT Act. I also appreciated his critical support of the NSL Reform Act, to address the serious misuse of the FBI's national security letter authorities. I also know Senator SALAZAR's deep commitment to public lands and energy resources issues, and I think he will be an excellent Secretary of the Interior. Again, I thank him for his service in this body, and I look forward to continuing to work with him as he assumes the leadership of the Interior Department.

Mr. DODD. Mr. President, I want to say a word of good wishes to the senior Senator, albeit very briefly, from Colorado, KEN SALAZAR, as he leaves the Senate to become Secretary of the Interior.

As the son of 11th generation immigrants, from a family that farmed Colorado's San Luis Valley for a century and a half, no one has a deeper, more powerful connection to what opportunity means in this country than KEN SALAZAR.

I can remember one of the first times I met Senator SALAZAR. After we had exchanged greetings, I said to him, "My family came to America in the 1800s. When did your family come here?"

He replied, "Oh, about 500 years ago."

Indeed, it is remarkable to think that the descendant of a family that settled in the American West almost half a millennium ago will soon be a Member of the cabinet of first African-American President of the United States.

Only in America.

Indeed, though his parents, who served their country in World War II, were not college-educated themselves, they made sure that KEN, his brother, John, and their six brothers and sisters all graduated from college.

To be sure, Senator SALAZAR is a son of Colorado—a small businessman who owned ice cream stores and radio stations and a farmer for more than 30