

whether the Supreme Court is following legal precedent to protect the civil rights of the people of our Nation. The Ledbetter decision dealt with gender equity. Here the Supreme Court, by a 5-to-4 decision, reversed precedent and the clear intent of Congress to deny women the opportunity to effectively enforce their rights for equal pay by saying to Ms. Ledbetter that she had to bring her case on pay discrimination within 180 days of the discrimination, although it was impossible for her to discover she was being discriminated against during that period of time. Now we have taken action in the Senate to reverse that, and President Obama signed legislation to reverse it, but the Supreme Court never should have ruled against American workers and women in the Ledbetter decision.

I also mentioned the Gross decision which deals with age discrimination where the Supreme Court reversed its own precedent and clear congressional intent to deny an effective remedy on age discrimination, changing the standards in order for a person to be able to bring a case.

I talked about campaign finance and the Citizens United case where the Supreme Court, again by a 5-to-4 decision, reversed precedent, reversed congressional action, and allowed more corporate money into our election system. Corporations don't have enough power already? The Supreme Court gave corporations even more influence in our Federal election process.

I was impressed, and I think the members of the Judiciary Committee were impressed, that the first case Solicitor General Kagan decided to argue before the Supreme Court was to try to uphold our action in Congress regarding campaign finance reform. I think Justice Stevens got it right when he said:

Essentially, five Justices were unhappy with the limited nature of the case before us, so they changed the case to give themselves an opportunity to change the law . . . there were principled, narrower paths that a Court that was serious about judicial restraint could have taken.

Then, in the environmental arena, I mentioned the Rapanos case where the Supreme Court, once again by a 5-to-4 decision, reversed the clear intent of Congress and legal precedent to restrict the Environmental Protection Agency's ability to protect the clean waters of our Nation under the Clean Water Act. Then, once again, in *Exxon v. Baker*, the Supreme Court just very recently restricted the amount of claims that can be brought in regards to polluters in the *Exxon Valdez* issue. That is of particular concern to all of us who are trying to make sure those who have been victimized by the BP oilspill have an effective remedy and that taxpayers don't have to provide bailout for the damages caused by BP Oil.

Solicitor General Kagan stated, in answer to questions before us:

Congress certainly has broad authority under the Constitution to enact legislation involving the protection of our environment. When Congress enacts such legislation, the job of the courts is to construe it consistent with Congressional intent.

Well, that is the type of person I would like to see, and I hope all of us would like to see, on the Supreme Court of the United States, giving due deference to Congress as the legislative body under the Constitution. She said: The job of the courts is to construe the laws consistent with congressional intent.

I am puzzled by those who have defended these Supreme Court decisions that have taken away our citizens' rights for civil liberties and civil rights and who say that corporations don't have enough power in this country so they need more power; who have jeopardized our environment and have supported those decisions, even though it reverses previous precedent and even though it is legislating from the courts, reversing congressional action. Those who profess to be against judicial activism have supported those decisions by the Supreme Court of the United States.

I am confident Elena Kagan will follow legal precedent. She will respect the rights of the Congress of the United States to legislate. She will protect our rights against the abuses of power, whether it is from the government or from powerful corporate special interests. She will respect the rights of the people of this Nation that the Constitution was so well designed to deal with.

Lastly, let me say she is well qualified to serve on the Supreme Court of the United States. She was the dean at Harvard Law School, Solicitor General of the United States, commonly referred to as the 10th justice because of how closely she has worked with the Supreme Court. She has received bipartisan support from those who know her best. Former Solicitors General of the United States, appointed by both Democrats and Republicans, support her nomination to be the next Associate Justice of the Supreme Court of the United States. When we confirm her appointment, she will be one of three women to serve on the Supreme Court of the United States, the first time in the history of America and a proud moment for this body to confirm her nomination.

Next Tuesday, I will vote to confirm Elena Kagan to be the next Associate Justice of the Supreme Court of the United States. I look forward to when each Member of the Senate will have an opportunity to vote on her confirmation, and I hope it will be an overwhelming confirmation for her to serve the American people on the Supreme Court of the United States.

With that, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska.

HONORING OUR ARMED FORCES

SPECIALIST EDWIN C.L. WOOD

Mr. JOHANNES. Mr. President, I rise today to remember and to pay tribute to a fallen hero, U.S. Army SPC Edwin C.L. Wood of Omaha, NE.

Edwin was a proud member of B Troop, 1st Squadron, 71st Armored Regiment of the 10th Mountain Division operating in Kandahar. As many have heard, this area is a Taliban stronghold and one of the most dangerous areas in Afghanistan.

On July 5, only a few weeks after arriving there, Specialist Wood was killed when an improvised explosive device detonated near his vehicle. His death is a great loss to our Nation and to Nebraska, his home State. People in his home community of Omaha recall Eddie's big heart, his willingness to jump right in to help out, and his longstanding love for the military. He was a leader of the North High School Junior ROTC Program. He served as a counselor and a mentor at the YMCA Camp in Crescent, IA, and from an early age participated in military reenactments with his father. Also from an early age he loved wearing uniforms. His nickname was "Freckles," which also fit his cheerful, helpful personality.

After graduating from North High School in 2009, it did not take long to decide that the U.S. Army was the place for him. Specialist Wood's Army career was short yet very intense. After entering the Army in October 2009, he breezed through basic and advanced training before arriving at Fort Drum. Fort Drum is the home of the elite 10th Mountain Division which specializes in fighting under harsh terrain and weather conditions.

Specialist Wood wanted to serve with the best, and his wish came true. Within a month, he deployed to the Kandahar region of Afghanistan. Shortly thereafter he first encountered the enemy that attacked with an improvised explosive device. Despite lingering effects from his injuries, he chose to stay in the fight with his B Troop buddies.

The decorations and badges earned during a far too brief Army career speak to his dedication and they speak to his bravery: the Army Service Medal, the Army Good Conduct Medal, the National Defense Service Medal, the Afghanistan Campaign Medal with Bronze Service Star, the Global War on Terrorism Service Medal, the Overseas Service Ribbon, NATO Medal, Bronze Star Medal, and the Purple Heart.

He proudly wore the Combat Action Badge, the Expert Marksmanship Badge with Rifle Bar, and the Overseas Service Bar.

Today, I join Specialist Wood's mother and father, siblings and friends in mourning the death of their beloved son, their brother, their friend.

Specialist Wood made the ultimate sacrifice in defense of our great Nation, and we owe him and his family an immeasurable debt of gratitude. May God

be with the Wood family and all those who mourn his death and celebrate his life and his accomplishments. We will remember Specialist Wood when recalling the Nation's warriors who gave their lives so we might live in peace. Their names are etched on the conscience of this Nation.

I offer my prayers to all those serving in uniform today and especially those serving in peril overseas. May God bless them and their families and see them through these difficult times.

Mr. President, I yield the floor.

I note the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

Mr. DURBIN. Mr. President, I ask unanimous consent to speak as in morning business, and I ask I be given as much time as needed. I promise not to abuse that, but it may go slightly beyond the 10 minutes.

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

The Senator from Illinois is recognized.

FINANCIAL REGULATORY REFORM

Mr. DURBIN. Mr. President, probably tomorrow morning, we will consider this conference report, which is historic in its impact on America. It is the conference report of the Banking Committees of the House and Senate, which were charged with the responsibility to reform the financial laws in America, to make certain that our country never faces again what we faced a short time ago under President Bush.

We can remember that at the end of the President's term, when the economy started to go into a tailspin. I remember it very well because there was a special meeting called in October of 2008 of the leaders of the House and Senate—Democratic and Republican—to meet with the Chairman of the Federal Reserve, Ben Bernanke, and the Treasury Secretary, Mr. Paulson, to discuss a matter of great urgency. Those types of meetings are rare around here, and everyone was a little nervous as we entered the room that is a few feet away from the Senate Chamber.

These two leaders of our economy came forward and told us that we were facing the collapse of major businesses in America. Specifically, they pointed to the collapse of AIG. It was an insurance company—the largest in our country. Unfortunately, they had engaged in some practices where it had promised as an insurance policy that it would back up commercial transactions. If they fail, AIG, the insurance

company, would come in and make the parties whole.

They overextended themselves. In so doing, as these commercial transactions started to fail, AIG did not have sufficient reserves to meet their promises. There was a fear that if they started this cascading effect of failures and the inability of AIG to keep its promise, it would result in a panic in our economy and a decline, which would have been even more precipitous than what we had imagined.

It was at this meeting that Ben Bernanke of the Federal Reserve said they were going to provide significant resources to AIG to help them weather this crisis. It came as a surprise to many of us in the room, unaware of the fact that the Federal Reserve had both the resources and the legal authority to do that. It is an authority that had not been exercised, to my knowledge, since it was first created almost 80 years ago.

That was the first meeting. It was an indication of a terrible, rocky, rough road ahead for America and ultimately for the world. Subsequent meetings were even more alarming, as we were told by Secretary of the Treasury Hank Paulson that unless we came up with \$800 billion in what was known as the TARP fund, which would be used to basically bail out the largest financial institutions in America, America's economy and the global economy could collapse. I have been involved in public life for a number of years. That is the type of conversation you never forget. Many of us were at a loss to argue the other side of the case that the problem was not that large or that the response did not have to be that significant or that the strategy and tactics were not the right ones. This was really uncharted water. We relied on our economic leaders from the Federal Reserve and from the Department of the Treasury to suggest what we needed to do to go forward.

This rescue operation had some real value, I believe, in slowing down the decline in our economy. But just a few weeks after that, the election of the new President, Barack Obama, really gave to him and the new administration economic challenges which no previous administration had ever faced. When the President came to office, in the month he was sworn in, almost 750,000 were losing their jobs. In the span of the next 60 and 90 days, the numbers grew. The President walked into a terrible situation, with the economy still in decline, with the TARP program President Bush had started in process but not completed, with unemployment reaching modern-day record levels, and with no end in sight. He inherited the biggest deficit in the history of the United States from President Bush. What a contrast to what President Bush inherited 8 years before.

Yesterday, when President Obama named Jack Lew as the new head of the Office of Management and Budget, he

said Jack, who is an extraordinarily talented public servant, is fit for the Hall of Fame. I am sure Jack Lew, a modest man, would dispute that. The record speaks for itself.

In his former capacity as Budget Director under President Clinton, Jack Lew, in January of 2001, left President George W. Bush a surplus in the Federal Treasury of \$236 billion. That is an amazing legacy, to end 8 years of President Clinton's administration with a surplus in the Federal Treasury, the deficit coming down, Social Security getting stronger, and to hand it off to President Bush. At that moment in time, the accumulated debt of the United States of America from the time of George Washington until the end of the Clinton Presidency was approximately \$5 trillion. Eight years later when President George W. Bush left office, the accumulated debt of America had grown from \$5 trillion to \$12 trillion—more than doubled in an 8-year period of time. Instead of leaving to President Obama a surplus, as President Bush had inherited from President Clinton, he left him a \$1.3 trillion deficit. President Bush's administration, which was dedicated to balancing the budget and conservative fiscal policy, more than doubled the national debt that had been accumulated by America in its entire history, and instead of leaving a surplus for incoming President Obama, left him a gaping hole in the budget.

In that context, we have many challenges, but one of the challenges is to make sure we never, ever again experience what happened with these terrible decisions being made on Wall Street and the virtual collapse or decline of the American economy, which led us into our deficit situation, to the business losses across America, and record levels of unemployment.

President Obama challenged us to come forward with Wall Street reform, change the way we do business on Wall Street so we never have to go through this again. Let's not have a repeat of this economic disaster. I commend Chairman Chris Dodd and Chairman Barney Frank for the extraordinary effort they put into this conference report.

More than 2 years after Bear Stearns failed, more than 18 months since Wall Street brought America to the brink of another depression, more than a year after President Obama provided his outline for strong financial reform, finally Wall Street reform is coming. After 8 million Americans—actually, more than 8 million Americans—have lost their jobs; after more than 1.2 million Americans have lost their homes; after the American average household has lost 20 percent of its accumulated wealth and savings, finally Wall Street reform will help prevent such a crisis from ever occurring again.

As we began this debate in the Senate several months ago, we were faced with a series of challenges and questions: