

This is bad legislation on its face and bad legislation on its merits. But the timing of this proposal is atrocious. To be making these kinds of proposals in this kind of financial circumstance is incomprehensible to me, unless I assume that there are those who say the trial lawyers played an important part in the election; the trial lawyers need to be rewarded for the important part they played in the election; let's have a bill that will line the pockets of the trial lawyers and look the other way in terms of the economic consequences.

I compared this to the asbestos litigation. I was in the Chamber when we dealt with what are called strike suits, where trial lawyers would file lawsuits on behalf of clients who were, in fact, not aggrieved but were simply posing in behalf of a class that the trial lawyer himself had put together.

We passed that legislation. It was vetoed by President Clinton. It was the only Clinton veto that was overridden in this Chamber, as everyone was outraged at the behavior of the trial lawyers who brought these strike suits.

There are those who said: Oh, you still don't get it, you who are picking on the trial lawyers. They do wonderful things. I agree that the ability to file a grievance and have a trial lawyer carry it forward, even in a class-action suit, is a protection the American people need. But these lawyers were going far beyond anything that was good for the American people.

The position was summarized by Bill Lerach, known as the "king of the trial bar," when he said: I have the ideal law practice. I have no clients. He is now in jail because his practices finally caught up with him, as it was finally demonstrated that the people on whose behalf he was suing were, in fact, not real clients. They were paid by him to pose as people who were aggrieved.

We saw those kinds of abuses that came out of that situation. We finally saw his law firm destroyed, and this man, and others like him from the trial bar, went to jail for their activities.

Let's not create another circumstance where there is a temptation to once again take advantage of people who have been legitimately hurt, but by manipulating the law in such a way as to maximize the return to the plaintiff's bar, we see the economy hurt.

The Supreme Court, as I say, got this one right. We should stay with the Supreme Court decision and not try to give special advantage to a special group simply because of their activities in the last election.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I ask unanimous consent to speak as in morning business for up to 10 minutes.

The ACTING PRESIDENT pro tempore. We are in morning business, and currently there is 3 minutes 45 seconds left of Republican time.

Without objection, the Senator may speak for up to 10 minutes.

ROE V. WADE

Mr. BROWNBACK. Mr. President, today is a sad day. We had a wonderful inauguration a couple of days ago, phenomenal crowd, a great celebration, and a peaceful transfer of power took place. It was amazing. I was there on the front steps of the Capitol watching it, participating in it, excited about the first African-American President of the United States; an amazing thing to take place within one generation of Martin Luther King's marches and what he did in this country. My State has been a big part of all of those things and what has taken place. Today is a sad day, though. Today, 36 years ago, the Supreme Court's ruling in *Roe v. Wade* banned all impediments to having an abortion in the United States and said abortion is a constitutional right that the individual carries in the United States and that it cannot be infringed upon, cannot be limited. It did later limit some of that and gave a few places where the State could act to limit—most recently partial-birth abortions, where the Supreme Court has recently ruled that the State can limit partial-birth abortions. And there were a few minor areas in the *Roe* decision, but overall it made a constitutional right to abortion. That was 36 years ago.

The reason I say it is a sad day is there have been roughly—and nobody knows for sure—40 million children who are not here today because of that decision. It ratcheted up, escalated up substantially the number of abortions in the United States that took place after that. It moved forward to the point that most estimates are that one in four pregnancies in the United States will end in an abortion and a child dying. And it even gets worse from that point. When you look at children with special needs, such as Down syndrome children, the number is somewhere between 80 to 90 percent do not make it here, as I have stated on this floor previously, as they are aborted and they are killed because of their genetic type. They get a test, the amniocentesis test, which says they have an extra chromosome, and generally because of that extra chromosome they are aborted and they are killed, even though the fact is, if they would get here on the ground, life and the prospects for a Down syndrome child now have never been better. Life expectancy, quality of life issues, if that is your measure, have never been better than they are now. Plus, the families who have a Down syndrome child look at those children as the centerpiece of the family, an amazing person. Yet somewhere between 80 to 90 percent of these amazing people never make it here, and that is because of what happened 36 years ago this day in the Supreme Court of the United States.

That is why there will be hundreds of thousands, primarily young people, marching today in Washington, DC. They will get no mention. There will be

very little press, if any, outside of some of the religious press that will be there. But outside of that, they will get virtually no coverage. There will be hundreds of thousands of young people here marching and asking for a change and something different, something that I hope President Barack Obama would embrace. He was empowered on the legs of young people and young enthusiastic minds looking for change, looking for something different. That same young generation is the most pro-life demographic in our country today. That age group that is below the age of 25 is the most pro life. They are looking for something different. They are looking for a sanctity of life. They are looking for us to protect all innocent human life. They are looking for us to work to make all human life better, whether that is a child in the womb or a child in Darfur. Whether it is somebody in prison or somebody in poverty, they want that person's life to be better.

That is a beautiful pro-life statement. It is one that we need to see mirrored. It is one we need to see acted upon. It is one we need to see happen, rather than the repealing of things such as Mexico City language which says we can now use taxpayer dollars to fund groups overseas that work and support and fund abortion. Yet apparently that is what the Obama administration is going to do, it is going to repeal Mexico City language and say that taxpayer dollars can now be used for these purposes that most Americans disagree with. That is not the change people are looking for. Those are chains to the past. Those are things that bind us to a culture that doesn't affirm life, that doesn't see it as sacred and beautiful in all its places and dignity in every human life no matter who it is. Those are ones that say quality of life is your measure, as to whether you should be the recipient of such a gift of life.

It is a sad day. It is a tough day. I hope it is a day that doesn't go on as far as our having many future annual recognitions of the *Roe v. Wade* decision but, rather that in the future we will be a life-affirming place and that we will say, in a dignified culture every life at every place in every way is beautiful and it is unique and it is amazing and it is something that should be celebrated and it should not be killed. When we move to that, that will be real change. That is the sort of change that people can look at and say, that is what I want my country to be like.

You know, the sadness doesn't stop with the death of the children. We are now seeing more and more studies coming out about the impact on people who have abortions. In August this past year, 100 scientists, medical and mental health professionals, released a joint statement that abortion does indeed hurt women. The Supreme Court of the United States concluded some women do regret their abortions and can suffer severe depression and loss of

self-esteem. These professionals have officially confirmed these facts. They say the number of women adversely affected by abortions cannot be overlooked by the medical community.

In looking at this in our own family situation, every one of our children is incredibly precious. If I think of one of them not being there, it is one of those stunning sort of thoughts of despair, and yet to think of the 40 million who aren't here and of the stunning amount of despair there must be in a number of people's lives and hearts as they think, I made that decision fast, or I did that under a lot of pressure, or I didn't think I had another choice. But other choices did exist. People want to adopt, and people want to adopt Down syndrome children. As TED KENNEDY and I recognized, in my bill we got passed last year on prenatally and postnatally diagnosed diseases, which established a list of people who wanted to adopt Down syndrome children or children with special needs—some people look at a child in that situation and say, I can't handle that, and I understand. But there are people who believe they can handle it and they want to take a child and raise it.

So I hope as we look forward, we will work together and say, this is something that shouldn't be happening the way it is in the United States and we want to make it different. I hope we will recognize these young people who are marching out here now, who are hoping for change, and understand the change they want is quite valuable, it is beautiful, it is life affirming, and that ultimately it is going to happen.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

Mr. 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.

THE ECONOMY

Mr. DURBIN. Mr. President, this is truly a historic week in Washington. Those of us who were among the millions who were on the Mall a few days ago witnessed a moment in history which I am sure we will talk about, and future generations will refer to, for a long time. Someone during the course of this lead-up, the few days of preinaugural activities, said it was the third chapter in America's social history.

The first chapter was when Thomas Jefferson announced, then wrote, that all men were created equal, endowed by their creator with certain inalienable rights, but living in a time when even in his own household there was slavery. That was the first chapter. In the second chapter, they referred to, of course, Abraham Lincoln, who said it

is worth blood and war to fight for this right of equality and to preserve this union dedicated to that principle. And, of course, what happened this Tuesday was the third chapter, a graphic validation of the fact that America has made dramatic progress toward equality.

There is so much more to do, and I am particularly honored that the man who now leads our Nation is one whom I served with as a colleague in the Senate, a person I encouraged to run, and a person who I think has grown immeasurably to the position he has reached today.

America has so much faith in Barack Obama and what he can bring, but he is the first to caution us that we face unparalleled challenges. You have to go back 75 years to Franklin Delano Roosevelt, who came to the Presidency in the midst of the Great Depression, when the economic plight of the United States was even worse than today. People had lost hope, they had lost their savings, and they had lost their jobs. There was gloom across America. That man, with braces on his legs, staggering to the podium, brought a new confidence to the American people. He began a turnaround that literally took years but eventually succeeded in restoring the faith and the economy of America.

When Barack Obama took to the podium just last Tuesday to give his inaugural address, his message was reminiscent, telling America that we are facing difficulties that will require our best efforts on a bipartisan basis. We have to work together. All of the division in this Chamber and across Capitol Hill notwithstanding, the American people are tired of it. They expect us to come here and achieve something. They understand the momentous challenge we face.

President Obama spoke 2 days ago of gathering clouds and raging storms. He said we are in the midst of a crisis, and he spoke about our Nation at war on two fronts and our economy in disrepair.

Yesterday, I think we took an important step forward in addressing one of those challenges. It was the right, under the Senate rules, of the minority side to ask for a rollcall on the appointment of Senator Clinton as our new Secretary of State. I understand that and I respect it. I believe the fact that they allowed that rollcall to be brought to the floor in a timely basis is consistent with this new attitude that we will not give up the traditions of Congress, the traditions of our Government, but will understand that we face a special urgency in dealing with issues. The vote last night on the Senate floor was 94 to 2 in favor of the confirmation of Hillary Clinton as our next Secretary of State. I am so happy she is going to have that responsibility, and I know she will do an excellent job.

Today, President Obama has asked us to take up a measure of similar urgency. It is a measure known as the

Lilly Ledbetter Fair Pay Act. You may have heard some of the debate on the floor, and the debate has been an important one. I do not question those who oppose this. I understand that they do not favor discrimination. But I have to say that I disagree with them.

We, those of us who I believe will show a majority vote for this measure, believe that when there is discrimination in the workplace, whether it is in pay or age or gender discrimination, that is not American, that is not consistent with our values, and that the person who is wronged, the person who is the victim should have an opportunity to come to court for justice.

The Lilly Ledbetter case is a classic illustration. This woman, working in a Goodyear tire plant in Gadsden, AL, after 15 years, nearing retirement, in the management ranks, came to learn she had been underpaid for the same job the males at her establishment were being paid more. Naturally, when she learned this, after years of doing the same work for less pay, she believed it was unfair. I did too. Anyone would. She took her case to court asking for compensation, asking that the company pay for their discrimination.

The case went through the courts and eventually ended up across the street at the U.S. Supreme Court, and they came up with a decision which was nothing short of incredible. They said that from the first moment when the first discriminatory paycheck was given to Lilly Ledbetter, she had 180 days to file a claim. That overlooks the obvious: People who work in private sector jobs don't know the pay of the person at the next desk in a position similar to their own. It is not published. There is no way they would know it. In this case, to hold Lilly Ledbetter to an unreasonable standard to filing this case so quickly after the first discrimination is to overlook the obvious. The discriminatory activity continued beyond that first paycheck, and Lilly Ledbetter, when she brought this case, brought it within 180 days of the discovery of this discrimination. What we are doing through the leadership of Senator MIKULSKI is to finally right this wrong, and President Obama has asked us to send this to his desk. I hope we do it and do it quickly.

Then we are going to shift to an even larger undertaking as we work to address the troubles of our economy. We have to do this boldly and quickly—no excuses. It is a grim beginning for that administration in the fields of jobs, health care, and housing. Rarely has a new President been immediately confronted with an economic situation so grim.

This is just a sampling of the headlines, the job cut headlines, across the United States of America from Washington; St. Louis; Portland, OR; Hartford, CT; Detroit—all across the United States. We know these stories. Americans continue to wake up to headlines like these every day—another company decides to lay off or close.