

before we authorized the invasion of Iraq. He refers to a question by Senator BAYH about Iraqi links to al-Qaida. He says Senators could draw the following points from unclassified documents. There was, of course, much more that was classified. I will quote this brief portion of his letter:

Our understanding of relationship between Iraq and al-Qa'ida is evolving and is based on sources of varying reliability. Some of the information we have received comes from detainees, including some of high rank.

We have solid reporting of senior level contacts between Iraq and al-Qa'ida going back a decade.

Credible information indicates that Iraq and al-Qa'ida have discussed safe haven and reciprocal non-aggression.

Since Operation Enduring Freedom, we have solid evidence of the presence in Iraq of al-Qa'ida members, including some that have been in Baghdad.

We have credible reporting that al-Qa'ida leaders sought contacts in Iraq who could help them acquire WMD capabilities. The reporting also stated that Iraq has provided training to al-Qa'ida members in the areas of poisons and gases and making conventional bombs.

Iraq's increasing support to extremist Palestinians, coupled with growing indications of a relationship with al-Qa'ida, suggest that Baghdad's links to terrorists will increase, even absent US military action.

I commend the Joint Forces Command for its ongoing, exhaustive review of this record of intelligence collected in Iraq. I urge all colleagues to take the time to educate themselves on its findings. I urge the administration to undertake a serious effort to correct the misimpressions formed in recent years about this important issue.

There can be no doubt. Saddam Hussein was a threat. He actively supported terrorists both in and outside of Iraq, and the world is a safer place for him having been removed from power.

The ACTING PRESIDENT pro tempore. The Senator from Iowa.

EQUAL PAY DAY

Mr. HARKIN. Mr. President, tomorrow is Equal Pay Day. What is Equal Pay Day? That is the day that symbolizes how far into the year a woman must work from the previous year on average to earn as much as a man earned by December 31 of last year. It is unbelievable to me that more than four decades after passage of the Equal Pay Act and the Civil Rights Act, women are still making only 77 cents on the dollar to what a man makes. In Iowa, it is even worse. The Iowa Workforce Development Agency found that across all industries, women in my State make less than 62 percent of what men make.

Discrimination takes many forms. Sometimes it is brazen and in your face, like Jim Crow and apartheid. Sometimes discrimination is silent and insidious. That is what is happening in workplaces across America today. Millions of female-dominated jobs—social workers, teachers, childcare workers, nurses, so many more—are equivalent

to male-dominated jobs, but they pay dramatically less. The Census Bureau has compiled data on hundreds of job categories, but it found only five job categories where women typically earn as much as a man. Defenders of this status quo offer all manner of bogus explanations on why women make less. How many times have you heard the fairy tale that women work for fulfillment and men work to support their families? Of course, this ignores the great majority of single women who work to support themselves and married women whose paycheck is all that allows their families to make ends meet, to put a little bit of money away for a rainy day or perhaps to send a child to college.

It ignores the harsh reality that so many women face in the workplace where they have to work twice as hard to be taken seriously or, say, get pushed into being a cashier when they had applied for a better paying sales job. These pervasive acts of discrimination deny women fair pay and they also deny women basic dignity.

Let me cite one example of the discrimination I am talking about. Last year in a hearing in our Health, Education, Labor, and Pensions Committee, we heard remarkable testimony from Dr. Philip Cohen of the University of North Carolina. Dr. Cohen compared nurses' aides, who are overwhelmingly women, and truck drivers who are overwhelmingly men. In both groups, the average age is 43. Both require "medium" amounts of strength. Nurses' aides on average have more education and training. But nurses' aides make less than 60 percent of what truck drivers make.

Given that this discrimination is so obvious and pervasive, you would expect that women would have no trouble at all obtaining simple justice in our court system. But in a major decision last June, in the case of *Ledbetter v. Goodyear Tire & Rubber Company*, the Supreme Court actually took us backward. In a 5-to-4 ruling, the Court made it extremely difficult for women to go to court to pursue claims of pay discrimination, even in cases where the discrimination is flagrant.

A jury acknowledged that Lilly Ledbetter, a former supervisor at Goodyear, had been paid \$6,000 less than her lowest paid male counterpart. But the Supreme Court rejected her discrimination claim. Why? The Court held that women workers must file a discrimination claim within 180 days of their pay being set, even if they were not aware at the time that their pay was significantly lower than their male counterparts.

Justice Ginsburg said, in a forceful dissent, this is totally out of touch with the real world of the workplace. In the real world, pay scales are often kept secret and employees are in the dark about their coworkers' salaries. Lacking such information, it is difficult to determine when pay discrimination begins. Furthermore, vast dis-

crepancies are often a function of time. If your original pay was a little bit lower than your colleague's pay, and then over 20 years you get smaller raises every year, you end up with a huge gap after 20 years. But if you can only sue for the most recent pay determination, this misses 20 years of discrimination. As a result, in Ms. Ledbetter's case, she is going to get a dramatically smaller pension for the rest of her life based upon that lower pay level.

Ms. Ledbetter, who testified before our committee last year, is injured twice: Over 20 years of flagrant discrimination in the workplace and getting paid less, and now for the remainder of her life, as a retired person, she will get less pension because of that discrimination. Twice she is injured.

What the Ledbetter decision means is that once the 180-day window for bringing a lawsuit is passed, the discrimination gets grandfathered in. This creates a free harbor for employers who have paid female workers less than men over a long period of time. Basically it gives the worst offenders a free pass to continue their gender discrimination.

Ledbetter was a bad decision, but there is one thing we can do with Supreme Court decisions. We can pass legislation to fix them. So I have joined with Senator KENNEDY and others to reverse the damage done by that decision. Our bill would establish that the "unlawful employment practice" under the Civil Rights Act is the payment of a discriminatory salary, not the original setting of the pay level.

Well, this is a good start, but it is not enough. It is not good enough to go back to the way the law worked last year because women, as I said, are still making less than 77 cents on the dollar as compared to men. That is intolerable. Moreover, if pay scales are still kept secret, if there is not transparency, how can women know if they are being discriminated against?

That is why we need to pass my Fair Pay Act, a bill which I have introduced in every Congress going back to 1996. I just keep introducing it every Congress. Here is what it does. It is very simple. In addition to requiring that employers provide equal pay for equivalent jobs, my bill would require disclosure of pay scales and rates for all job categories in a given company. Now, I did not say they had to disclose every single person's pay. I said pay scales for categories of jobs. Now, this would give women the information they need to identify discriminatory pay practices, and this could reduce the need for costly litigation in the first place.

When Lilly Ledbetter testified before our committee last year, I asked her—I told her about the bill; I told her what kind of information it would provide—I asked her if she had that information, could she have, 20 years ago, negotiated for better pay and avoided litigation? She answered: Of course.

Well, there are countless more Lilly Ledbetters out there who are paid less

than their male coworkers, but they will never know about it unless we get them this information.

My Fair Pay Act amends the Fair Labor Standards Act of 1938 to prohibit discrimination in the payment of wages on the basis of sex, race, or national origin. Most importantly, it requires each individual employer to provide equal pay for jobs that are comparable in skill, effort, responsibility, and working conditions—skill, effort, responsibility, and working conditions.

Now, you might say: Haven't we already passed the Equal Pay Act? Yes, but the Equal Pay Act only says you have to be paid the same if you are doing exactly the same job. Well, what about if you are doing a job like a nurse's aide, in which you require medium strength, in which you require training, and you compare it to what a truckdriver does? Why should a truckdriver get 60 percent more than someone who is taking care of you when you are ill or your mother or your grandmother or grandparents in assisted living or in a nursing home or in hospice care or a number of other things where nurses' aides are vitally important?

You might say: Well, has this ever been done? The fact is, 20 States—20 State governments—right now have fair pay laws and policies in place for their employees, including my State of Iowa. I point out that Iowa had a Republican legislature and Republican Governor in 1985 when this bill was passed into law. So ending wage discrimination against women should not be a partisan issue.

I am just saying let's take what 20 State governments have done and let's extend it to the private sector. Well, some would say we do not need any more laws; market forces will take care of the wage gap. Well, maybe so, but we all know from basic economics 101 that for a free market to work there has to be not only a number of players where they have equivalent purchasing power—not an employer-employee situation—secondly, what else is most important for a market to work? Transparency, knowledge, knowing what the game is, openness. But when pay scales are kept secret and you do not know what they are, how can market forces ever, ever close this wage gap?

Experience also shows there are some injustices market forces cannot rectify. That is why we passed the Equal Pay Act, the Civil Rights Acts, the Family Medical Leave Act, and here, in 1990, the Americans with Disabilities Act. Market forces did not break down the barriers of discrimination against people with disabilities in our country. But that is what we did with the Americans with Disabilities Act. We broke the barriers down and let people with disabilities not only get educated, not only travel—go out to restaurants and things—but also get jobs in which we can look not at their disabilities but at their abilities.

Mr. President, I would like to close with a story of a woman from my State

named Angie. She was employed as a field office manager at a temp firm. The employees there were not allowed to talk about pay with their coworkers. Only inadvertently did she discover that a male office manager at a similar branch, who had less education and less experience, was earning more than she was. In this case, the story did end happily. She cited this information in negotiations with her employer, and she was able to get a raise.

But I think there is a twofold lesson in this story. The first lesson is that if we give women information about what their male colleagues are getting, they can negotiate a better deal for themselves in the workplace. The second lesson is that pay discrimination is a harsh reality in the workplace. It is not only unfair, but it is demeaning, it is demoralizing, and it is pervasive—pervasive—throughout our society. Individual women should not have to do battle in order to win equal pay. We need more inclusive national laws to make equal pay for equal work—equal pay for equivalent work—a basic standard and a legal right in the American workplace.

So it is time, after all these years, to pass the Fair Pay Act. Do not confuse it with the Paycheck Protection Act. I am also a cosponsor of the Paycheck Protection Act. That legislation will improve the enforcement of the laws we already have on the books. But we already know those laws are not sufficient, as the Ledbetter case shows us. So in order to really open the marketplace for women to earn what they should be earning and to make the equivalent of what their male counterparts are making, we need to pass the Fair Pay Act.

Tomorrow, when we recognize Equal Pay Day—just think about it: Equal Pay Day tomorrow, April 22. So it took women all the way from January, February, March, and April, on average, to earn as much as a man did by December 31 of last year. That is just grossly unfair. It is also time to start paying women equivalent pay to what their male counterparts are making, when their job requires the same skill, effort, responsibility, and working conditions.

When you take all those factors into account, there is no reason why we should not pass the Fair Pay Act. Let's do for the private sector what 20 States have already done in their governments. With that, maybe we will start getting some justice in the workplace for American women.

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

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

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. WHITEHOUSE). Without objection, it is so ordered.

EQUAL PAY FOR EQUAL WORK

Mr. KENNEDY. Mr. President, I welcome the opportunity to address the Senate on a matter of fundamental fairness to millions of our fellow citizens: to women, working women in our society, and to do it at a time when we know those who are working are hard pressed in the economy. We are all familiar with the anxiety among working families—working fathers and working mothers. Today I will address what underlies the efforts in which many of us are involved in what we call the Ledbetter case.

It is legislation to override a 5-to-4 Supreme Court decision named after Lilly Ledbetter, an extraordinary woman who had worked for a tire company for a number of years and had been discriminated against in her pay and had received judgments to make up for the damages she had experienced over a period of years. The Supreme Court then undermined the previous courts and effectively left her without any remedy at all, in effect saying unscrupulous employers could discriminate against an employee, and if they do not get caught within 100 days, they are free and clear and they can continue to discriminate against that individual.

That is not only against women, which is the Ledbetter case, but it is also true if they had done the same with regard to African Americans or Latino Americans or if they discriminated against the disabled or if they discriminated on the basis of religion or national origin—all of those cases with a simple 5-to-4 decision, the rights of those workers, people who are working, working hard, are virtually out the window.

I wish to take a few minutes to review what this Senate has done with regard to what we will call the equal pay issue over a period of time. It is an extraordinary record. It is a record of progress and fairness.

It will be amazing to me when my friends and colleagues on the other side rise to oppose this simple act of fairness and equity this situation demands. For over 40 years, this Senate has gone on record time and again saying that we will not discriminate against our fellow citizens on the basis of pay. Nonetheless, the Supreme Court has reached a different conclusion, and we will have the opportunity on Wednesday to change that conclusion and restore the record of the Senate to what it has been over the last 40 years.

This chart shows the different laws that have been passed in Congress to establish equal pay for equal work. The Equal Pay Act under President Kennedy was done by a voice vote. It was pointed out at that time that women were getting 60 cents on the dollar. That was wrong. We ought to strive for equal pay for equal work. That legislation was passed at that time.

We thought we had made progress on that legislative effort, but we had not made as much progress as we thought.