

The PRESIDING OFFICER. The majority whip.

EQUAL RIGHTS AMENDMENT

Mr. DURBIN. Madam President, yesterday was an interesting day for me personally, but it was an interesting day, more importantly, in the history of the United States when it comes to the Equal Rights Amendment.

The Equal Rights Amendment was first introduced in 1923, 100 years ago—100 years ago. It was proposed by a leader named Dr. Alice Paul. At the time, she had just won an important victory. She and her fellow suffragists had just led successfully the campaign to ratify the 19th Amendment to give women the right to vote in the United States—100 years ago.

Despite this monumental achievement, Dr. Paul recognized that just the right to vote was not enough for gender equality, but it was the right starting point. So she devoted the remaining years of her life to enshrining gender equality in every facet of American life and particularly into the Constitution with the Equal Rights Amendment.

Sadly, Dr. Paul and her fellow suffragists passed away long before they could see the ERA become the law of the land, but their legacy lives on today in a new generation of activists, lawmakers, and trailblazers who are propelling the movement for equality forward.

The personal side of this relates to the fact that when I graduated from law school in 1969, I went to work for the Lieutenant Governor of Illinois, Paul Simon, who later served here in the Senate. One of my first assignments in the Illinois State Senate was to work for the passage of the Equal Rights Amendment in the State of Illinois.

The road to ratification has been long and winding. I continue to be amazed by the proposal. Fifty years ago, it really came down to some very basic arguments, and the leading argument against the Equal Rights Amendment was that men and women would have to share public restrooms. When I say that, you think: Wait a minute. You want enshrined in the Constitution the constitutional rights of more than half of the people living in America, and the article came down to a debate over the future of public restrooms? I have to tell you, that had more to do with it than almost anything else. I heard that argument over and over and over again.

The ERA is a rallying cry for Americans young and old for good reason. As the 28th Amendment to the Constitution, it would ensure that our Nation lives up to the promise of real equality, and, frankly, it is a principle that should be enshrined in the Constitution.

Thirty-eight States have ratified the Equal Rights Amendment in the past half century—the most recent, Virginia in 2020. Thirty-eight is the exact number needed to certify an amendment to the Constitution. The only thing stand-

ing in the way of an Equal Rights Amendment is an arbitrary deadline that Congress included in the preamble—let me underline those three words, “in the preamble”—of this amendment as it passed in 1972 clarifying that this was not the controlling but simply in the preamble, is what the current controversy is about.

During yesterday’s hearing on the ERA, we heard from several witnesses: my own home State Lieutenant Governor, Juliana Stratton, and a young woman whose name is Thursday Williams, a first-generation American, a board member of the ERA Coalition, and a senior at Trinity College in Connecticut. She spoke on behalf of a lot of young people. She is a college senior. Her compelling testimony was a testament to the value of her voice in the conversation. I am glad she was there. After graduating college, Ms. WILLIAMS plans to become an attorney. She said:

[I] fell in love with the United States Constitution in high school.”

You don’t hear that very often, do you?

She said:

What I love the most about the Constitution is how brilliantly it was designed to adapt to the changing needs of its people.

She argued that today the American people deserve a Constitution that guarantees equality regardless of sex, a Constitution that we can use as a tool to fight discrimination.

She concluded her testimony by asking the members of the committee:

If we continue to hold back more than half of [the] people [in America] from accessing equal opportunities, what does that say about us as a country?

How can we be the beacon of freedom and democracy we claim to be if we don’t declare that sex discrimination contradicts the American dream?

This young college student is pretty smart, as far as I am concerned. She knew exactly the right question to ask. Generations of Americans have been waiting for us in Congress to protect their fundamental rights.

Congress approved the ERA 50 years ago, but in doing so, we imposed that arbitrary time limit for ratification. That is why our hearing yesterday was so important. The members of the committee were not merely discussing the importance of the ERA; we were urging our colleagues to join us in passing it.

This joint resolution already has bipartisan support in both Chambers. I want to salute Senator MURKOWSKI of Alaska, with Senator BEN CARDIN, for joining us in cosponsoring this effort. We can’t wait any longer.

I listened to the arguments about opposing the Equal Rights Amendment in this year, 2023. Fifty years ago, the argument was, we can’t see how we are going to resolve public restrooms. Now the argument raised by one of the witnesses called by the Republicans was, we are worried about the impact that an Equal Rights Amendment would have on the future of field hockey—

The woman who testified, representing one of the Koch Industries’ entities that have been created to do politicking, said she couldn’t explain to her daughter or guarantee to her that there wouldn’t be some clash as to whether men could play on her field hockey team.

I would say to her with all due respect—and I have been a parent myself; still am—that it is time to sit down and talk to her daughter about the basics, and the basics are the constitutional guarantee of her rights for the rest of her natural life, not the next field hockey game.

There is more at stake here, and it probably relates less to her because of who she is and her family than it does to all the other women whose lives would be improved by the passage of the Equal Rights Amendment. That is where we stand today.

There is no room for uncertainty when it comes to protecting equal rights under the law. That is a lesson that was driven home last year when the Supreme Court overturned *Roe v. Wade*. For the first time in history—for the first time in the history of the United States of America—the Supreme Court ripped away a constitutional right from the American people. That has never, never happened before.

One of the Supreme Court Justices—by name, Clarence Thomas—made it clear that this was just the beginning. He was going to call into question a lot of fundamental constitutional rights, like the right to privacy, the right to reproductive freedom, the right to family planning.

So now Members of the Senate have to make a decision during our time: What kind of America do we want for our granddaughters and daughters—a country in which the fundamental rights are safe and secure or one in which the Constitution still—still, 100 years after we started—fails to recognize fundamental equality on the basis of sex?

I think the hearing was very clear, and I think the issue is very clear. I know what I want to be able to explain to my little granddaughter. She is only 3½ now, but I hope to live long enough to someday sit down with her and have a serious conversation about this. I want to tell her that during the course of my life, her constitutional rights in America were at issue and that we did the right thing for her and for her daughter and her daughter’s daughter and everyone born in America in guaranteeing basic equality.

GUANTANAMO BAY

Madam President, I want to tell you about a young law student whose name is Leila Murphy. She was 3 years old when her father Brian was killed. Her oldest sister, Jessica, was only 5. It is a day Leila was too young to remember, let alone comprehend, but for the Americans who are old enough, it is a day we will never forget—9/11/2001.

Leila grew up in the shadow of the 9/11 attacks. She recently wrote me a

powerful letter about the failure of this country to deliver justice. I quote her:

My father, Brian Murphy, worked on the 105th floor of the World Trade Center. [He] was killed when the first plane struck the North Tower. . . . Twenty-two years and four [Presidents] later, there has been no accountability for his death, nor the deaths of nearly three thousand [other Americans that day].

Leila and 3,000 other families like hers have been waiting for justice for 9/11 for almost 20 years, maybe longer. In those two decades, Leila has grown from a toddler to a law student. But the military commission trial against the five 9/11 codefendants in Guantanamo has never even started, 22 years later. Let me repeat that. More than two decades after the attacks, the 9/11 trial has never even started.

In her words, she said:

The parties are no closer to a trial date than when the hearings began in 2012—

More than a decade ago.

In the meantime, many family members have died, and others have given up hope. [They don't know that this] case will ever end in their lifetime.

Leila has traveled to Guantanamo to watch the military commission proceedings and came away frustrated and, in her words, “ashamed”—frustrated at the slow pace and makeshift nature of the proceedings and ashamed to learn how the defendants were actually tortured by her own government. Leila recognizes that because of this history, real justice is now unattainable.

By setting up ad hoc military commissions rather than trusting our courts, by torturing detainees rather than securing evidence lawfully, we have made true justice for families like Leila's virtually legally impossible.

If pretrial proceedings are still going on 20 years after the event, how many years do you think the actual trial would take? How many years of appeals would then follow? What are the chances that prosecutors can even convict men who were tortured at our hands for years? And if they did, what are the chances that those convictions would be upheld? How many family members would still be alive to see judgments of guilt, if they ever, ever come?

The reality is that securing guilty pleas in the 9/11 case is at this point the only way to deliver a modicum of justice to the victims and their families. The Biden administration should step up to the plate and deliver the justice that three previous administrations have failed to provide.

In Leila's words:

The military commissions have failed to provide justice for 9/11 families. Plea deals are a way out—

The only way out, maybe—

[but the] thing standing in the way is political will.

Leila says:

It is time for that to change.

She is not alone in recognizing that guilty pleas are realistically the only hope for justice.

On the morning of 9/11, former Bush administration Solicitor General Ted Olson went to his office at the Justice Department, while his wife Barbara headed to Dulles Airport for a flight to Los Angeles. Barbara had planned to leave the day before, but she delayed her departure by a day so she could wake up with Mr. OLSON, her husband, on his birthday.

After the two planes hit the World Trade Center towers, Mr. Olson's thoughts turned to his wife's safety. At first, he was relieved when the assistant told him that she was on the phone, but she was calling from the back of the airplane to tell him that her plane had been hijacked. She asked what she could tell the captain—and, then, silence.

At 9:37 a.m., American Airlines flight 77 crashed into the Pentagon, killing all 64 people aboard and 125 people in the Pentagon. Barbara was one of those victims.

Like Leila, Ted Olson is still awaiting justice, but today he believes that true justice seems unattainable.

By coincidence, I ran into him last night at a reception here on Capitol Hill. I went up and introduced myself to him, and I said I was going to talk about his statement and his wife on the floor. And he thanked me for it. He said: It is time for the American people to hear this straight from those of us who were directly impacted by 9/11.

In a powerful column earlier this month, Mr. Olson wrote:

I now understand that the commissions were doomed from the start.

He said:

We tried to pursue justice expeditiously in a new, untested legal system. It didn't work. The established legal system of the U.S. would have been capable of rendering a verdict in these difficult cases, but we didn't trust America's tried-and-true courts.

He concluded:

Nothing will bring back the thousands whose lives were so cruelly taken that September day. But we must face reality and bring this process to an end. The American legal system must move on by closing the book on the military commissions and securing guilty pleas.

In the fearful days after 9/11, our Nation's leaders made a fateful decision to forsake our most trusted institutions and betray our cherished values. The decision to open Guantanamo in a rush for vengeance and swift justice instead robbed the victims of 9/11 and their loved ones of their right to true justice. It is time to salvage what justice we can by bringing the commission cases to an end. We must also bring an end to the shameful, shameful indefinite detention of detainees who have never been charged with a crime. More than two decades after the incident of 9/11, these detainees have never been charged with any crime.

Eighteen of the thirty-two remaining detainees have never been charged with any crime and have been unanimously cleared for release—18—by our national security and military leadership. Yet

they continue to be detained indefinitely—day after day, year after year—for more than two decades.

The administration must redouble its effort to transfer the men who have been cleared for release or served their sentences. The recent transfer of three longtime detainees were steps forward, but the administration needs to pick up the pace. Men who have served their time or been cleared for release should not be sitting in Guantanamo. Ending these abuses is a moral and national security imperative.

Guantanamo Bay continues to serve the interest of America's worst enemies. Terrorist groups point to the history of torture and indefinite detention in their propaganda and recruitment videos. Autocrats point to Guantanamo to justify their own human rights abuses.

Adding insult to injury, this moral stain on our Nation and national security liability continues to be funded by American taxpayers. The cost of Guantanamo is astronomical. We spend more than \$540 million each year to keep Guantanamo open for just 32 detainees. Let me repeat that: \$540 million a year in taxpayers' money to keep Guantanamo open for 32 detainees. That is nearly \$17 million a year for each detainee. It is an outrage. And 18 of those men have been cleared for release for a long period.

We must not forget that Guantanamo was set up to be outside the reach of the law, outside the reach of the Constitution, outside the reach of the concept of habeas corpus, outside the reach of due process, and outside the reach of the Geneva Conventions. That is why it was chosen.

We must not forget that the detainees were held incommunicado and actually tortured at Guantanamo. We must not forget that more than half the men there still continue to be detained indefinitely without any charge or any trial. In America, we must stand for something better than that.

Guantanamo Bay, sadly, is a historic stain on America's long pursuit of the cause of justice. We have a responsibility to release detainees who have never been charged with a crime and have served their time, period, and we have a responsibility to deliver what little justice we still can to the victims of 9/11 and their families.

So let's do what must be done. Let's finally salvage a small measure of justice and dignity for Leila, for Ted Olson, and for everyone else who lost a loved one on that terrible day.

I yield the floor.

The PRESIDING OFFICER (Mr. OSSOFF). The Senator from Rhode Island.

#### CLIMATE CHANGE

Mr. WHITEHOUSE. Mr. President, here I am again with my trusty, battered chart by my side, this time here to talk about the looming costs and economic risks of climate upheaval.

Almost exactly 5 years ago, I sent around a binder about this thick to all