

would lead to that conclusion exist in this case. There is new work. No one lost a job. This is a new line of business. And we are arguing about the right of a company to be able to make a business decision when it comes to new production. That is why this complaint, if it ever gets to Federal court, will fail. It is sad that Boeing may have to spend millions of dollars defending itself against what I think is a very frivolous complaint.

But let me tell my colleagues a little bit about this if they are wondering about it. Here is something I want to put on the table for you to consider. One of the members of the Boeing board at the time they chose to come to South Carolina—after a lot of negotiations in different places, including Washington and South Carolina—one of the board members who approved the second assembly line in South Carolina was Bill Daley, the Chief of Staff of the President of the United States. At the time, he was not Chief of Staff, he was a member of the Boeing board, and they voted unanimously to create a second assembly plant in the State of South Carolina. I would argue that Mr. Daley, when he cast that vote, understood it was best for Boeing to make this decision to locate new business, and he did not believe he was violating the law or retaliating against unions. One thing you can say about the Daley family, it is not in their DNA to retaliate against unions. This was in 2009.

In March 2010, the machinists union filed its complaint with the NLRB. Now, the general counsel, the person holding that title a few weeks ago, submitted the complaint to the board. But the story is even more interesting. In March of 2010, the complaint was filed by the machinists union. The vote to come to South Carolina was in October 2009. In January of 2011, Mr. Daley was chosen to be President Obama's Chief of Staff—a decision I supported and thought was a good decision for the administration and the country as a whole because Mr. Daley is a Democrat, but he is a very well respected member of the business community, someone who has a lot of skill and talent, and the President chose wisely. I would assume that in the vetting process they looked at Mr. Daley's record of involvement in business and other matters. I am assuming the vetting team knew the complaint had been filed by the machinists union in March of 2010 and that Mr. Daley voted along with the rest of the members of the board to come to South Carolina. And they must have concluded that this complaint was frivolous. I assume that because if they did not know about the complaint, that was one of the worst vetting jobs in the history of the world. And if they thought he did engage in illegal activity, it made no sense to hire him.

So, to my colleagues, I want you to consider the fact that Mr. Daley, the current Chief of Staff, voted to come to

South Carolina. After he voted—a year and a half later—he was chosen to be the Chief of Staff of the President of the United States. The Boeing CEO, Jim McNerney, was chosen by President Obama to lead his Export Council to create jobs for Americans by looking at export opportunities. I would argue that President Obama would not have chosen Mr. McNerney if he thought he led an effort to retaliate against Washington unions.

All I can say is this complaint is frivolous. It is taking time and money away from creating jobs in South Carolina and Washington. And it has national implications. To Senator ALEXANDER, you have found the right way for the Congress to address this issue. We are not forcing anybody to be a member of a union. We are just saying, if a State such as South Carolina or Tennessee chooses to be a right-to-work State, that cannot be held against them. This legislation would say to the country and the business community as a whole: When you look at where to locate, you can consider a right-to-work State without violating the law. That is an important concept.

I can assure you, Boeing came to South Carolina because it was the best business deal. They had a lot of choices. They chose South Carolina not to retaliate but to create a second line. And here is the logic of it: Would you put everything you own in one location in today's world? So the idea that they expanded into the second plant in a different State, in a different location, makes perfect sense. The fact that South Carolina is a low-cost right-to-work State I am sure they considered. But under the law, no one in Washington lost one benefit they had. No one in Washington lost a job they already had with Boeing. The goal of this decision by Boeing is to grow their company. If we do well in South Carolina, Boeing does well in Washington.

This complaint is dangerous. This complaint is a dangerous road to go down. This complaint is politics at its worst. The law is designed to protect us, and it is being abused, in my view. Politics is about 50 plus 1. The law is something that should protect us all.

This complaint filed by the general counsel at the NLRB sets a dangerous precedent, and the Congress should speak. The administration should speak out and say this is frivolous; they are an independent agency; nobody can tell them what to do. But we have an independent duty to speak out in a constructive way.

Senator ALEXANDER's legislation is the appropriate way to address this issue, and I wish to thank him on behalf of the people of South Carolina and the country as a whole, and I look forward to working with him to have this passed.

To my colleagues on the other side, what is going on in this complaint is dangerous for us all and not just South Carolina.

With that, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.  
The Senator from Ohio.

#### WORKERS MEMORIAL DAY

Mr. BROWN of Ohio. Madam President, I rise and will be joined in a few moments by Senator HARKIN, who is the chair of the Health, Education, Labor, and Pensions Committee; Senator MURRAY, the chair of the Veterans' Committee; and Senator BLUMENTHAL, a new Member of the Senate from Connecticut. Each of them, especially Senator HARKIN, has devoted their careers to worker rights, worker safety, decent benefits, pensions—in short, creating the middle class—and their efforts have been legion, all three of them, in doing that.

I rise today to commemorate Workers Memorial Day. Last Thursday, April 28, our Nation observed Workers Memorial Day. It is an occasion for us to pause and remember those Americans who have lost their lives while on the job.

I wear on my lapel a pin given to me at a Workers Memorial Day rally in Lorain, OH, a city west of Cleveland on Lake Erie—steel town, people like to call us—and this lapel pin I wear is a picture of a canary in a birdcage. We know that mine workers 100 years ago took a canary down in the mines. If the canary died from lack of oxygen or toxic gas, the mine worker knew he had to get out of the mine. He had to depend on himself. He had no union strong enough nor a government which cared enough to protect him in those days.

As we celebrate Workers Memorial Day, we look back at the progress we have made as a country.

This year is the 100th anniversary of the Triangle Shirtwaist Factory fire in New York. That tragedy claimed the lives of 146 workers—123 women and 23 men—while they labored in sweatshop conditions in this textile plant in New York City. They were mostly young immigrants who came to this country in pursuit of a better life. Instead, they were killed because of the workplace, the incredibly unsafe conditions in that workplace. That tragedy marked a significant turning point in the struggle to advance worker rights and safety in our country. The day after the fire, 15,000 shirtwaist workers walked off the job demanding a 20-percent pay raise and a 52-hour week—a 52-hour week they were demanding.

Nearly 20 years later, in 1930, Ohio experienced its deadliest mining explosion in our history, the Millfield mine disaster in Athens County.

Methane gases were ignited by a short circuit between a trolley wire and rail, killing more than 80 men.

Four years later, in 1934, thousands of workers stood up to the Electric Auto-Lite company in Toledo, OH. Workers recognized they were underpaid and undervalued. They went on strike and clashed with members of the

Ohio National Guard. The so-called "Battle of Toledo," unfortunately, resulted in over 200 injuries. The strike brought together union brothers and sisters across the city in solidarity, fighting for middle-class rights.

Similar strikes in Minneapolis and San Francisco followed the one in Toledo that year, generating a new momentum across our country toward treating U.S. workers with respect and dignity. Ultimately, we know what happened. President Roosevelt's New Deal established critical rights and benefits for working Americans. It is why we have a 40-hour work week, why we have a minimum wage, and why we have collective bargaining rights.

Congress passed the National Labor Relations Act, the Wagner Act, in 1935, which guaranteed workers the right to form a union and bargain collectively.

The Labor Standards Act passed in 1938, which established a minimum wage, guaranteed overtime pay in certain jobs, established recordkeeping standards, and created child labor protections.

We now have OSHA, which was created by the Occupational Safety and Health Act of 1970, to ensure safe working conditions. It was signed by a Republican President. In those days, Republicans worked with Democrats to increase worker safety standards and actually help workers join the middle class.

When OSHA was established 41 years ago, in 1970, an average of 38 workers died on the job in this country every day. We have cut that by two-thirds, not just because of OSHA but certainly in large part because of OSHA. Deaths in the workplace continue but not with the frequency of 100 years ago, or even 50 years ago, prior to OSHA, but they continue.

Last week, another mine accident claimed the life of an Ohioan. Jason Gudat was killed while working at an underground limestone mine in eastern Ohio, in Salem.

This past year, I received a letter from Crystal of Adams County, who lost her husband Terry in a construction accident. Terry was the father of five. He was killed at his construction job last year due to a lack of safety lighting during his nighttime shift. Crystal, his widow, explained that "the circumstances of his death were completely preventable if there had been better safety laws regarding his line of work. There was no lighting where my husband lost his life. . . . You never realize how important these things are until it happens to you."

In the case of garment workers, it was fire safety. In the case of mine workers, like Jason, it was unsafe conditions that are too often found in mines. In the case of Terry and other construction workers, it was basic safety lighting.

We ask our workers to build our roads, make our cars, produce our energy, and to serve as the backbone of our Nation's economic competitive-

ness. We should do more to protect them while they do so.

Last month, I had a roundtable meeting with a group of workers in Columbus, near State House Square, in an Episcopal church. We were talking about worker rights. We had a police officer, a firefighter, a nurse, a teacher, and several other workers there. These are public employees. But they have seen the same assault on their rights as we are seeing all too often in this body—an assault on union rights and nonunion worker rights—far too many times.

We must stop these blatant efforts to strip teachers, sanitation workers, police officers, firefighters, and others from collectively bargaining for fair pay and safety equipment. That has been a right in this country for 75 years, since the Wagner Act, the 1938 labor act. It has been a right for workers that has created a middle class, and it brought up the living standards not just for union workers who organize and bargain collectively, but it brought up the living standards for both white-collar and blue-collar workers, management and labor, throughout our society. It has created a much more prosperous society.

The New York Times had an article written last week by someone who said that when we fail at war in a battle, we don't turn around and blame the soldiers; we give them better equipment with which to do their job. So why, when our public education system sometimes fails, do we blame teachers? Why don't we give those teachers better tools to do their jobs? Why don't we do the same with firefighters, police officers, nurses, and others, instead of blaming these workers and public employees?

In my State, the Governor signed legislation a month or so ago that stripped these public workers of their collective bargaining rights. I think in this society, with this kind of pressure on the middle class, the last thing we should do is strip anybody of their rights that enable them to make a decent living, put food on their table, have a decent pension, and have decent health care—especially in retirement. It makes no sense to me, as we honor workers and Workers Memorial Day, which was commemorated last week, that we would ever move in the wrong direction when it comes to workers' rights and building a more prosperous middle class.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Iowa is recognized.

Mr. HARKIN. Madam President, I join with my good friend, the Senator from Ohio, Senator BROWN, in commemorating Workers Memorial Day, which actually was last week. Since we weren't in session then, we wanted to take the time today to commemorate Workers Memorial Day. I am always greatly appreciative of my friend wearing the canary pin on his lapel because,

as the Senator from Ohio knows, my father was a coal miner for over 20 years. A lot of people still don't know we had coal mines in Iowa. At one time, back in those days, Iowa was the third largest coal-producing State in the Nation. He worked there a long time ago, before there were safety laws or anything. In fact, most of the time he worked there was before I was born. I can remember him, later on, telling stories about the mines and how many people would be injured or killed—it was sort of an accepted thing—every day, week, or month. People would die and cave-ins would happen. Of course, almost everybody of his generation who worked in those coal mines eventually got miners' cough, as they called it back then—miners' lung or black lung disease, as we know it now. They all virtually had that later on in their lives.

I appreciate my friend from Ohio commemorating Workers Memorial Day.

More than 20 years ago, family members of workers killed on the job joined with safety advocates to launch Workers Memorial Day—a day of remembrance and advocacy. To honor the creation of the Occupational Safety and Health Administration—OSHA, as it is called—April 28 was chosen as Workers Memorial Day. This year, that day takes on special significance because it marks the 40th anniversary of the creation of OSHA.

The passage of the Occupational Safety and Health Act, which created OSHA, was one of the monumental legislative achievements of the 20th century. This landmark legislation reflects the values that all Americans share, which is that workers should not have to risk their lives to earn their livelihood, and that workers, employers, and the government must all work together to keep people safe and healthy on the job. Signed into law by President Nixon, this bipartisan legislation has been a tremendous success, saving the lives and the health of hundreds of thousands of American workers.

Here are the facts. Immediately prior to the creation of OSHA in 1970, an average of 14,000 workers died annually from occupational injuries. In 2009, despite a workforce that is twice as large as the workforce of 1970, 4,340 workers were killed on the job. Before OSHA, about 11 workers were killed for every 100,000 people working. Now roughly 3.3 workers are killed per 100,000 people working. Again, these figures are still too large. We can and must do better. We should also take a moment to reflect on how many tragedies have been prevented and lives saved because of the Occupational Safety and Health Act.

I fear that this simple truth—that workplace safety has been a phenomenal success—is being ignored in Washington these days. Nowadays some people would have us believe that workplace safety regulations are something bad. They claim that OSHA

standards are “job killers.” But just because some special interest groups with highly paid lobbyists keep repeating this absurd mantra, that doesn’t mean it is true. In fact, the opposite is true. Smart safety regulations administered by active, unbiased regulators improve and stabilize our economy. They save workers’ lives, prevent catastrophic accidents, reduce health care costs, and ensure that industries are responsible for their actions instead of dumping the cost of their mistakes on workers and taxpayers.

In addition to the more than 4,000 workers killed on the job every year, which I mentioned, almost 50,000 Americans die every year from occupational illnesses. Let me repeat that. Almost 50,000 Americans die every year from occupational illnesses. More than 4.1 million workers are injured every year. The cost of these injuries and illnesses is enormous. It is estimated at somewhere between \$160 billion to \$318 billion a year for the direct and indirect costs of these injuries. Additional safeguards to prevent these injuries and illnesses, along with strong enforcement of existing laws, would save thousands of lives and thousands of injuries from happening and would save the taxpayers billions of dollars.

To accomplish this, it is clear that our safety laws need to be updated. We have learned much in the 40 years since the Occupational Safety and Health Act was passed, and it is past time to use this knowledge for meaningful reform. For example, we know that whistleblowers are critical to bringing safety problems to light. But these whistleblowers won’t come forward unless the law contains stronger protections against retaliation. Right now, we have stronger protections for financial whistleblowers under the Sarbanes-Oxley law than we do for workers blowing the whistle and trying to save lives. Repeating that, we have stronger whistleblower protections for financial whistleblowers under the existing Sarbanes-Oxley financial reform law than we do for workers who are trying to save lives by blowing the whistle. That is not right. That should be corrected.

We also know that while most responsible companies make worker safety a top priority, there are some unscrupulous employers who cut corners on safety to save costs. Unfortunately, as a past Health, Education, Labor and Pensions Committee report demonstrated, when the negligence of these companies results in workers being killed on the job, these irresponsible companies walk away with a slap on the wrist. OSHA penalties are pitifully low. The average fine for a worker being killed on the job is \$5,000. The average fine for an irresponsible company—and they have to be found as not acting prudently and that they were skimping on safety regulations and not adhering to well-defined safety regulations. But when somebody gets killed, the average fine is \$5,000. What we need is real penalties to ensure that all em-

ployers have real incentives to comply with safety and health laws.

These and other changes in the law are desperately overdue, which is why I have consistently sponsored and supported the Protecting America’s Workers Act. This bill makes commonsense reforms to bring worker laws into the 21st century, with minimal burden on the vast majority of employers that comply with the law. In this Congress, once again, I plan to do everything possible to fight for this important legislation.

In addition to these much-needed updates to the Occupational Safety and Health Act, we also must recognize the key role that vigilant enforcement plays in keeping workers safe. Safety laws don’t work unless there is a legitimate expectation that they will actually be enforced. In recent years, we made real progress in ensuring adequate funding for our workplace safety agencies.

For example, increases in funding for the Mine Safety and Health Administration in recent years have enabled us to meet health inspections for 3 years in a row. MSHA and the Department of Labor have funds to attack a backlog of appeals filed by mine operators. These appeals have helped some operators avoid heightened enforcement actions. OSHA has received funds to restore the number of inspectors that it had over a decade ago.

However, we in the Senate have recently had to fend off efforts to roll back this progress. H.R. 1, the Republican fiscal year 2011 appropriations bill, cut the Occupational Safety and Health Administration by 18 percent—18 percent. This would have paralyzed the agency and allowed unscrupulous employers to ignore worker safety and health protections.

This bill would have allowed the backlog of mine safety and health citations to increase. It would have prevented MSHA from moving forward on improvements it has initiated in mine emergency response and other areas. Thankfully, Senate Democrats and the President are standing firm and refusing to cut workplace safety funding to finance tax breaks for millionaires and billionaires.

As we continue the budget debates, we should keep in mind the budget reflects moral choices about the kind of country and society we want to be. Personally, I am committed to upholding the bipartisan values reflected in the passage of the Occupational Safety and Health Act. All Americans have the right to a safe workplace.

While we have made tremendous progress, as I pointed out, in the last 40 years under OSHA, there is much more work to be done. Over 4,000 lives lost each year is still unacceptably high. We owe the 4,340 workers we lost just last year our best efforts to ensure that such tragic losses are dramatically reduced. We should not rest until all of our fathers, mothers, brothers, sisters, families can go to work each day know-

ing they can come home safely each night.

Once again, on April 28, we commemorate Workers Memorial Day, and we renew our commitment to making sure workers all across America have the protections of the Occupational Safety and Health Act, that we provide the funding for these agencies to make sure the law is enforced, and to make sure we reassure every working American that they have a right—they have a right—to a safe workplace.

I yield the floor. I suggest 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. GRASSLEY. Madam 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.

#### TAX BENEFITS AND BURDENS

Mr. GRASSLEY. Madam President, I have had the privilege over most of my tenure in the Senate of serving on the Finance Committee and working with a good Senate leader such as Senator BAUCUS. I now have the privilege of serving on the committee but not as ranking member or chairman, just as a member. I compliment Senator BAUCUS for his leadership on this whole business of tax reform and for holding the hearings he is holding.

Today, a very important hearing is being held on the question of is the distribution of tax burdens and benefits equitable. The topic of today’s hearing—whether the distribution of tax benefits and burdens is equitable—is very appropriate and is a very important topic. However, I would argue there is a more important question we should be debating, and we should be answering this question: What is the purpose of the Federal income tax? We can’t talk about whether taxpayers are paying their fair share if we don’t know why we want them paying taxes in the first place.

We are in a situation now where people are talking about increasing taxes on higher income people because, supposedly, they can afford it. Probably they can afford it, but I get sick and tired of the demagoguery that goes on in Washington not just by Members of Congress but by too many people who think higher income people ought to be paying more taxes. According to the Joint Committee on Taxation’s latest analysis, 49 percent of households are paying 100 percent of the taxes coming in to the Federal Government, while 51 percent are not paying any income tax whatsoever.

How high do taxes have to go to satisfy the appetite of people in this Congress to spend money? In particular, how high do marginal tax rates have to go to satisfy those clamoring for higher taxes from the wealthiest; how high