

This was shown, as reported in *The Hill*, because Chairman CONRAD—who served on the debt commission and I believe fully understands the dangers this country faces—has repeatedly acknowledged that. I really respect Senator CONRAD's insights into the challenges this country faces. Apparently, his proposal, which was going to be somewhat better than President Obama's, I assume, failed to win the support of his conference and of Senator BERNIE SANDERS, who is a gutsy Senator and is open about what he believes. But he has described himself as a Socialist and is the Senate's most powerful advocate for bigger government. He is a member of the Budget Committee. The reason Senator SANDERS' vote became important is because the Democrats have apparently been working to pass a budget through committee without a Republican vote. They don't expect to get any Republican votes. The committee only has one more Democrat than Republicans, so the chairman needs Senator SANDERS' vote if he wants to get the budget out of committee.

Here is an excerpt from *The Hill*:

Reid said Senator Conrad presented to the [Democratic] Caucus a 50/50 split when asked about the preferred ratio of spending cuts to tax increases. . . . Conrad has moved his budget proposal to the left in order to gain the support of Senator Bernie Sanders, an outspoken progressive on the budget panel.

You know, "progressive" is a word they are using now for big government types. They want to take more money from the American people because they believe they know better how to spend it than the American people who earn it. They want to spread it around the way they want to spend it.

This is a remarkable turn of events. It is particularly stunning because the President's budget—repudiated for its dramatic levels of spending and taxes—claimed there was a 3-to-1 ratio of spending cuts to tax hikes. "We cut spending \$3 for every \$1 in tax hikes" is what the President said. Chairman CONRAD has indicated that would have been his choice. He praised that. He said he favored that same ratio. I don't think that is necessarily a good ratio. We need to reduce spending more than that.

Taken literally, what this means is that Senator CONRAD has, in a fundamental respect, moved his plan to the left of the President and the fiscal commission, which also proposed a plan that actually did reduce spending \$3 for every \$1 in tax increases or pretty close to that, pretty fairly, without gimmicks, and came close to achieving that. The President's budget was so gimmicked that it really didn't achieve \$3 in spending cuts for every \$1 of tax increases. It did not. It wasn't correct for him to say that.

It is important to note that the President and the fiscal commission use a baseline that assumes tax rates will go up. Fairly analyzed, those plans rely much more heavily on taxing than

those ratios indicate, as I said, and I fear that the composition of this new Democratic budget proposal may not even meet the 50-50 plan. The others have it in terms of taxes and spending cuts.

The merits of this 50-50 split between savings and taxes are both a question of philosophy and economics. Philosophically, the American people don't want Washington to continue raising taxes to pay for larger and larger spending. American families should not be punished for the sins and excesses of Washington.

According to the CBO, we are going to spend \$45 trillion over the next 10 years. The Senate Democratic plan, which no one is likely to see until after the committee meets—that is what we have been told, that we won't see it until it is plopped down at the beginning of the committee markup, where amendments are supposed to be offered soon thereafter—their own plan, at least from what we read about it, says it will cut or save just \$2 trillion out of \$45 trillion over the next 10 years.

The American people know there is much more we can and must do to bring this government under control and to achieve real balance in this country. What kind of balance? Between raising taxes and cutting spending, 50-50? No. The balance we need is one that respects the American people, that reduces the growth in spending and wealth taken by Washington and allows it to be kept by the American people, who earn it.

There is also a question of economics. Our committee has conducted an exhaustive survey of available research which conclusively shows that debt reduction plans that rely equally on saving money, reducing spending, and raising taxes are far less successful and result in far weaker economic growth than those plans that rely on cutting spending. We will release a white paper very soon that will share these findings with my colleagues and the country. It is very important that we understand this. What history is showing us is that when you reduce spending, you get more growth and prosperity than increasing spending and taxes.

Here is one example of the many studies we analyzed. This is a Goldman Sachs study by analysts Ben Broadbent and Kevin Daly. The report resulted from a cross-national study of fiscal reform that:

In a review of every major fiscal correction in the OECD—

The Organisation for Economic Co-operation and Development, the world's major developed economies—since 1975, we find that decisive budgetary adjustments that have focused on reducing government expenditure have (i) been successful in correcting fiscal imbalances; (ii) typically boosted economic growth; and (iii) resulted in significant bond and equity market outperformance.

In other words, the stock market and the bond market improved, and both of those are a bit shaky now after some rebound.

Tax driven—

"Tax driven," that means tax increases—

fiscal adjustments, by contrast, typically fail to correct fiscal imbalances and are damaging for growth.

That is the Goldman Sachs study. Half of our U.S. Treasury Department has been manned by people who served at one time or another at Goldman Sachs. They are not considered a right-wing group. That is what their analysts have said to us.

The Democratic Senate, I believe, should heed the large body of research showing that spending cuts on a basic economic level work better than trying to drain more out of the economy by way of taxes. In other words, the Senate should produce a budget based on facts. They should produce a budget that grows the economy, that imposes real spending discipline on Washington. They should produce a budget without gimmicks and empty promises. They should produce this budget publicly, openly, and allow the American people to review and consider it before the committee meets in 72 hours, as my colleagues have pleaded with the chairman twice to do but he will not do. They should produce a budget the American people deserve—an honest budget that spares our children from both the growing burden of debt and the growing burden of an intrusive big government.

I hope we can continue to have the opportunity to talk about this issue. It is right that the American people be engaged in it. I have to say, I feel as though we failed in our responsibility to conduct open hearings and markups on a budget.

I yield the floor.

The PRESIDING OFFICER (Mr. FRANKEN). The Senator from Iowa.

#### NATIONAL LABOR RELATIONS BOARD

Mr. HARKIN. Mr. President, recently the National Labor Relations Board general counsel issued a complaint against the Boeing Company alleging that the company had violated the National Labor Relations Act. This routine administrative procedure has set off what I call a melodramatic outcry from Boeing, the business community, the editorial writers of the *Wall Street Journal*, the National Chamber of Commerce, and, of course, our friends on the Republican side of the aisle.

A headline in the *Wall Street Journal* editorial page calls it: "The death of right to work."

South Carolina Gov. Nikki Haley declared that it was "government dictated economic larceny."

At a press conference held at the Chamber of Commerce yesterday morning, Senator DEMINT from South Carolina referred to it as "thuggery."

The senior Senator from Utah warned that foot soldiers of a vast and permanent bureaucracy were trying to implement a "leftist agenda."

One would think this one decision by an administrative arm of an independent agency was surely going to bring about the death of capitalism in the world today. This has taken on incredible proportions in terms of the outcry and the mischaracterization of what has happened.

Instead of talking about how we get Americans working again, get the middle class on its feet, our colleagues on the other side of the aisle are taking their time on the Senate floor and in press conferences downtown attacking the handling of a routine affair—an unfair labor practice charge.

I do not think it is worth the time of the Senate to debate this issue. However, because of this huge outcry and the fact that the Wall Street Journal has chosen to editorialize on this issue and because of the disturbing misinformation that has distorted public discussion of this case, I am going to take some time on the Senate floor to try to, as they say, set the record straight.

I have said before this Boeing case is a classic example of the old saying that a lie is halfway around the world before the truth laces up its boots. I would say, in this case, Senate information travels even faster than that. So it is time to set the record straight.

Here are the facts in the case. It is undisputed Boeing recently decided to locate a production facility for the new Dreamliner planes in South Carolina. They decided to do that. Many statements were made by executives of Boeing, publicly stated, that the decision to move there was based in whole or in large part on the fact that there had been work stoppages, strikes in the last few years at the Boeing plant in Everett, WA. The NLRB's complaint alleges that this decision was unlawful retaliation against the Boeing workers in Washington State.

This has been put into a political context, but let's again be clear about how this happens. The National Labor Relations Board is an independent agency set up under the Wagner Act 75 years ago. There are two branches of the NLRB. One is the Board, the NLRB, the national board. It is a five-member board appointed by the President, with the advice and consent of the Senate. On the other hand, there are the career service people, outside of the General Counsel, the civil servants who are not appointed. They are nonpolitical. They carry out the day-to-day functions of the National Labor Relations Act. If I may say, it is similar to the Food and Drug Administration. The Food and Drug Administration has an Administrator appointed by the President, with the advice and consent of the Senate, as do a lot of other independent agencies. But then there is a civil service side of it that is professional—professional people not appointed by the President. They have career civil service status.

The general counsel of the National Labor Relations Board is appointed, but the rest of the staff in the area of

the career civil service. The acting general counsel now has been a civil servant for 30 years.

What happens is, a business or a union—it does not have to be them; it can be anybody—can file a complaint with the NLRB, alleging that certain actions were in violation of the National Labor Relations Act. One of the provisions of the National Labor Relations Act says it is unlawful for a company to retaliate against workers for a protected activity conducted by those workers—protected activity.

One of the protected activities under the National Labor Relations Act is, of course, the right to organize, the right to join a union, and, of course, under the Taft-Hartley bill, some years later, the right not to join a union if you do not want to, so-called right-to-work States.

The protected activity in this case is the right to strike. The National Labor Relations Act protects that activity. Organized workers in a union have the right to strike. It is a protected activity. A company cannot retaliate against workers for exercising that right.

So if—if, I say “if”—if the Boeing Company did, in fact, move a production line to another State in retaliation against the workers who exercised their right to strike in Washington, that would be illegal for Boeing to do that—unlawful. I said “if” because I am not here taking a side in the case. I am not certain where the truth lies. This is for the trier of fact and the trier of law.

When a complaint such as this comes to the National Labor Relations Board, they investigate it. The National Labor Relations Board investigated, under the general counsel's office, the civil service part. They did an investigation. They took affidavits. They talked with people to find out whether there was any cause to move forward.

Again, whether it is right or wrong, I do not know, but this independent civil servants decided there was enough evidence for them to warrant taking this case to an administrative law judge. That is the process. Boeing then can make its case before the administrative law judge. The general counsel's office can make its case. The administrative law judge then makes a decision. As I understand it, the administrative law judge can find for the general counsel, it can uphold their theory or it can modify it.

After that is done, either side can appeal it. That appeal then goes from the civil service part over to the National Labor Relations Board. After the Board then reviews it, they make a decision. They either uphold what the administrative law judge said or they do not uphold it.

From there, either side can appeal to the circuit court of appeals, and from the circuit court of appeals, they can appeal to the Supreme Court of the United States. That is the process. That process has been followed now for 75 years.

We follow similar processes in other independent agencies of the Federal Government. I mentioned the Federal Food and Drug Administration, the Federal Trade Commission. A lot of other independent boards and agencies have that same process.

What has happened now is, many of our friends on the Republican side and in the business community have now taken up the hue and cry that this process should be interfered with, that this process should somehow be stopped politically. I do not think it is our right, our job here to interfere in something such as that politically. If my friends on the Republican side do not like the provision of the National Labor Relations Act which says it is illegal to take retaliation against workers for protected activity, if my friends on the Republican side want to change that law, offer a bill, offer an amendment. That law can be changed. With both bodies—the House and the Senate—and the President signing it, we can change it. But it is wrong for, I believe, elected officials, such as myself or anyone else, to interfere in that process and to cast it as a political decision. But that is what is being done by so many Republican Senators and people in the business community.

They have alleged that President Obama was behind this, that somehow because he has appointed a couple members of the National Labor Relations Board that he is behind this issue. President Obama had nothing to do with it. This was a complaint filed by the Machinists Union, the International Association of Machinists, with the NLRB. President Obama has nothing to do with this whatsoever, and he should not have anything to do with it. But, again, people on the Republican side are alleging—again, misinformation, misinformation, misinformation going out—that somehow this is being orchestrated out of the White House.

Again the facts: The facts are there was a complaint filed. The National Labor Relations Board is doing exactly what they have done for the last 75 years. It is going to go before an administrative law judge and then find out how it works its way through the courts at that time.

I would ask my friends on the Republican side, if in, fact—if, in fact—the Boeing Company did retaliate against workers because of a protected activity, do my friends on the Republican side say that should be OK? Is that what they are saying; that if workers exercise a legally protected right and a company retaliates against those workers anyway they ought to be able to do that?

I can take all kinds of cases. Let's say a company decides to move a plant from Southern California to, let's just say Fargo, ND, and the reason they state they moved it was because there were too many Hispanics working in their plant in Southern California and they didn't like that. They wanted to

move it to Fargo, ND, because there are not that many Hispanics there.

Guess what, folks. That is illegal. That is illegal. Do my friends on the Republican side say they ought to be able to do that in violation of all our civil rights laws in this country? Of course not.

People say: Of course, they can't make that kind of decision based on that. They can't make a decision to move a plant where there are more men than women so they won't have to hire more women; or less African Americans so they don't have to hire more African Americans. We can carry this on and on.

So I hope my friends on the Republican side are not saying a company can retaliate and then just walk away without any penalties, without even any recourse by the workers to have their cases heard. That is what I am here defending. I am defending the rights of the workers in the plant in Everett, WA, to have their complaints heard.

Now, I don't know the facts. I know a little of the law, but I don't know the facts. That is for the trier. That is for the administrative law judge and the NLRB and the appeals court and the Supreme Court. That is their jurisdiction. But for us to say it shouldn't even go there; that these workers can't even bring a case—and I might add, there are a lot of cases that are filed with the NLRB that don't go there because the NLRB investigates; they do their due diligence; and they find out there is not even enough evidence to warrant going forward.

So all I can assume is here there was enough evidence to warrant going forward. Whether there is enough to actually find that Boeing did retaliate, again, I don't know. That is up to the trier of fact—the administrative law judge. But I am hearing from these dramatic outcries that somehow we are destroying the right to work. This case has nothing to do with right to work—nothing—zero. It has nothing to do with right-to-work laws. This case has nothing to do with the outcry that somehow this is destroying the essence of a business to be able to decide, in its best economic interest, where to locate.

If Boeing wants to open their plant in Timbuktu, they can do that. If they want to open a plant in South Carolina, they can do that. What they can't do is open a plant someplace in retaliation against the workers exercising their legally protected rights; that, they can't do.

Now, again, this is an evidentiary-type hearing. So the evidence will have to come forward as to just what decisions were made, why they were made. Quite frankly, there are executives of Boeing who have publicly stated—publicly—that one of the reasons they moved was because of the work stoppages at the Everett plant—work stoppages, strikes. Is that enough evidence? I don't know. Maybe it is enough evi-

dence to warrant going forward. Obviously, the general counsel's office decided there was.

I would also point out, Mr. President, the general counsel's office in cases such as this works long and hard to try to settle the case—to get both sides to settle. I know the general counsel's office in this case did try to do that, but they were unsuccessful; therefore, the case goes forward.

So I want to point out again—just to reiterate, Mr. President—this is not about doing away with the right-to-work laws. It has nothing to do with that. It has nothing to do with interfering with businesses' making decisions on where to locate their plants or anything such as that. It has nothing to do with that. It has nothing to do with destroying capitalism. It has to do with whether workers have a right—first of all, can they exercise their legally protected rights, and then can they make a case to the NLRB they were retaliated against because they exercised their legal rights. That is what this case is about. That is what this case is about.

Again, I understand the desire of certain people to raise money for political campaigns. I understand that. I understand how one might exaggerate things a lot of times in direct mail and in the press. I am sure there will be a lot of businesses that will hear: You have to contribute to this campaign or that campaign to stop President Obama or to stop the National Labor Relations Board from taking your business decisions away from you.

Well, that is misinformation. I know it can be used to raise a lot of campaign money, but it is not right. It is not right to deceive and to misinform the American people about a basic right that protects middle-class workers in America. Americans understand fairness, and they resent it when the wealthy and the powerful manipulate the political system to reap huge advantages at the expense of working people.

I think I have always been a pretty good friend of the Boeing Company. I have been a big supporter of Boeing in so many things, going back in my 30 years in the Congress. It is a great company. They provide a lot of great jobs for American workers. They build great airplanes—better than Airbus, I might say. But it is wrong for them now to come in and try to get the political system to undo a legal administrative procedure the workers at that Boeing plant have instigated and have asked for the NLRB to investigate and to charge Boeing with retaliation.

What is happening in this case is that the powerful and the big are trying to manipulate the political system. Powerful corporate interests are pressuring Members of this body to interfere with an independent agency rather than letting it run its course.

We should not tolerate this interference. We should turn our attention to the issues that matter to American

families—how we can create jobs in Washington, and, yes, in South Carolina, in Iowa, and across the country; how we can rebuild the middle class, how we can ensure that working hard and playing by the rules will help rebuild a better life for families and for their children. Playing by the rules is what the workers did. They played by the rules. They exercised their legal rights, and now there is a complaint filed. I say it is wrong for us to interfere in that.

Again, if we don't like the law, if we don't like the administrative procedures that undergird this, it can be changed. It can be changed. But I dare say we have had 75 years of the Wagner Act—of this process, and I will close on this: Sometimes businesses file a complaint with the NLRB against a union activity, and that is investigated. That goes before administrative law judges, too. So both sides use this.

I think it is unbecoming for us now to try to turn this into some kind of a political maelstrom, a political tornado, when it shouldn't be that. Let's let the law and let's let the administrative procedure do its job. Then, if corrective action needs to be taken, then it is the purview of Congress to deal with it at that time. Not now.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

#### ALLEN NOMINATION

Mr. WEBB. Mr. President, I would like to express my appreciation to the leadership in the Senate of both parties for scheduling a vote today on Arenda Wright Allen's confirmation for a seat on the U.S. District Court for the Eastern District of Virginia.

All of us in this body know how important it is to fill the vacancies on our Federal bench, and particularly when we have highly qualified nominees who have no particular issues that need to be discussed in a political sense, and Virginia is no exception in this matter. The sheer volume of our Federal court workload demands we appoint dedicated, qualified jurists.

In that regard, Senator MARK WARNER and myself were very pleased to have recommended Arenda L. Wright Allen to the President in June of last year for this position on the U.S. District Court for the Eastern District of Virginia. President Obama nominated Arenda Wright Allen last December. She was renominated this year. She was reported out of the Judiciary Committee without opposition on March 10 of this year, and I believe the President has made an extraordinary choice in nominating Ms. Wright Allen.

Whenever a vacancy has occurred on the Virginia Federal bench, Senator WARNER and I have very carefully conducted thorough and extensive reviews of candidates for the position. This review process includes interviews and recommendations by the bar associations and in-person interviews with