

who fought for a better America and served our country with honor. I ask my colleagues to join me today in honoring our Nation's heroes who have given the ultimate sacrifice to make sure that our country remains safe and free.

RECOGNIZING THE S.S. "BADGER"

Mr. DURBIN. Mr. President, recently Chicagoans were asked in a poll what asset of their great city they valued most. By a large margin, they chose Lake Michigan.

Lake Michigan is the primary source of drinking water for more than 10 million people—not just in my home State of Illinois but also in Wisconsin, Indiana, and Michigan.

The lake is also part of the \$7 billion per year Great Lakes fishing industry. Millions of people visit Lake Michigan for its recreational opportunities like swimming, kayaking, boating, or just taking a walk along the beach. It is a beautiful lake.

Unfortunately, we are faced with a threat to the health of our Great Lake.

This week, on Thursday, May 24, the coal-fired car-ferry S.S. *Badger* will begin its 60th year sailing on Lake Michigan.

Many people have fond memories of the *Badger*, steaming from its homeport of Ludington, MI, to Manitowoc, WI, every summer. But they need to be reminded of this: It is the last coal-fired ferry in the United States, and every year it dumps another 500 tons of coal ash into Lake Michigan. Think about that for a moment—500 tons of coal ash every year since the 1950s. What must the bottom of the lake look like?

The owner of the *Badger* insists that the coal ash is basically just sand, but we know better. Scientists are concerned about coal ash because it contains chemicals like arsenic, lead, and mercury.

Once in the lake, these chemicals enter the food chain through the water we drink and the fish we eat. Then they accumulate in our bodies and can cause cancer and neurological damage. In fact, we already are facing problems from mercury contamination of the fish that are part of our food supply. How can we continue to accept behavior that will just make this problem worse?

If the *Badger's* owners had only recently found that dumping coal was a problem, it might be OK to cut them some slack. But the *Badger's* owners have a long history of avoiding the steps needed to clean up their act.

Most other vessels on the Great Lakes converted from coal to diesel fuel long ago but not the *Badger*.

In 2008, conversion to a new fuel was way overdue. But a waiver was placed into EPA's vessel general permit to allow the *Badger* to continue dumping coal ash through 2012. I think that was 5 years too many of toxic dumping. But to make matters worse, the *Badger's*

owners still have not made a reasonable effort to stop dumping coal ash into the lake. Instead, they are doing everything they can to avoid switching to a new fuel.

Last fall, the *Badger* was nominated to be a national historic landmark, and an amendment was added to House Coast Guard and Maritime Transportation Act to exempt all vessels of historic significance from environmental regulation.

The national historic landmark designation was created to commemorate properties that have special significance in American history. The designation has been appropriately used to protect sites including the home of President Abraham Lincoln in Springfield, IL, and the S.S. *Milwaukee Clipper*, a retired steamship in Muskegon, MI. The national historic landmark designation was never intended to allow polluters to avoid complying with Federal regulations that protect our health and the environment.

I have urged Interior Secretary Salazar to oppose the designation of the *Badger* as a national historic landmark. I also ask my fellow Senators to join me in opposing language in the House Coast Guard and Maritime Transportation Act that would exempt "vessels of historic significance" from EPA regulation.

After I came out in opposition to this strategy, the *Badger's* owner came to Washington to talk to me.

He mentioned that he was applying for an EPA permit to continue dumping coal ash while he pursues conversion of the *Badger* to run on liquefied natural gas. He would like to make the *Badger* the greenest vessel on the Great Lakes. That would be terrific, but it just isn't a realistic option right now. Today, there are few suppliers of liquefied natural gas. There are no shipyards in the United States qualified to convert passenger vessels to run on liquefied natural gas. And it would take close to \$50 million just to develop the infrastructure needed to fuel the *Badger* at the dock.

One day, all the boats on the Great Lakes might be powered by natural gas. But it isn't a realistic plan for the *Badger* to stop dumping coal ash. It is just another delaying tactic, when the *Badger's* owners were given a deadline 5 years ago.

The *Badger* has blatantly avoided complying with current EPA regulations. We cannot reward the owners for their negligence with permanent statutory protection from EPA regulation.

This is more than a car ferry with a venerable tradition. This is a vessel that generates and dumps 4 tons of coal ash laced with mercury, lead, and arsenic into Lake Michigan every day. This Great Lake cannot take any more toxic dumping, no matter how historic or quaint the source may be.

HONORING OUR ARMED FORCES

Mr. COCHRAN. Mr. President, I rise today to offer a Memorial Day tribute

to the brave men and women who have lost their lives protecting the safety and security of our citizens and American interests around the world.

Today, there are media reports about the American people becoming "war weary" after more than a decade of combat activities in Afghanistan, Iraq and elsewhere. Many lives and great expense have been marshaled since the 9/11 attacks, but I would submit that Americans are unfaltering in their appreciation for the honor, courage and dedication shown by our servicemen and women. This is especially the case for those who have made the ultimate sacrifice by giving their lives for their country.

This Memorial Day, I will take time to honor our brave fallen warriors, including the more than 70 military personnel from Mississippi who have died in the service of our Nation in Iraq, Afghanistan and around the world over the past decade.

For the RECORD, I offer the names of these brave Mississippians who have fallen since the Nation commemorated Memorial Day last year. They are:

Sgt. Christopher R. Bell, 21, of Golden, who died June 4, 2011.

Petty Officer Stacy O. Johnson, 35, of Rolling Fork, who died July 18, 2011.

LCpl. Edward J. Dycus, 22, of Greenville, who died Feb. 1, 2012.

SFC Billy E. Sutton, 42, of Tupelo, who died Feb. 7, 2012.

MSG Scott E. Pruitt, 38, of Gautier, who died April 28, 2012.

SSG Carlous Perry, 30, of West Point, who died April 30, 2012.

I am confident that the people of my State will join the national commemoration to remember these men and the thousands of Mississippians, who over the course of this great nation's history, have courageously served and sacrificed their lives in that service. We will also recall their families and their profound loss. On this day of remembrance, we salute those sacrifices and express our gratitude for their brave service.

In these challenging times, we should also reaffirm our commitment to the servicemen and women who today put themselves in danger on our behalf. We must remain resolved to ensure that those who join our Armed Forces are the best equipped and best trained in the world, and that we meet our obligations to those who have served and sacrificed in the defense of our nation.

Let me close by expressing my personal gratitude to all our fallen heroes, and communicating my sincere appreciation to those Mississippians and Americans who answer the call to arms and find themselves in harm's way.

VOTE EXPLANATION

Mr. BLUMENTHAL. Mr. President, I was unavoidably absent during today's votes on the Food and Drug Administration Safety and Innovation Act due to my daughter's high school graduation. I supported this bipartisan legislation earlier this year when it was before the Senate Health, Education,

Labor, and Pensions Committee, and had I been able to attend today's votes, I would have voted in support of final passage of this important legislation.

Additionally, I would have voted to support the Bingaman amendment No. 2111, the Murkowski amendment No. 2108, the Sanders amendment No. 2109 and the McCain amendment No. 2107. I would have voted against tabling the Durbin amendment No. 2127 and voted to table the Paul amendment No. 2143.

During the Senate's debate on S. 2343, the Stop the Student Loan Interest Rate Hike Act of 2012, I would have opposed the Alexander amendment No. 2153 and supported passage of S. 2343.

OFFICER SAFETY ACT

Mr. DURBIN. Mr. President, I would like to make clear for the record a matter relating to the Officer Safety Act of 2012. I thank my colleague from Iowa for working with me on this legislation. I cosponsored this bill after changes were made, in the nature of a substitute amendment, to clarify the limited scope of the legislation. The Officer Safety Act clarifies when an officer is "acting under the color of his office" for removal purposes only. As my colleague has stated previously, the bill provides no liability protection. Whether a law enforcement officer is deemed to have been "acting under the color of his office" for removal purposes under 28 U.S.C. §1442(c), as amended, is a separate question from whether that officer should subsequently be held liable for his conduct, whether the officer should be considered immune from suit, or whether the officer's defense in a criminal trial has merit.

The clarification of "color of . . . office" and the expansion of removal eligibility granted by this legislation is not meant to affect those latter determinations of liability and immunity. The bill is simply meant to give these law enforcement officers the ability to make arguments pertaining to liability, immunity, and potential criminal defenses in Federal rather than in State court. Does my colleague agree?

Mr. GRASSLEY. My colleague from Illinois is correct.

STRUGGLING AGAINST BUREAUCRACY

Ms. SNOWE. Mr. President, this week is National Small Business Week, which is a time to celebrate the entrepreneurial spirit behind American enterprise. But, as I was reminded by a piece that was published recently in the Wall Street Journal, it is also a time to remember how government can better serve the small businesses in America. In today's economy, the Nation needs an effective regulatory environment that allows small business to grow and create jobs while keeping our families and environment safe. I ask unanimous consent to have this article printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, May 22, 2012]

THE RED TAPE DIARIES—ONE SMALL BUSINESS OWNER'S STRUGGLE AGAINST BUREAUCRACY

(By Nicholas N. Owens)

This week is National Small Business Week, a time to celebrate the ingenuity of entrepreneurs—and to consider how government can provide better service to the small enterprises that form the backbone of American industry.

Consider the Environmental Protection Agency official who described his agency's work as akin to crucifixion. In a Web video from 2010 that recently came to light, Al Armendariz likened regulatory enforcement to the Roman imperial practice of crucifying people to serve as an example to others: soldiers would go to "a town somewhere, they'd find the first five guys they saw, and they'd crucify them," he explained. "And then, you know, that town was really easy to manage for the next few years."

Mr. Armendariz's point was that making examples of certain businesses or industries would serve as a deterrent to ensure compliance. But the way he illustrated his point provoked outrage, and within days he had resigned from the agency—proving again that the journalist Michael Kinsley was right to say that a "gaffe" in Washington is when someone accidentally tells the truth.

I know first-hand that Mr. Armendariz's view is a truthful representation of how many regulators view their function. While serving as the Small Business Administration's (SBA) national ombudsman from 2006 to 2009, I worked with small business owners who believed they were falling victim to unfair or excessive regulatory enforcement. All too often, I saw federal regulators take a stridently adversarial stance toward the industries they oversee.

In 2007, for example, I was contacted by Rob Latham, who runs a small Internet sales company in Greenville, S.C. Mr. Latham started his business in 2005 and was prepared to work hard to make it succeed.

He wasn't prepared for how easily a run-in with federal regulators could bring him to the brink of ruin. That's what happened in 2007 after he found himself embroiled in a months-long dispute with the EPA over a shipment of engines he had imported.

The issue came down to labeling. Although the product Mr. Latham was importing met the EPA's environmental standards, regulators ordered the shipment seized because it contained labels that could be removed with a razor blade. (In other words, they were somewhat vulnerable to damage or tampering.) Mr. Latham thought the dispute could be easily resolved but was surprised by the EPA's intransigence—its dedication to junking his entire shipment—when he tried to work with them.

Mr. Latham wasn't ignorant of the regulations that governed his business—quite the opposite. He had carefully studied the rules that governed the products he was importing, and he thought he had taken all appropriate steps to ensure compliance. But as a small business owner with no in-house legal team, he had little idea how complicated the bureaucratic process would be.

He met with regulators in Washington to resolve the issue but found that they doubled down on their position, becoming hostile and aggressive.

That's when he reached out to my office. Hearing of his plight, I contacted the EPA on his behalf and started working with regulators to resolve the case. Soon thereafter, the regulators relented and allowed Mr.

Latham's imports to move forward—but only after he paid a substantial penalty of \$10,000, an apparent tribute to the regulators to allow them to save face.

The story ends happily: Once the EPA dispute was resolved, Mr. Latham's business grew swiftly. Today his company boasts three warehouses and more than 20 employees.

But had Mr. Latham not connected with my office, he might have lost his business. It's frightening to think what other small business owners encounter in similar situations. What about those who don't know where to turn, or who aren't lucky enough to stumble across the right advice or the right advocate?

As of 2008, small businesses faced an annual regulatory cost of \$10,585 per employee, according to an SBA regulatory impact study published two years ago.

So was Rob Latham crucified? That's too strong a word, because it's likely he wasn't specifically targeted—he was simply caught up in a web of red tape and bureaucracy, and the regulators had little interest in helping him get through the impasse. His struggle is a case study in why we need a regulatory regime that's fair, accountable and allows our economy to grow again.

RECOGNIZING NATIONAL SMALL BUSINESS WEEK

Mr. BOOZMAN. Mr. President, this week marks the 49th annual National Small Business Week, a time to celebrate the innovations, ideas, and hard work of our entrepreneurs. Small businesses are the backbone of our economy, accounting for 65 percent of new jobs over the last 17 years. This vital economic component also employs about half of all private sector employees.

As a former small business owner I recognize the difficulty these owners have to plan for future growth and investment. It is our job to make sure we provide an environment that helps these engines of economic growth. We need to make sure our small businesses have the resources they need to continue providing good, well-paying jobs for hard-working Americans. I was pleased to support the American Jobs Act in March. This legislation seeks to increase capital formation, spur the growth of startups and small businesses, and enable more small-scale businesses to enter public markets.

Arkansans are familiar with what it takes to build a business from the ground up. As home to Fortune 500 companies—including the world's largest retailer, Wal-Mart, and the world's largest processor of chicken, Tyson's—that both started as a small business, residents of the Natural State understand the risks and rewards associated with small businesses.

This week the U.S. Small Business Administration recognized the work of Americans who excel in their work to help small businesses. I am proud to say that Kelly Massey of the Henderson State University Small Business and Technology Development Center in Arkadelphia, AR was recognized as the SBA's Small Business Development Center Counselor of the Year winner.