

JUSTICE FOR WORKERS AT
AVONDALE SHIPYARD

Mr. WELLSTONE. Mr. President, I rise today in solidarity with the workers at Avondale Shipyard in Louisiana, who exactly 6 years ago exercised their democratic right to form a union and bargain collectively.

They voted for a union because that was the only way they knew to improve their working conditions, conditions that include more worker fatalities than any other shipyard in the country, massive safety and health violations, and the lowest pay in the shipbuilding industry.

Unfortunately, Avondale and its CEO, Albert Bossier, have refused to recognize the union Avondale workers voted for back in 1993. For 6 years the shipyard and its CEO have refused to even enter into negotiations. According to a federal administrative law judge, Avondale management has orchestrated an "outrageous and pervasive" union-busting campaign in flagrant violation of this country's labor laws, illegally firing and harassing employees who support the union.

I met with some of the Avondale workers several weeks ago when they were here in Washington. What they told me was deeply disturbing. They told me about unsafe working conditions that make them fear for their lives every day they are on the job. They told me that job safety was the number one reason why they voted to join a union back in 1993. And they told me that Avondale continues to harass and intimidate workers suspected of supporting the union.

In fact, it appears that one of those workers, Tom Gainey, was harassed when he got back to Louisiana. Avondale gave him a three-day suspension for the high crime of improperly disposing of crawfish remains from his lunch.

The Avondale workers also told me that they are starting to lose all faith in our labor laws. For 6 years Avondale has gotten away with thumbing its nose at the National Labor Relations Board, the NLRB. The Avondale workers said they are starting to think there is no point in expecting justice from the Board or the courts. And given what they have been through, I think it is hard to disagree.

In February 1998, a Federal administrative law judge found Avondale guilty of "egregious misconduct," of illegally punishing dozens of employees simply because they supported the Avondale union. The judge, David Evans, found that Avondale CEO Albert Bossier had "orchestrated" an anti-union campaign that was notable for the "outrageous and pervasive number and nature of unfair labor practices."

In fact, Judge Evans found Avondale guilty of over 100 unfair labor practices. Specifically, Avondale had illegally fired 28 pro-union workers, suspended 5 others, issued 18 warning notices, denied benefits to 8 employees, and assigned "onerous" work to 8 others.

Judge Evans also found that, during public hearings in the Avondale case, Avondale's Electrical Department Superintendent, a general foreman, and two foremen had all committed perjury. He further found that perjury by one of the foremen appears to have been suborned, and he implied that Avondale and its counsel were responsible.

Avondale's intimidation of its employees was so outrageous, so pervasive, and so systematic that Judge Evans came down with a highly unusual ruling. He ordered CEO Albert Bossier to call a meeting with Avondale workers and personally read a statement listing all of the company's violations of the law and pledging to stop such illegal practices. Judge Evans further ordered Mr. Bossier to mail a similar confession to workers at their homes.

Finally, Judge Evans fined Avondale \$3 million and ordered the shipyard to reinstate 28 workers who had been illegally fired for union activities. Pretty remarkable.

What is even more remarkable is that Avondale still hasn't paid its fine, still hasn't rehired those 28 workers, and still hasn't made any apology. Why not? Because instead of complying with Judge Evans' order, Avondale chose to challenge the NLRB in court.

Judge Evans' ruling concerned Avondale's unfair labor practices during and after the 1993 election campaign. A second trial was held this past winter on charges of unfair labor practices during the mid-1990s. Now the NLRB has filed charges against Avondale for unfair labor practices since 1998, and a third trial on those charges is scheduled to begin later this year.

This has been one of the longest and most heavily litigated unionization disputes in the history of the NLRB. After workers voted for the union in June 1993, Avondale immediately filed objections with the Board. But in 1995 an NLRB hearing officer upheld the election, and in April 1997 the Board certified the Metal Trades Council as the union for Avondale workers, once and for all rejecting Avondale's claims of ballot fraud.

At this point, you might think Avondale had no choice but to begin negotiations with the union. But they didn't. Avondale still refused to recognize the union or conduct any negotiations. So in October 1997 the NLRB ordered Avondale to begin bargaining immediately. Instead, Avondale decided to challenge the NLRB's decision in the Fifth Circuit Court of Appeals, and has succeeded in delaying the process for another two years, at least.

Safety problems at Avondale were the central issue in the 1993 election campaign. "We all know of people who have been hurt or killed at the yard," says Tom Gainey, the Avondale worker who was harassed after visiting Congressional offices several weeks ago. "That's one of the main reasons we

came together in a union in the first place."

Avondale has the highest death rate of any major shipyard. According to federal records, 12 Avondale workers died in accidents from 1982 to 1994. Between 1974 and 1995, Avondale reported 27 worker deaths. The New Orleans Metal Trades Council counts 35 work-related deaths during that period. One Avondale worker has died every year, on average, for the past thirty years.

It doesn't have to be that way. Avondale's fatality rate is twice as high as the next most dangerous shipyards. And it's more than twice as high as its larger competitors, Ingalls Shipyard and Newport News.

Avondale workers have died in various ways, many from falling or from being crushed by huge pieces of metal. Avondale workers have fallen from scaffolds, been struck by falling ship parts, been crushed by weights dropped by cranes, and have fallen through uncovered manholes.

Avondale's safety problems are so bad that it recently got slapped with the second largest OSHA fine ever issued against a U.S. shipbuilder. OSHA fined Avondale \$537,000 for 473 unsafe hazards in the workplace. OSHA found that 266 of these violations—more than half—were "willful" violations. In other words, they were hazards Avondale knew about and had refused to fix.

Most of these violations were for precisely the kind of hazards that account for Avondale's unusually high fatality rate. These 266 "willful" violations involved hazards that can lead to fatal falls, and three of the seven workers who died at Avondale between 1990 and 1995 died from falls. Didn't Avondale learn anything from these tragedies?

OSHA found 107 "willful" violations for failure to provide adequate railings on scaffolding. 51 willful violations for unsafe rope rails. 30 willful violations for improperly anchored fall protection devices. 25 willful violations for inadequate guard rails on high platforms. And 27 willful violations for inadequate training in the use of fall protection.

OSHA also found 206 "serious" violations for many of the same kind of hazards. "Serious" violations are ones Avondale knew about—or should of known about—that pose a substantial danger of death or serious injury.

This is what Labor Secretary Alexis Herman had to say about Avondale's safety problems: "I am deeply concerned about the conditions OSHA found at Avondale. Falls are a leading cause of on-the-job fatalities, and Avondale has put its workers at risk of falls up to 90 feet. The stiff penalties are warranted. Workers should not have to risk their lives for their livelihood."

OSHA Assistant Secretary Charles Jeffress said, "Three Avondale workers have fallen to their deaths, one each in 1984, 1993, and 1994. This inspection revealed that conditions related to these fatalities continued to exist at the

shipyard. This continued disregard for their employees' safety is unacceptable."

And what was Avondale's response? True to form, Avondale appealed the OSHA fines. Avondale claimed that many of the violations were the result of employee sabotage. Avondale also tried to argue that the OSHA inspector was biased. In response, the head of OSHA observed that "it's very unusual for a company to accuse its own employees of sabotage, and it's very unusual for a company to attack the objectivity of OSHA inspectors."

OSHA had found many of the same problems back in 1994, the last time it conducted a comprehensive inspection of Avondale. In 1994 OSHA cited Avondale 61 times for 81 violations, with a fine of \$80,000 that was later settled for \$16,000.

There may be more fines to come. The OSHA inspection team will soon finish its review of Avondale's safety and medical records. This review was delayed last October when Avondale launched yet another legal battle to prevent OSHA from obtaining complete access to its records.

One of the Avondale workers who visited my office several weeks ago was there during the OSHA inspection, and told me how it happened. OSHA tried to inspect Avondale's Occupational Injuries and Illness logs. But Avondale refused complete access and, according to OSHA, "attempted to place unnecessary controls over the movements of the investigative team and their contact with employees."

When OSHA issued a subpoena for the logs, Avondale stopped all cooperation with OSHA and told the inspectors to leave the premises. OSHA had to go to New Orleans district court to get an order enforcing the subpoena.

The other main issue in the 1993 election campaign was pay and compensation. Avondale workers have long been the worst paid in the shipbuilding industry. They have the lowest average wage of any of the five major private shipyards. According to a survey conducted by the AFL-CIO, Avondale workers make 29 percent less than workers at other private contractors for the Navy, and 48 percent less than workers at the nation's federal shipyards. One Avondale mechanic, Mike Boudreaux, says, "It's a sweatshop with such low wages."

By way of comparison, look at Ingalls Shipyard, down the river in Pascagoula, Mississippi. The average pay at Ingalls is higher than the top pay at Avondale. Or look at wages in nearby New Orleans for plumbers, pipe fitters, and steam fitters. Their average wage is higher than the top pay at Avondale.

Avondale is also known for its inadequate pension plan. There are Avondale retirees with 30 years' experience who retire with \$300 per month. And workers complain that they can't afford Avondale's family health insurance, which costs \$2,000 per year.

Avondale workers pay more for health care every week than Ingalls workers pay every month.

Unlike other shipyards, Avondale has had a hard time attracting workers, and inferior working conditions certainly have a lot to do with it. Avondale has responded to this labor shortage by using prison labor and importing workers from other countries. It imported a group of Scottish and English workers who were so appalled at the working conditions and low pay that they quit after three days. Nearby Ingalls shipyard, by contrast, has never had to import foreign workers on visas.

So why does Avondale pay so little? Because times are tough? Hardly. Avondale CEO Alfred Bossier has been doing quite well, thank you. In 1998, Mr. Bossier's base salary and bonuses totaled \$1,012,410, up more than 20 percent from the previous year. His benefits increased to \$17,884, up 73 percent from the previous year. And he got 45,000 shares of stock options, worth up to \$1,927,791. The grand total comes to about \$3 million.

Meanwhile, the average hourly production worker at Avondale earns less than \$10 an hour—or around \$20,000 per year. So Al Bossier brings home about 150 times the salary of the average hourly worker.

The obvious question is how can Avondale get away with such appalling behavior? How can it be so brazen? The answer is depressing. Avondale gets away with it because our labor laws are filled with loopholes. Avondale gets away with it because the decks are stacked against workers who want to improve their working conditions by bargaining collectively.

Avondale gets away with it because they have enough money to tie up the courts, knowing full well that organizing drives can fizzle out in the five or six or seven years that highly-paid company lawyers can drag out the process. When asked how Avondale gets away with it, one worker laughed and said, "This is America. It's money that talks."

There's one other reason why Avondale gets away with it, and this is something I find especially troubling. They get away with it because American taxpayers are footing the bill. The Navy and the Coast Guard are effectively subsidizing Avondale's illegal union-busting campaign. Avondale gets about 80 percent of its contracts from the Navy for building and repairing ships. If it weren't for the United States Navy, Avondale probably wouldn't exist. This poster child for bad corporate citizenship is brought to you courtesy of the American taxpayer.

This is a classic case of the left hand not knowing what the right hand is doing. On the one hand, the NLRB and OSHA find Avondale in flagrant violation of the law. On the other hand, the Navy keeps rewarding Avondale with more contracts. Avondale has gotten \$3.2 billion in contracts from the Navy

since 1993, when the shipyard first refused to bargain collectively with its workers.

To add insult to injury, Avondale is billing the Navy for its illegal union-busting. The Navy agreed to pick up the tab for anti-union meetings held on company time in 1993. Nearly every day for three months leading up to the union election, Avondale management called workers into anti-union meetings. Then they billed the Navy for at least 15,216 hours spent by workers at those meetings.

Some of these meetings were the same ones where Avondale illegally harassed and intimidated workers, according to Judge Evans. Yet the Defense Contractor Auditing Agency, DCAA, approved Avondale's billing as indirect spending for shipbuilding. And Avondale billed the Navy \$5.4 million between 1993 and 1998 for legal fees incurred in its NLRB litigation.

When the Navy looks the other way as one of its main contractors engages in flagrant lawbreaking, it sends a message. When the Navy keeps awarding contracts to Avondale, when it pays Avondale for time spent in anti-union meetings where workers are harassed and intimidated, when it pays for the legal costs of fighting Avondale's workers, it sends a message. It sends the message that this kind of behavior by Avondale is okay.

When Avondale continues to beat out other shipyards for huge defense contracts, that sends a message too. It sends a message that this is the way you compete in America today. You compete by violating your workers' rights to free speech and free assembly. You compete by illegally firing and harassing your workers. You compete by keeping your employees from bettering their working conditions through collective bargaining.

And that message is not lost on other companies. They see what Avondale is getting away with, and they draw the obvious conclusions. The AFL-CIO's state director pointed to another Louisiana company that initially refused to recognize the union its workers had elected. "Part of it is they're following Bossier's lead," she said. "After all, the guy's been at it for five years [now six] and he still gets all the contracts he wants."

Under federal regulations, the Navy is required to exercise oversight over the \$3.2 billion in contracts it has awarded to Avondale. And the Navy can only award contracts to "responsible contractors." The contracting officer has to make an affirmative finding that a contractor is responsible. Part of the definition of a "responsible contractor" is having a "satisfactory record of integrity and business ethics." So the Navy has to affirmatively determine that Avondale has a satisfactory record of integrity and business ethics.

Well, what exactly would qualify as an unsatisfactory record? Judge Evans ruled that Avondale management had

orchestrated an "outrageous and pervasive" union-busting campaign consisting of over 100 violations of labor law and the illegal firing of 28 employees. OSHA has found 473 safety violations—266 of them willful—and fined Avondale \$537,000, the second largest fine in U.S. shipbuilding history.

The AFL-CIO has asked the Navy to investigate Avondale's business practices, as a first step to determining what steps should be taken. That doesn't sound so unreasonable to me. In fact, it seems to me that the Navy ought to be concerned when its contracts come in late, as they have at Avondale. It ought to be concerned when a contractor's working conditions are so bad that it suffers from labor shortages.

And it seems to me the Navy ought to investigate whether a company found to have orchestrated an "outrageous and pervasive" campaign to violate labor laws is a responsible contractor. Or whether a shipyard found to have willfully violated health and safety laws 266 times is a responsible contractor.

The Navy says it cannot take sides in a labor dispute. But nobody is asking them to do that. The problem is that they already appear to have taken sides. When the Navy finances Avondale's union-busting campaign, when it pays legal fees for Avondale's court challenges, when it certifies Avondale as a responsible contractor with a satisfactory record of integrity and business ethics, and when it rewards Avondale with Navy contracts, the Navy appears to be taking sides.

What has happened at Avondale should give us all pause. The NLRB's general counsel acknowledges that the Avondale case exposes the many problems with the system, caused in part by budget cuts and procedural delays. "It's hard to take issue with the notion that it's frustrating that an election that took place five years ago [now six] still hasn't come to a conclusion. It's something we're looking at as an example of the process not being what it should be."

Indeed, the Avondale case exposes glaring loopholes in our labor laws that make it next to impossible for workers to form a union and bargain collectively. In fact, this case provides us with a roadmap for putting a stop to rampant abuses of our labor laws.

First of all, we need to restore cuts in the NLRB's budget so that defendants with deep pockets can't delay the process for years and years. But beyond that, we need to improve our labor laws so we can put a stop to abuses of the kind we've seen in the Avondale case.

We need to install unions quickly after they win an election, the same way we allow elected officials to take office pending challenges to their election. Why should workers be treated any differently than politicians?

In addition, we need to strengthen penalties against unfair labor practices

such as the illegal firing of union organizers and sympathizers. And we need to ensure that organizers have equal access to workers during election campaigns, so that companies like Avondale are not able to intimidate their employees and monopolize the election debate.

Senator KENNEDY and I have introduced legislation that would do exactly that. Our bill—S. 654, the Right to Organize Act of 1999—would provide for mandatory mediation and binding arbitration, if necessary, after a union is certified. It would provide for treble damages and a private right of action when the NLRB finds that an employer has illegally fired its workers for union activity. And it would give organizers equal access to employees during a union election campaign.

The Avondale case sends a message to other companies and to workers everywhere, and it's the exact opposite of the message we should be sending. We should be sending a message that corporations are citizens of their community and need to obey the law and respect the rights of their fellow citizens. We should be sending a message that corporations who live off taxpayer money, especially, have an obligation to be good corporate citizens.

Avondale is making a mockery of U.S. labor laws and of the democratic right to organize. Instead of rewarding and financing the illegal labor practices of employers such as Avondale, I believe we should shine a light on these abuses and put a stop to them.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

THE CALLING OF THE BANKROLL

Mr. FEINGOLD. Mr. President, in 1906, Wisconsin sent a new Senator to Washington, and this body and this Government have never been the same since.

From the moment he arrived, delivering powerful orations on the floor of this Chamber and taking on the most powerful interests in this country and all around the world, he became the stuff of legend. Of course, I am talking here about Robert M. La Follette, Sr., who was destined to become one of the greatest Senators in the history of this distinguished body. It is fitting that his portrait now hangs in the Senate reception room outside of this Chamber, along with just four other legendary Senators: Daniel Webster, Henry Clay, John C. Calhoun, and Robert Taft.

When he came to this body, La Follette was already known as an insurgent, and his arrival made more than a few of his colleagues nervous, including, of course, the Senate's leadership. At the time, because this was prior to the ratification of the 17th amendment in 1913, Senators were still appointed by State legislatures, and La Follette himself had been appointed to fill the office after he served as Governor of Wisconsin for 5 years.

By and large, however, the Senate of the early 1900s was dominated by the powerful economic interests of the day: the railroads, the steel companies, and the oil companies, and others.

Senator La Follette did not disappoint those in his State and across the country who looked to him to champion the interests of consumers, taxpayers, and citizens against those entrenched economic forces. The Senate in those days, if you can imagine this, had an unwritten rule that freshman Senators were not supposed to make floor speeches.

La Follette broke that rule in April of 1906. He gave a speech that lasted several days and covered 148 pages of the CONGRESSIONAL RECORD. Speaking on the most important legislation of the year, the Hepburn Act regulating railroads, La Follette discussed the power of the railroad monopolies and declared:

At no time in the history of any nation has it been so difficult to withstand those forces as it is right here in America today. Their power is acknowledged in every community and manifest in every lawmaking body.

So La Follette offered amendments to try to make railroad regulation more responsive to consumer interests. His amendments lost, of course, but that was part of the plan. That summer he went on a speaking tour across the country. He described his efforts to change the Hepburn Act. And then he did something extraordinary and unprecedented: He read the rollcall on his amendments name by name. This "calling of the roll" became a trademark of La Follette's speeches. Its effect on audiences was powerful. You see, at the time Senators' actual votes on legislation were not as well known publicly as they are today. And then when Americans found out that their Senators were voting against their interests, they were shocked and they were angry.

The New York Times reported the following:

The devastation created by La Follette last summer and in the early fall was much greater than had been supposed. He carried senatorial discourtesy so far that he has actually imperiled the reelection of some of the gentlemen who hazed him last winter.

La Follette's calling of the roll was part of an effort to expose corporate and political corruption. His view was that powerful economic interests controlled the Senate, preventing it from acting in the public interest. Then, in 1907, just a year after La Follette had come to the Senate, the Congress finally acted on legislation that had been under consideration since an investigation a few years earlier of insurance industry contributions to the political parties. That legislation, the Tillman Act, banned corporations from making political contributions in connection with Federal elections.

Today, over 90 years later, obviously much has changed in the Senate and in the country. For one thing, the votes of Senators are available almost instantly on the Internet and published