

automobile was widely noted in the law reviews. I have therefore had occasion to do very extensive research in the area, although that was some substantial time ago.

I believe that a very key provision for limiting frivolous lawsuits would be to tighten up the current mechanism to give greater authority under rule 11 to the judges who sit on those cases to try to influence or discourage frivolous lawsuits.

My reading of the substitute amendment shows that the amendment offered by the distinguished Senator from Colorado, Senator BROWN, an amendment which I supported and which I think would be of substantial help in discouraging frivolous litigation, and therefore a provision which I think ought to be in the bill, has been deleted.

With respect to the issue of punitive damages, I am very reluctant to see the provisions of the current bill enacted into law, because there are so many cases which have been disclosed in product liability litigation where companies, major companies, have made a calculated determination that it is in their financial interest not to make repairs or changes, because the damages awarded in litigation will be lesser than the costs of making the modifications.

Perhaps the most celebrated case—but there are many others like it—is the Pinto case, where the gas tank was left in a very dangerous position in the rear of the car and resulted in explosions when there was impact, a very common kind of accident in automobile driving, rear-end collisions.

As a result of product liability litigation, it was disclosed that there was a memorandum in the files of the defendant company, Ford Motor Co., actually a letter to the National Highway Transportation Safety Administration, in which there was a computation as to what it would cost to pay damages for people injured or killed as a result of the placement of the gas tank, as to what it would cost to make the repairs. The calculated decision was not to make the repairs.

And then you have the famous cases of IUD's made by A.H. Robins, in which it was known for a long period of time they would cause problems for women, such as infections and sterilization.

There were blood cases with AIDS being transmitted, and a failure to take appropriate action. And there were the flammable pajamas. There have been many cases, some even resulting in criminal prosecutions. I discussed many of these cases last week.

So on the current state of the record, my own sense is that there needs to be further refinement of the provision on punitive damages.

The revised bill does contain an amendment offered by the distinguished Senator from Ohio, Senator DEWINE, which would limit punitive damages to small businesses, and small businesses are defined as those having

fewer than 25 employees or a net worth of under \$500,000. It may be that this provision would go far beyond product liability cases and would affect all ranges of tort litigation, including medical malpractice cases. I do not know if that is the intent.

It also may be that this amendment to protect small businesses does not bear a sufficient nexus to interstate commerce in affecting all tort cases, so that we may be legislating beyond our authority, as interpreted by the Supreme Court of the United States recently in the Lopez case. I think that is another matter which requires some amplification.

I do believe that there is some limitation appropriate on punitive damages where small businesses are involved. I have heard the complaint that a defendant small business is often compelled to make a settlement that it would not make if it was not betting the business on it. I have filed a proposed amendment, and will refile it so it would survive postcloture, if cloture is invoked, so that the amendment will be on record to be considered, which would limit punitive damages to 10 percent of the net worth of a business, so that there would not be a problem of betting the business in litigation.

The substitute also deletes alternative dispute resolution, which I regret to see, because I think that is a way of eliminating many cases from the litigation process, by having alternative dispute resolution, which is a fancy name for arbitration or mediation. That is not present in the current bill.

I express again the concern about totally eliminating joint liability for noneconomic damages as a Federal standard, where some States have elected to do that as a matter of States rights and others have not. I note again my support for the amendment offered by the distinguished Senator from Tennessee, Senator THOMPSON, which would have limited this bill to litigation in Federal courts, which would have been more in accordance with the mood of the Congress and the country now to let the States decide these matters for themselves.

On the issue of joint liability, I am very sympathetic to the claim that some people or some defendants are in it, people or individuals or companies, to a very slight extent—maybe 1 percent—and they have the full responsibility for the verdict. I have filed another possible amendment which would limit joint liability for noneconomic damages if the defendant was not responsible for in excess of 15 percent of the injury, which I think would provide a better balance there.

Again, I will comment about the case involving the death of our late colleague, Senator John Heinz, where there was a collision between a helicopter and the plane in which Senator Heinz was a passenger. The planes fell into a schoolyard where there were children on the ground, and some were

killed and some were injured. Those victims could not have been compensated fully if joint liability had been eliminated.

While it is always a difficult choice as to who will bear the loss, and difficult for some defendants who are involved to a lesser extent where other defendants are insolvent, but as between injured plaintiffs who are not responsible at all for what has happened and those who have been held liable and are subject to payment for joint liability, my own sense is that there ought not to be the total elimination of joint liability for noneconomic damages, which is the thrust of the present legislation.

I am hopeful, Mr. President, that we can craft legislation which will make an improvement in product liability litigation. But on the current state of the record, I think the substitute still does not address the real needs of consumers and does not strike an appropriate balance between those who are sued and those who are bringing claims.

I thank the Chair and I yield the floor.

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#### COMMEMORATING THE 50TH ANNIVERSARY OF THE FORCED MARCH OF AMERICAN PRISONERS OF WAR FROM STALAG LUFT IV

Mr. WARNER. Mr. President, today we commemorate the 50th anniversary of the end of World War II in Europe. Victory in Europe Day is one of the milestone dates of this century. I rise today to honor a group of Americans who made a large contribution to the Allied victory in Europe while also enduring more than their fair share of personal suffering and sacrifice: The brave men who were prisoners of war.

I believe it is appropriate to commemorate our World War II POW's by describing one incident from the war that is emblematic of the unique service rendered by those special people. This is the story of an 86-day, 488-mile forced march that commenced at a POW camp known as Stalag Luft IV, near Gross Tychon, Poland, on February 6, 1945, and ended in Halle, Germany on April 26, 1945. The ordeal of the 9,500 men, most of whom were U.S. Army Air Force Bomber Command noncommissioned officers, who suffered through incredible hardships on the march yet survived, stands as an everlasting testimonial to the triumph of the American spirit over immeasurable adversity and of the indomitable ability of camaraderie, teamwork, and fortitude to overcome brutality, horrible conditions, and human suffering.

Bomber crews shot down over Axis countries often went through terrifying experiences even before being confined in concentration camps. Flying through withering flak, while also having to fight off enemy fighters, the bomber crews routinely saw other aircraft in their formations blown to bits

or turned into fiery coffins. Those who were taken POW had to endure their own planes being shot down or otherwise damaged sufficiently to cause the crews to bail out. Often crewmates—close friends—did not make it out of the burning aircraft. Those lucky enough to see their parachutes open, had to then go through a perilous descent amid flak and gunfire from the ground.

Many crews were then captured by incensed civilians who had seen their property destroyed or had loved ones killed or maimed by Allied bombs. Those civilians at times would beat, spit upon, or even try to lynch the captured crews. And in the case of Stalag Luft IV, once the POW's had arrived at the railroad station near the camp, though exhausted, unfed, and often wounded, many were forced to run the 2 miles to the camp at the points of bayonets. Those who dropped behind were either bayoneted or bitten on the legs by police dogs. And all that was just the prelude to their incarceration where they were underfed, overcrowded, and often maltreated.

In February 1945, the Soviet offensive was rapidly pushing toward Stalag Luft IV. The German High Command determined that it was necessary that the POW's be evacuated and moved into Germany. But by that stage of the war, German materiel was at a premium, and neither sufficient railcars nor trucks were available to move prisoners. Therefore the decision was made to move the Allied prisoners by foot in a forced road march.

The 86-day march was, by all accounts, savage. Men who for months, and in some cases years, had been denied proper nutrition, personal hygiene, and medical care, were forced to do something that would be difficult for well-nourished, healthy, and appropriately trained infantry soldiers to accomplish. The late Doctor [Major] Leslie Caplan, an American flight surgeon who was the chief medical officer for the 2,500-man section C from Stalag Luft IV, summed up the march up this year:

It was a march of great hardship \* \* \* (W)e marched long distances in bitter weather and on starvation rations. We lived in filth and slept in open fields or barns. Cothing, medical facilities and sanitary facilities were utterly inadequate. Hundreds of men suffered from malnutrition, exposure, trench foot, exhaustion, dysentery, tuberculosis, and other diseases.

A number of American POW's on the march did not survive. Others suffered amputations of limbs or appendages while many more endured maladies that remained or will remain with them for the remainder of their lives. For nearly 500 miles and over 86 days, enduring unbelievably inhumane conditions, the men from Stalag Luft IV walked, limped and, in some cases, crawled onward until they reached the end of their march, with their liberation by the American 104th Infantry Division on April 26, 1945.

Unfortunately, the story of the men of Stalag Luft IV, replete with tales of the selfless and often heroic deeds of prisoners looking after other prisoners and helping each other to survive under deplorable conditions, is not well known. I therefore rise today to bring their saga of victory over incredible adversity to the attention of my colleagues. I trust that these comments will serve as a springboard for a wider awareness among the American people of what the prisoners from Stalag Luft IV—and all prisoner of war camps—endured in the pursuit of freedom.

I especially want to honor three Stalag Luft IV veterans who endured and survived the march. Cpl. Bob McVicker, a fellow Virginian from Alexandria, S. Sgt. Ralph Pippens of Alexandria, LA, and Sgt. Arthur Duchesneau of Daytona Beach, FL, brought this important piece of history to my attention and provided me with in-depth information, to include testimony by Dr. Caplan, articles, personal diaries and photographs.

Mr. McVicker, Mr. Pippens, and Mr. Duchesneau, at different points along the march, were each too impaired to walk under their own power. Mr. McVicker suffered frostbite to the extent that Dr. Caplan told him, along the way, that he would likely lose his hands and feet—miraculously, he did not; Mr. Pippens was too weak from malnutrition to walk on his own during the initial stages of the march; and Mr. Duchesneau almost became completely incapacitated from dysentery. By the end of the march, all three men had lost so much weight that their bodies were mere shells of what they had been prior to their capture—Mr. McVicker, for example, at 5 foot, 8 inches, weighed but 80 pounds. Yet they each survived, mostly because of the efforts of the other two—American crewmates compassionately and selflessly helping buddies in need.

Mr. President, I am sure that my colleagues join me in saluting Mr. McVicker, Mr. Pippens, Mr. Duchesneau, the late Dr. Caplan, the other survivors of the Stalag Luft IV march, and all the brave Americans who were prisoners of war in World War II. Their service was twofold: first as fighting men putting their lives on the line, each day, in the cause of freedom and then as prisoners of war, stoically enduring incredible hardships and showing their captors that the American spirit cannot be broken, no matter how terrible the conditions. We owe them a great debt of gratitude and the memory of their service our undying respect.

#### FRANKLIN, NH, MARKS ITS CENTENNIAL

Mr. GREGG. Mr. President, I ask my Senate colleagues to join me in recognizing the city of Franklin, NH, on the occasion of its centennial and in appreciation of the contributions its citizens have made to our Nation.

Founded at a gathering spot of the Penacook Tribe, where the Pemigewasset and Winnepesaukee Rivers meet to form the Merrimack River, Franklin proudly traces its roots deep into the history of our State and our Nation. It is here, at the original settlement of Lower Falls, where Franklin's most famous native son, Daniel Webster, would commence a career as lawyer and statesman and, eventually, go on to establish both an honored place in this Senate and a prominent role in the shaping of America.

From this settlement, Capt. Ebenezer Webster, Daniel's father, would lead a company of local men to earn distinction in the Revolutionary War and help win the independence of a new nation. Their heroics during the campaign at Saratoga begins an unbroken line of Franklin's sons and daughters serving our Nation and the cause of liberty with honor, loyalty, and valor.

Successful in commerce, Franklin was incorporated as a town in 1828 and as the city of Franklin in 1895. The historic mill town would give rise to the engineering ingenuity of Boston John Clark and the technological innovations of Walter Aiken and make significant economic contributions to our society. Spurring inventions from the deceptively simple hacksaw and the latch needle to the complexity of the circular knitting machine, Franklin would again play a pivotal role in the second industrial revolution, which propelled us forward as a modern nation.

Today, the city of Franklin continues to exhibit the character and enterprise of its distinguished past. Hardworking, first in citizenship, and steadfast in its sense of community, Franklin continues to show the can-do spirit that marked its beginnings and first 100 years as a city. Recently, named one of the 100 best small communities in America, a base for advanced industry, rich in heritage, and energetic in shaping its future, Franklin is truly a "Small City on the Move."

Join me to proudly salute Franklin, NH, the birthplace of Daniel Webster, and the enterprising spirit that has enriched a community, the State of New Hampshire, and our Nation.

#### V-E DAY 1995

Mr. CRAIG. Mr. President, 50 years ago, U.S. forces, along with those of our valiant and embattled allies, formally ended the victorious struggle to contain a horrific evil that had spread across the European continent. For those Americans who attended the ceremonies that marked the Nazi surrender, it was a solemn moment, for the struggle had been long and bloody, and the price to defend freedom had come at a very high cost. For the world there was joy, renewed hope of lasting peace, and resolve to protect the freedom for which so many had offered up their lives. Today many of those hopes which are held deeply in the hearts of