

those who saw active duty, who saw friends die, who felt the sheer brutality of heavy artillery attack or the random terror of combat on unknown, rough terrain against a well-trained and ruthless opponent, there was no good war.

Our cause was good, and it triumphed. But we triumphed at terrible personal cost to those Americans who served.

Some of our Senate colleagues served, and some bear the outward scars. Senator INOUE, of Hawaii, served with the most decorated unit in the military in Italy campaign, and paid a high price for his valor. Senator DOLE served in Italy with great honor at enormous personal price. The veterans of the war who still serve in Congress were honored last week at a ceremony at the National Archives.

I am proud to serve in the Senate with all of them, and I express my sense of respect for their service, my gratitude as a citizen for their sacrifices, and my great pride, as an American, for the spirit they and their colleagues in arms showed the world more than 50 years ago.

Great celebrations have occurred in the old Allied capitals in Europe to celebrate V-E Day. Another great celebration will be held in Moscow, to celebrate the end of what the Russians call the Great Patriotic War.

In America, there are no huge celebrations. We were the arsenal of democracy in that war, the productive force without which it might not have been won by the Allies. Our people suffered death and injury far from home, for causes and quarrels in which they had no direct stake.

The distance of 50 years does not erase the genuine hardship, difficulties, and pain they suffered or the price many of them paid. It was not a good war because there are no good wars for those in the line of fire. Like every war, it was vicious, uncaring of life, random in its accidents and mistakes, brutal for its participants.

And yet Americans served, and did so with distinction. We ought to take pause to take great pride in the kind of people we are, and to honor the memories of those who paid the ultimate price. Those who served have done more for their fellow citizens and for the future than any words can describe. They are American heroes, one and all, and we salute them.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, are we still in morning business?

The PRESIDING OFFICER. Morning business has not been closed.

#### THE 50TH ANNIVERSARY OF V-E DAY

Mr. DOLE. Mr. President, 50 years ago today, the guns were silenced in Europe, and that continent was at last freed from the tyrants who had plunged it into war.

And across the world on May 8, 1954, there were moments that are remembered today, and will be remembered for generations yet to come.

Here in Washington, at the White House, President Truman spoke to the American people by radio, with these dramatic words:

This is a solemn and glorious hour. I only wish that Franklin Roosevelt had lived to witness this day. General Eisenhower informs me that the forces of Germany have surrendered to the United Nations. The flags of freedom fly all over Europe.

In New York City, a half a million people crowded into Times Square, and in main streets and town squares across America, smaller crowds gathered to celebrate.

In Paris, the boulevards that Hitler and his armies had once controlled were free again, and the French people rallied under the Arc de Triomphe.

And in London, Winston Churchill spoke before a large crowd, telling the people of Britain, "This is your victory." And many in the crowd shouted back that the victory was his. Later that night, the floodlights illuminated Buckingham Palace, Big Ben, and St. Paul's Cathedral for the first time in 6 years.

Anniversary celebrations are a time for remembering the past, but they are also a time for looking to the future. And as we celebrate this 50th anniversary of the Allied victory, let us remember the lessons that World War II taught us—lessons that hold for us still.

We learned that we cannot turn our backs on what happens in the rest of the world.

We learned that we can never again allow our military to reach low levels of readiness and supplies.

We learned that we cannot appease tyrants and despots, and perhaps above all, we learned the critical importance of American leadership.

Yes, before our involvement, Britain courageously fought on against the odds. And, yes, Russia, after initially siding with the Axis Powers, helped to turn the tide when the Nazis turned against them.

But, the war could not have been won and would not have been won without the commitment, the manpower, and the leadership of the United States. It is that simple.

It was American leadership that built the arsenal of democracy which made victory possible.

It was American leadership that held the Allies together through the darkest days of the war.

And it was American leadership which conquered the forces of tyranny and restored liberty and democracy to Europe.

And when I talk about leadership, I do not mean just the famous names of Roosevelt, Truman, Eisenhower, Marshall, Churchill, and de Gaulle. And I do not just mean the soldiers who fought their way across Europe and the Pacific. For we must also thank those who served at home—the Gold Star moms, the factory workers, and the farmers. Without their contribution and their sacrifice, the war effort could not have been successful.

So, today is a day for all of us to celebrate the triumph of democracy, and to honor those who served and those who paid the ultimate price on behalf of their country.

And the best way we can do that is to rededicate ourselves to the promise that President Reagan made on behalf of America on the beaches of Normandy 11 years ago:

We will always remember. We will always be proud. We will always be prepared, so we may always be free.

#### ORDER OF PROCEDURE

Mr. DOLE. Mr. President, I indicated earlier, I will have a resolution concerning V-E Day, which I hope we will be able to submit to the Democratic leader in the next few moments and have a discussion on that and, hopefully, have a vote on that about 4 o'clock. We still, as I understand it, have a cloture vote at 4 o'clock, plus votes on any amendments that may occur prior to 4 o'clock. Following that, it is our intention to take up the Deutch nomination to be CIA Director, and have that debate this evening and then have the vote tomorrow morning on the nomination.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PRODUCT LIABILITY BILL

Mr. SPECTER. I thank the Chair.

Mr. President, I have sought recognition to comment about the pending legislation on products liability on which there is a cloture vote scheduled for 4 o'clock this afternoon, that is, a vote to cut off debate.

As I have expressed in the prior debate, it is my view that it would be appropriate to have reform on product liability, providing the reform is very, very carefully crafted.

As I have noted in previous speeches, I have represented both plaintiffs and defendants in personal injury cases. I had one large product liability case, which I litigated many years ago. Actually, it was ultimately settled. But the issue in the case concerning privity and coverage for a passenger in an

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