

the House bills, and considered in separate bills over there and everything else of that kind, is being and is going to be reinserted. And so when they get to conference, just like this bill started as a product liability measure; it soon became a malpractice, a medical malpractice measure. And just as soon as it became a medical malpractice measure, the next thing you look around it was all civil cases that it would apply to. And that is exactly how the conference would go if we did exactly as they wish, and that is let us get this little change here and that little change there, and we will all be happy.

We all have been working hard. We have been on this for several years. And the plea is to what you committed. Laws are really passed at campaign time. Too often it is that these eminent organizations come—the National Federation of Independent Businesses—for one thing only, your vote on their bill. Necessarily you want their support. In fact, they give you a little award, a little statue, and that is the NFIB award. And it is the treasure board award that you get from that small business group.

They have thousands of mailouts. I can tell you, trial lawyers do not have any thousands of mailouts. The others, as well, including consumer organizations, do not mail out anything. They just do not have any PAC's at the supreme courts of the 50 States. The American Bar Association, which opposes this measure, does not have any PAC. They do not have political mailouts. But the NFIB mails out; the chamber of commerce has its meetings as well as the mailouts. The National Association of Manufacturers is strong in my State. They come around, and they have not only mailouts but special manufacturers come around and meet with you and everything else of that kind.

So if you are not studied as to the individual rights of injured parties, you may not realize how horrendous this legislation is, and the detrimental impact it will have on our Nation's civil justice system. What's worse is that it is based on a total distorted record. They lament and lament about punitive damages. However, according to the hearing record, the amount of all of product liability punitive damage awards in the last 30 years adds up to only a fraction of the \$3 billion Pennzoil versus Texaco verdict, or the \$3 billion verdict in the Exxon Valdez case.

Are they really concerned about consumers? Are they really concerned about the injured parties?

Mr. President, of all civil filings, torts represent 9 percent, and of those tort filings only 4 percent of the 9 percent, are product liability cases—.38—thirty-eight one-hundredths—percent. And this thing has taken 2 weeks now. To do what? To take it away from the States that have had jurisdiction for 230 years, the English law and everything else of that kind, or the regular

statutes, the regular burdens of proof, the greater weight of the preponderance of evidence, all 12 jurors have to find it and on appeal and everything, injured party on a contingent basis. It has worked. The States themselves over the past 15 years have reformed their laws, and there is no question in my mind that they are handling it and handling it well. My judges tell me so, particularly my Republican judges that we have confirmed that I am proud of because I voted for their confirmation.

But I wanted to make absolutely sure that we did not have that problem. I am assured of it. But they are trying now to get their foot in the door, and the ultimate goal is to restrict, if not totally eliminate, as they have in England, trial by jury.

I yield the floor.

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

The PRESIDING OFFICER (Mr. CRAIG). The absence of a quorum has been noted. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

#### VISIT TO THE SENATE BY PRIME MINISTER OF ISRAEL YITZHAK RABIN

Mr. HELMS. Mr. President, I have the honor of presenting to the Senate—and I shall do that in a minute—the distinguished Prime Minister of Israel, Mr. Rabin.

#### RECESS

Mr. HELMS. Mr. President, I ask unanimous consent that the Senate stand in recess for 5 minutes so that Senators may greet our distinguished guest.

There being no objection, the Senate, at 4:02 p.m., recessed until 4:07 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. CRAIG).

#### COMMONSENSE PRODUCT LIABILITY AND LEGAL REFORM ACT

The Senate resumed consideration of the bill.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

ORDER FOR CLOTURE VOTE TO BEGIN AT 4:20 P.M.

Mr. DOLE. Mr. President, it is my understanding that a couple of our colleagues, one on each side of the aisle, may not be available until 4:15 or 4:20. I ask unanimous consent that the cloture vote scheduled for 4 p.m. today be postponed to occur at 4:20 p.m.

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

#### UNANIMOUS-CONSENT REQUEST

Mr. DOLE. Mr. President, I would also ask unanimous consent that the pending Gorton substitute be modified

to reflect to "Strike all after the first word, and insert," and on page 20, line 6, strike "or (2)" and on line 14, strike "or (2)".

Mr. HOLLINGS. Mr. President, I have discussed this with the leadership. I would have to object.

The PRESIDING OFFICER. Objection is heard.

Mr. DOLE. Mr. President, let me indicate we were trying to clear up a procedural problem. The Senator certainly has every right to object. It may mean that this will be corrected tomorrow, if cloture is not invoked today. I hope cloture will be invoked today.

#### EXPRESSING THE SENSE OF THE SENATE ON 50TH ANNIVERSARY OF V-E DAY

Mr. DOLE. Mr. President, today is a very important day for a number of people on this Senate floor. It is V-E Day. May 8, 1945, was a very important day. We have a V-E Day resolution that I think deserves a rollcall. I hope my colleagues would agree that, immediately after the cloture vote, we would have a vote on the V-E Day resolution.

I send that resolution to the desk and ask that it be read.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 115) expressing the sense of the Senate that America's World War II veterans and their families are deserving of this nation's respect and appreciation on the 50th anniversary of V-E Day.

The resolution is as follows:

Whereas on May 7, 1945 in Reims, France, the German High Command signed the document of surrender, surrendering all air, land and sea forces unconditionally to the Allies;

Whereas President Harry S. Truman proclaimed May 8, 1945 to be V-E Day;

Whereas May 8, 1995 is the 50th Anniversary of that proclamation;

Whereas, the courage and sacrifice of the American fighting men and women who served with distinction to save the world from tyranny and aggression should always be remembered; Now, therefore, be it

Resolved, That the United States Senate joins with a grateful nation in expressing our respect and appreciation to the men and women who served in World War II, and their families. Further, we remember and pay tribute to those Americans who made the ultimate sacrifice and gave their life for their country.

The Senate proceeded to consider the resolution.

Mr. DOLE. Mr. President, it is a very brief resolution. I have taken the liberty of adding World War II veterans as cosponsors. If some do not want to—I have Senator EXON, Senator HOLLINGS, Senator GLENN, Senator INOUE, Senator STEVENS, Senator HELMS—I think there are a couple of others—Senator HEFLIN.

Mr. HOLLINGS. Senator THURMOND.

Mr. DOLE. Senator THURMOND. I will furnish those names at the desk.

So I hope, unless there is some objection on the other side, that that vote could follow immediately the vote on cloture.

Mr. HOLLINGS. We have no objection.

Mr. DOLE. So, Mr. President, the yeas and nays are automatic on the cloture vote. Let me ask for the yeas and nays on the V-E Day resolution.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

#### UNANIMOUS CONSENT AGREEMENT—NOMINATION OF JOHN M. DEUTCH, TO BE DIRECTOR OF CENTRAL INTELLIGENCE

Mr. DOLE. Finally, Mr. President, as in executive session, I ask unanimous consent that immediately following the cloture vote and the vote on the V-E Day resolution, notwithstanding rule XXII, the Senate go into executive session to consider the nomination of John Deutch, to be Director of the CIA, and that it be considered under the following time agreement: 2 hours equally divided between the chairman and vice chairman of the Intelligence Committee, or their designees; that following the conclusion, or yielding back of time, the nomination be set aside; and that the Senate then return to legislative session, with the vote to occur on the nomination at 10:30 a.m. on Tuesday, May 9, 1995.

I believe this has been cleared on both sides. We will have debate this afternoon and vote tomorrow morning. I know the President very much wants to have this nomination addressed. We are prepared to do that.

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

Mr. DOLE. Mr. President, let me suggest the absence of a quorum unless someone would like to speak. There are 8 minutes before the cloture vote occurs. 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. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

#### COMMONSENSE PRODUCT LIABILITY AND LEGAL REFORM ACT

The Senate continued with the consideration of the bill.

Mr. HEFLIN. Mr. President, again, I want to emphasize what this vote is about. It is, of course, about product liability, but it is also the role of the Senate in the legislative process.

The House has passed a bill that contains vast differences from what is proposed in the substitute and what is proposed in the substitute to the substitute.

If we do not take advantage of our rules and do not exercise the role that is intended for the Senate to be a deliberative body, and if we vote cloture,

there is no question what will happen is it will go back to the House and I do not think there is much question as to what will happen.

The Speaker of the House will control the conference, and this is going to be a bill regardless of what fixes may have been attempted in the Senate, the version that is going to come out of the conference is going to be the version of the Speaker of the House of Representatives. It comes back here and people say, "Well, you can exercise your rules and you can have extended debate at that time." But we all know what happens on conferences. Their reports come back, people are anxious to get away, and they are arranged at a time to come up where you are in a situation, and we end up, with very rare exceptions, approving conference reports.

So I say to my colleagues, this is a vote not only on product liability but is a vote on the role of the Senate on this bill and other bills that may be coming down in the future.

So I urge my colleagues to vote against cloture. It is very important that they bear in mind the fact that whatever is being proposed here does not mean that that is going to be the final version. The final version, I think, in the judgment of anybody who can see beyond the immediate scene and can see around the corner will be that it will be in conference and it will come out as a Gingrich version of this bill.

I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I simply want to announce to the friends and supporters of this bill that this will not be a meaningful cloture vote. In the haste to draft the Gorton-Rockefeller amendment, a couple of drafting errors were made that can only be removed at this point by unanimous consent. Unanimous consent, as the body knows, was not granted.

Second, because the Gorton-Rockefeller amendment is in the nature of a substitute, had cloture been granted and had the Gorton-Rockefeller amendment been adopted, which it would have been, it would have cut off all other postcloture amendments from the opponents to the bill and that, too, could only have been waived by unanimous consent.

So I say to Members who have worked on this compromise, they can vote for or against cloture at will. I do not expect cloture to be invoked. I cannot under these circumstances vote for cloture myself. The bill by tomorrow morning will be in proper form, both for its own passage and to allow postcloture amendments. Tomorrow morning's cloture vote will be the significant one on this bill and not the vote that is being taken this evening.

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

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

#### CLOTURE MOTION

The PRESIDING OFFICER. The hour of 4:20 p.m. having arrived, under the previous order, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

#### CLOTURE MOTION

We the undersigned Senators, in accordance with the provision of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on a substitute amendment to H.R. 956, the product liability bill:

Slade Gorton, Dan Coats, Richard G. Lugar, John Ashcroft, Rod Grams, Kay Bailey Hutchison, Judd Gregg, Strom Thurmond, Jay Rockefeller, Trent Lott, Rick Santorum, Larry E. Craig, Bob Smith, Don Nickles, R.F. Bennett, John McCain, Connie Mack.

#### VOTE ON MOTION TO INVOKE CLOTURE

The PRESIDING OFFICER. By unanimous consent the quorum call has been waived.

The question is: Is it the sense of the Senate that debate on amendment No. 690 to H.R. 956, the product liability bill, shall be brought to a close?

The yeas and nays have been required.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Hawaii [Mr. AKAKA], the Senator from Iowa [Mr. HARKIN], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Nebraska [Mr. KERREY] are necessarily absent.

I further announce that the Senator from Rhode Island [Mr. PELL] is absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island [Mr. PELL] would vote "yea."

I further announce that, if present and voting, the Senator from Hawaii [Mr. AKAKA] would vote "nay."

Mr. LOTT. I announce that the Senator from Utah [Mr. BENNETT], the Senator from Colorado [Mr. CAMPBELL], and the Senator from Virginia [Mr. WARNER] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 43, nays 49, as follows:

[Rollcall Vote No. 153 Leg.]

#### YEAS—43

Abraham	Exon	Jeffords
Ashcroft	Faircloth	Kassebaum
Bond	Frist	Kempthorne
Brown	Gramm	Kyl
Burns	Grams	Lieberman
Chafee	Grassley	Lott
Coats	Gregg	Lugar
Coverdell	Hatch	Mack
Craig	Hatfield	McCain
DeWine	Helms	McConnell
Dole	Hutchison	Murkowski
Domenici	Inhofe	Nickles