

the manufacturer in Alabama State court on a theory of fraud, seeking compensatory and punitive damages.

The jury found BMW liable for \$4,000 in compensatory damages and an astonishing \$4 million in punitive damages. On appeal, the Alabama Supreme Court reduced the punitive damages award to \$2 million.

The Supreme Court held, in a 5 to 4 decision, that the \$2 million punitive damages award was grossly excessive and therefore violated the due process clause of the 14th amendment. The Court remanded the case. The majority opinion set out three guideposts for assessing the excessiveness of a punitive damages award: the reprehensibility of the conduct being punished; the ratio between compensatory and punitive damages; and the difference between the punitive award and criminal or civil sanctions that could be imposed for comparable conduct.

Justice Breyer, in a concurring opinion joined by Justices O'Connor and Souter, emphasized that, although constitutional due process protections generally cover purely procedural protections, the narrow circumstances of this case justify added protections to ensure that legal standards providing for discretion are adequately enforced so as to provide for the "application of law, rather than a decisionmaker's caprice."

Congress has a similar responsibility to ensure fairness in the litigation system and the application of law in that system. Notably, Justice Ginsburg's separate dissent, joined by the Chief Justice, argued not that the amount of punitive damages awarded in the case was proper, but suggested instead that the majority had intruded upon matters best left to State courts and legislatures.

Clearly, it is high time for Congress to provide specific guidance to courts on the appropriate level of damage awards and to address other issues in the civil litigation system.

We need to encourage common sense, responsible and fair litigation by reforming the system that leads to sky-high punitive damages in cases of little actual loss and by introducing fairness into the system.

These lawsuits-for-profit demean the lofty ideals of our judicial system. There are people out there with legitimate grievances that deserve the time and attention of judges and juries, but the courts are clogged up with these ridiculous cases and claims. That isn't fair.

The American people should know that we have been unable to enact meaningful civil justice reform because the President chooses to stand with this Nation's trial lawyers. His action is permitting litigation abuses and excesses to go on.

When the American people can't buy new products, can't get needed medical devices, lose jobs they might have had if companies were permitted to grow, or can't afford their insurance costs,

they should know that the President chose to do nothing about the litigation explosion in this country.

Let me just close with an example of litigation reform that worked—and one that should have been a model this Congress. That example is the statute of repose for piston-driven aircraft.

In August 1994, Congress passed an 18-year statute of repose for small, general aviation aircraft. At that time, around 90 percent of employment in the piston-driven aircraft industry was gone; around 90 percent of production had disappeared due to product liability lawsuits.

Today, a striking recovery is already underway in that industry. Aircraft manufacturers are planning and constructing new plants, and production and employment have grown tremendously. Cessna alone has created about 3,000 new jobs due to the enactment of that one statute of repose.

When the American people consider the President's vetoes, they should ask themselves: How many new plants and factories will never open? How many new jobs has the President squandered? How many medical innovations won't we see? How much are insurance premiums going to go up?

The bottom line is that I just don't think we can take much more of the present system. I hope we won't have to. I expect litigation reform to be an important part of the agenda of the next Congress, and I want to repeat my commitment to work toward that end.

INSURANCE COVERAGE FOR DRUG TREATMENT

Mr. KENNEDY. Mr. President, Congress has passed and President Clinton will soon sign historic legislation to improve health insurance coverage for individuals with mental illness. This initiative represents a major step forward to eliminate unjustified discrimination between mental health and physical health in insurance coverage.

I especially commend my colleagues, Senator DOMENICI and Senator WELLSTONE, on their legislative success. Through tireless advocacy and effective leadership, they have convinced the Senate of the wisdom of ending insurance discrimination against the mentally ill.

Enactment of this measure is gratifying, but it is only a first step. Our work in this area is far from complete. When the Labor Committee reported a health insurance bill in 1994, our provision on mental health parity included coverage for the related disorder of substance abuse. Regrettably, that aspect of the earlier proposal was dropped in the recent compromise.

Every year, despite a desperate desire to overcome their addiction, a large number of Americans forgo needed treatment for substance abuse because their health insurance does not cover the cost of this treatment. Despite faithful and regular payment of their premiums, these citizens are denied

coverage for this debilitating and chronic illness.

Ironically, such coverage was dropped, even though the war on drugs is once again the subject of intense media attention in this election year. Government surveys report that teenage drug use is on the rise. While resources for law enforcement efforts to reduce the supply of drugs have grown dramatically in recent years, resources for treatment have decreased. In 1996, Congress slashed substance abuse treatment and prevention programs by 60 percent, and attempted to cut the Safe and Drug Free Schools Program in half. The House has proposed only minimal increases for fiscal year 1997 over these drastically reduced levels.

Publicly supported treatment will never meet the needs of all those who would benefit from treatment. The private sector must play a significant role through insurance coverage for such treatment.

More than 70 percent of drug users are employed. Many of these drug users have private health insurance. Yet, treatment for their addiction is rarely covered. Even when private plans cover treatment for substance abuse, benefits are limited. Since drug use is a chronic, recurrent condition, like diabetes or hypertension, addicts quickly exceed their coverage limit. Due to the nature of substance abuse, those who do not obtain treatment often lose their jobs. They are then forced into the already over-burdened public treatment system.

Extending insurance coverage to those seeking to free themselves from substance abuse would improve productivity and decrease drug-related crime. That would constitute real progress in the war on drugs.

Parity for treatment of substance abuse would also be cost effective. A 1994 study by the State of California shows that for every \$1 spent on treatment, \$7 in costs are saved. Treatment reduces employer health care costs, because treated employees and members of their families use fewer health services.

Parity would also drive down non-health care costs to the employer by reducing absenteeism, disability payments and disciplinary problems.

These benefits come at a bargain price. According to the actuarial firm of Milliman and Robertson, substance abuse parity will increase overall health insurance premiums by only one-half of 1 percent.

Again, I congratulate my colleagues for passage of the mental health parity compromise. I look forward to working with them to build on this achievement. I hope that one of our highest priorities in the next Congress will be to take this needed step to fight drug abuse.

Mr. COVERDELL. Madam President, I ask unanimous consent that the period for morning business be extended for up to 4 minutes.

The PRESIDING OFFICER (Ms. SNOWE). Is there objection? Without objection, it is so ordered.

VALUJET

Mr. COVERDELL. Madam President, yesterday I came to the floor of the Senate to describe the predicament that faces a major corporation in my home State, ValuJet.

I will not repeat everything I said yesterday, but I pointed out we all have grieved over the tragedy, and we understand that safety in the air is a preeminent goal of the Federal Aviation Administration, and all of us. This corporation underwent the most exhaustive and thorough review possible and, in late August, was certified as flight-worthy by the FAA.

Subsequently, the airline had been confronted once again with bureaucratic delays and the like that are so typical of this city. Now it is the Department of Transportation.

I might point out that 4,000 families are not receiving their paychecks and can't make their mortgage payments. They can't make their car payments. They have been pushed out on the street. And we are about to fire 400 more even though the airline is now certified as worthy to fly.

Yesterday, I received a phone call—I want to add this to the RECORD—from Mr. Kent Sherman, who owns a company called Sky Clean, in College Park, right near the airport. This story illustrates and brings home the impact of this shutdown and how it goes beyond ValuJet itself. Sky Clean provides a cleaning service for airplanes cleaning the interior and exterior, and the largest client was ValuJet. If ValuJet is not in the air, this company will close and all of their employees are also put out on the street.

So there are peripheral companies that surround this corporation, all of whom are facing shutdowns and layoffs. This is an interesting story. It was founded 4½ years ago with \$122. They spent most of it on fliers and business cards, and had \$15 left to buy cleaning chemicals. They put their profits into more chemicals and rags and brushes, and went in there, and eventually had enough to buy a pressure washer. One year ago they got the breakthrough. They got a contract with ValuJet. Their motto is "Just Plane Spotless."

Today, they have 28 employees. Last year, they had \$740,000 in revenues, up from \$40,000 3 years ago. He said, "We have been incredibly blessed. This has been the dream of a lifetime."

In June, the company had \$3 shy of \$100,000 in their savings account. There are no savings today. They met their last payroll. If ValuJet shuts its doors, Sky Clean is finished.

It is absolute nonsense, Madam President. FAA has gone through that thing with a microscope. The airline is ready to fly. It is ready to get the paychecks going to those 4,000 families and, yes, to this small company in Col-

lege Park, GA. It is time for the bureaucrats and their 9-to-5 attitude to get this job done and get that airline in the air.

I yield back whatever time I have.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Ms. SNOWE). The time for morning business has expired.

PARTIAL-BIRTH ABORTION BAN ACT OF 1995—VETO

The PRESIDING OFFICER. Who yields time?

Mr. SANTORUM. Madam President, I yield 7 minutes to the Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. Thank you, Madam President. I thank the Senator from Pennsylvania, who has been doing an outstanding job helping us to have an opportunity to express our views on the partial-birth abortion override measure which is before us. It is pretty important for us to understand this isn't a pro-choice or pro-life measure. This is not an argument against abortions generally. It is not even an argument against late-term abortions. It is merely an argument against the brutality which takes place in a specific type of abortion, which has been described adequately here on the floor of the Senate. But it is one of those things which, obviously, is uncomfortable for people to talk about.

It is a brutality that results when a child which is all but born is being killed in the process of birth. And there has been the side issue raised here, that somehow this has to do with the health of the mother, and that if we didn't kill the child at this point, the mother's health would be impaired.

This has been contradicted by the best medical experts—not the least of which is C. Everett Koop, the former Surgeon General of the United States, who basically says medical necessity does not come into these cases. Since the child is already born, really, we are talking about what happens to the child—virtually already born—not what happens to the mother.

But I would like to add something to the debate. I would like to add a few questions that I think we ought to ask ourselves. One question is: What are we signaling? What are we telling the rest of the world when we say that we as a people are indifferent to this kind of brutality toward a child that is all but born, except for the last, say, 3 inches of its body? That since it has technically part of its body still in the mother, that it is subject to being killed? It is very difficult for me to understand what we are saying to the rest of the world when we are allowing this type of gruesome procedure to occur in this country.

What do we say to China when we try to shape their human rights policy? We

say that you ought to have a high regard for your citizens; that you should not be oppressive; that you should not abuse people; that you should not persist in practices which are against human dignity. How do we say that to China when we enshrine or institutionalize this procedure and decide that the brutalization of children in this way is still acceptable when there are clear alternatives? How can we question the practice of child slavery in other nations around the world when our own Nation's lawmakers cast cavalier votes that really result in brutality?

Let me be clear. The signals we send as a world leader do not trouble me as much as the signals that we are sending to our young people. In our society, the biggest crime problem we have is violent crime among young people who seem to have no regard for the lives of victims, who seem to view dismemberment or brutality as a matter-of-fact thing. What are we telling our own youngsters? What values are we teaching them when we say that the difference between a partial-birth abortion and a homicide is merely whether the head is all the way out or just part of the way out? We have said that it is OK to be involved in a partial-birth abortion because the child isn't totally born, but if there were just another 3 or 4 seconds of process, the child would be born and then it would be homicide.

I do not think we are sending the right signals to our young people about tomorrow. What values do we send the young people when we suggest that there is more concern to be shown for animals and our environment than there is for young people?

For example, H.R. 3918 was introduced by a Member of this body when that Member was in the U.S. House of Representatives. The bill protects animals from acute toxic tests in laboratories. What are we saying when we are concerned about protecting animals from toxic tests designed to save lives and we are not willing to protect children from a brutal procedure designed to end their life?

What are we saying when another Member of this body introduces a measure which prescribes criminal penalties for the use of steel jaw leghold traps on animals, saying that it is brutal to catch an animal with a trap that clamps down on the leg of the animal? A sponsor of the bill stated in the Chamber, "While this bill does not prohibit trapping, it does outlaw a particularly savage method of trapping."

If we are willing to do that to protect animals from a kind of brutality and abuse, I have to ask myself, have we not missed something if we are unwilling to take a step to prohibit a kind of brutality against children that medical experts acknowledge is a brutality which is totally unnecessary?

There seems to be a blind spot in the Senate's conscience when it comes to things that are abortion related, but we cannot let the debate over abortion