

trial lawyer. I assume that for the investigation, for the interrogatories, for the discovery proceedings, for the actual trial, the settlement, conferences that we had, the actual trial of the case, the appeal, the printing of the briefs, the appearances, the entire time spent. Yes. These cases take—in serious cases—2 or 3 years to get them finally determined. This trial lawyer assumes all of those costs. If I win, I get a third. If I lose, I get nothing. I paid those costs. That is the system that has worked.

If you are going to have the loser pay all, I am going to say, “Now, wait a minute. I have a wife and children. Now I have grandchildren. I like to help. But unless you can get me a bargain and assume the cost, I cannot go totally broke in this business. I have to have you take care of the costs in case we don’t prevail. I think you have better than an even chance to prevail.”

However, I never can tell in the draw of a jury. That is what Judge Ito is having to deal with now, the mindset of jurors. I cannot tell the mindset. They could come in with selection of a jury, and I not know it and they have some peculiar feel or prejudice, and I get 11 but I do not get that 12th juror. I end up losing the case, and I have to pay it all. I think that at least you ought to be able to take care of your costs if you believe in your case that much. Yes. That is the day in court, the trial jury.

The distinguished Senator from Washington says they all get their trial by jury. But you read this bill based on what evidence can be submitted, you read the test to be used and the thrust that they have and how they allocate some of these provisions not to manufacturers. You can read on page 36, line 7, “actions excluded.” Here is the unmitigated gall of this draftsmanship.

Actions for damage to product or commercial loss, a civil action brought for loss of, or damage to, a product itself, or for commercial loss, shall not be subject to the provisions of this title governing product liability actions but shall be subject to any applicable commercial or contract law.

The States have their volition as to the Uniform Commercial Code and how much and how they interpret it. They have their volition in the 50 States as to contract law. Yes. When it comes to manufacturers under this particular section, yes. We believe in States’ rights there. But when it comes to injured parties, you do as we say to do. They talk about a fair and balanced reasonable bill. Come on. They know better. They can read. We pointed this out at the hearings. They had no excuse for it. We pointed it out at the markup. They continue to insist upon it, and we will have amendments. We will have to come along I guess, if they get cloture because they do not want to have debate. They will have to have these amendments and we will have to vote on them.

But I think the original document itself is a pretty good example of what

they have in mind. It is not a balanced bill. They had no caps heretofore in previous Congresses on punitive damages. They have it in this one. They say they are going in a reasonable fashion, a more restrictive fashion. They have the misuse provision in here now that they never had before in the three previous Congresses. We will be able to go down on those things and see if they want to insist upon them.

But I can tell you what we ought to do, in this Senator’s opinion, is table this bill and move on to those problems that are national problems. The State of Idaho is looking out for its people. It has a Governor. It has a legislature. It has juries that are sworn to listen to the facts and bring in a verdict in accordance with the facts. It has the option of the trial judge to set aside punitive damages, to restrict the actual damages.

I am sure the States of Idaho, South Carolina, and Washington would much rather have its law than a national law up here wherein they think, yes, with the Contract With America crowd in town, that we are going to start being conservative. I can tell you here and now, that might last for a little while. But after a few years go you are going to find the liberal National Government—which has been persistent throughout the years as compared to the State government, State law, and State practices in tort, and with respect to criminal law and otherwise—you are going to find there is a much more conservative government at the State level, and more responsible in my opinion, than the National Government.

We do not have a national problem. That is the point. Yet. They have really been on a roll up here for big industry and against the individuals. They know how to handle the lawyers downtown.

I hope to have perhaps an amendment on the interests of companies. Perhaps we ought to have that, and maybe some of my distinguished colleagues would like to sponsor an amendment on billable hours in addition to caps on punitive damages. Let us have caps on billable hours here in this town. Let us see if that lawyer crowd that is out trying to fix the U.S. Senate can go back to work and try their cases in court before a jury of 12 jurors without meddling with the State precedents here in the United States.

I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. 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. PELL. 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. PELL. Mr. President, I ask unanimous consent that I may proceed as if in morning business.

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

COMMEMORATING THE 80TH ANNIVERSARY OF THE ARMENIAN GENOCIDE

Mr. PELL. Mr. President, every year at this time, people of Armenian descent throughout the world commemorate the anniversary of the genocide perpetrated against the Armenian people between 1915 and 1923. This tragedy is one of the most horrible in the history of humankind, yet it is often overlooked.

Eighty years ago today, on April 24, 1915, the Ottoman Empire launched a systematic campaign to eradicate the Armenian people from Ottoman territory. In that year, hundreds of Armenian religious, political, and intellectual leaders were rounded up, exiled, and murdered. During the next 8 years, an estimated 1.5 million Armenians were killed through executions, during death marches, or in forced labor camps. Many women, children, and elderly people were raped, tortured, or enslaved. In addition to those killed, an estimated 500,000 Armenians were exiled from the Ottoman Empire, many of whom found their way to freedom in the United States.

Recently, the campaigns of ethnic slaughter in the former Yugoslavia and Burundi have focused much attention on crimes against humanity. Silence in the face of genocide effectively encourages those who would commit such atrocities in the future. As the horrors in Bosnia and Burundi demonstrate, ethnically based campaigns of murder are still possible, even as the world approaches the 21st century.

Mr. President, despite a long history of persecution and tragedy, the Armenian people have demonstrated remarkable moral strength, resilience, and pride, as demonstrated by the successes of Armenian-Americans and the great contributions they have made to our society. These qualities are also evident in the effort of the newly independent state of Armenia to build a prosperous and democratic country after decades of Soviet oppression, and despite the ongoing conflict with Azerbaijan—an effort which I personally witnessed when I visited Armenia in January 1992.

During the last year, there have been some hopeful signs with regard to the conflict between Armenia and Azerbaijan—most notably the implementation of a cease-fire. I hope that the memory of the Armenian genocide, as well as the sight of the suffering of the Armenian and Azeri peoples, will spur a peaceful resolution to the dispute.

The legacy of the Armenian genocide has not succeeded in deterring subsequent acts of genocide. However, it is

only by continuing to remember and discuss the horrors which befell the Armenian and other peoples that we can hope to achieve a world where genocide is finally relegated to the realm of history books, rather than newspaper headlines. I hope my colleagues and leaders throughout the world will join me in commemorating the anniversary today, and thus ensure that the tragedy of the Armenian genocide will not be forgotten.

DIMINISHING PROSPECTS FOR PEACE IN THE BALKANS—A FOREIGN RELATIONS COMMITTEE STAFF REPORT

Mr. PELL. Mr. President, during the recess, two members of my Foreign Relations Committee staff traveled to Croatia, Bosnia, and Serbia to examine the wide range of issues related to the conflicts in the region, and their implications for United States policy.

The situation in Bosnia is unraveling quickly, and with the Senate likely to consider legislation concerning Bosnia in the coming weeks, I think it is important for my colleagues to be aware of the staff's findings.

Among other things, the staff found that as the situation in Bosnia deteriorates, the United Nations may be forced to withdraw from Bosnia and Croatia for any number of reasons, including: a worsening security situation, a shortage of world food stocks, a loss of local employees to the draft, or a lifting of the arms embargo.

The United States has pledged to participate in a NATO effort to withdraw U.N. troops. According to the staff report, a NATO operation in Bosnia would be costly, would require a long lead time, and would likely occur under hostile circumstances. The report finds that NATO is not prepared to extract U.N. troops immediately should that become necessary.

The report also raises some serious questions about the federation agreement between Bosnia's Croats and Muslims as well as about Croatia's intentions. It questions the prospects for peace negotiations regarding the Serb-held Krajina region of Croatia.

Finally, the report finds that Serbia is continuing to fuel both the Krajina and Bosnian Serb war machines. Despite this fact, last Friday, the United Nations voted to extend sanctions relief for 75 days. The report recommends that the United Nations resist further sanctions relief until Serbia ends all assistance to the Bosnian and Krajina Serbs.

Mr. President, as I mentioned, we may be asked next month to vote to lift the arms embargo against the Bosnian Government. I believe that the staff report may be a useful resource as we move into the debate. Accordingly, I ask unanimous consent that the key findings of the report be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, April 24, 1995.

Hon. JESSE HELMS,
Hon. CLAIBORNE PELL,
*Committee on Foreign Relations, U.S. Senate,
Washington, DC.*

DEAR SENATOR HELMS AND SENATOR PELL: On behalf of the Committee on Foreign Relations, we travelled to Croatia, Bosnia, and Serbia from April 7 through 15 to examine the wide range of issues related to the conflicts in the region, and their implications for U.S. policy.

In Croatia, we visited Zagreb, Osijek, and in Sector East, Vukovar, the border crossings at Batina Bridge, Lipovac, and other areas. We visited Mostar, the largest city in the part of Bosnia controlled by the Muslim-Croat federation. We were unable to visit Sarajevo as planned due to the closing of the Sarajevo airport as our plane was enroute to the city. The airport remained closed throughout our visit to the region. In Serbia, we visited Belgrade and the Sremska Raca border with Bosnia.

We met with Croatian and Serbian government officials, opposition leaders, religious leaders, foreign and local journalists, academics, local citizens, military and civilian representatives of the United Nations Protection Force (UNPROFOR), the United Nations High Commissioner on Refugees (UNHCR), NATO, and of international and local non-governmental organizations. We also met representatives of U.S. and foreign embassies, the European Community Monitoring Mission (ECMM), Sanctions Assistance Monitors (SAMs), and monitors of the International Conference on former Yugoslavia (ICFY).

We are grateful to Ambassador Peter W. Galbraith and his staff in Zagreb as well as to Rudolph Perina, the U.S. Chief of Mission and his staff in Belgrade. Their cooperation was instrumental to this report. We would particularly like to thank Foreign Service officers Rick Holtzapfle, Andrew Hamilton, and Madeline Seidenstricker as well as Tim Knight, of the Disaster Assistance Response Team (DART), for their able assistance.

The conclusions in this report are our own, and do not necessarily reflect the views of the Committee on Foreign Relations or its Members.

Sincerely,

EDWIN H. HALL,
*Minority Staff Director
and Chief Counsel.*
MICHELLE MAYNARD,
*Minority Professional Staff
Member for European Affairs.*

SUMMARY OF KEY FINDINGS

The situation in Bosnia is unraveling. The Bosnian Serbs are responding to recent limited Bosnian Government military gains with brutal attacks against civilians and U.N. peacekeepers.

The United Nations may be forced to withdraw from Bosnia and Croatia for any number of reasons, including: a deteriorating security situation, a shortage of world food stocks, a loss of local employees to the draft, or a lifting of the arms embargo.

The United States has pledged to participate in a NATO effort to withdraw U.N. troops. A NATO operation in Bosnia would be costly, would require a long lead time, and would likely occur under hostile circumstances. NATO is not prepared to extract U.N. troops immediately should that become necessary.

Croatia is supporting a federation between Bosnian Croats and Muslims as a means to retake Serb-controlled territory by force and to annex Hercegovina.

Croatia's military strategy, if continued, will make impossible the successful conclu-

sion of peace negotiations and lead to full scale war in the Serb-held Krajina region of Croatia.

The agreement bringing an end to fighting between Bosnian Muslims and Croats was a tremendous achievement for U.S. diplomacy. That being said, however, Croats and Muslims have made no progress in implementing a political and economic alliance. Despite significant U.S. and European financial and political support for the Bosnian federation, prospects for such an alliance appear dim.

Serbia is continuing to fuel both the Krajina and Bosnian Serb war machines. The land border between Serbia and Bosnia may be "effectively closed" as called for by U.N. Security Council Resolutions 943 (1994) and 970 (1995) but oil, military equipment, and other sensitive material pass daily from Serbia through Croatia's Sector East and into other parts of Serb-held Croatia and Bosnia. The United Nations recently voted to extend sanctions relief for 75 days. It should resist further sanctions relief until Serbia ends all assistance to the Bosnian and Krajina Serbs.

International sanctions against Serbia and Montenegro are not working. Belgrade is awash in consumer goods; gasoline costs less than it does in Germany; and Serbia's basic infrastructure continues to function.

Sanctions against Serbia appear to have strengthened rather than weakened President Slobodan Milosevic, who effectively uses the state-controlled media to blame Serbia's economic conditions on the West. Even if sanctions are not having their desired impact, Serbia should not be rewarded with a lifting of sanctions unless it recognizes the borders of all the states of the former Yugoslavia and ends its support for the Bosnian and Krajina Serbs.

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

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

The legislative clerk proceeded to call the roll.

Mr. McCONNELL. 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. McCONNELL. Mr. President, I am pleased that the Senate is considering the Product Liability Fairness Act this week. The time for legal reform is long overdue. I am anxious, as one Senator, to get this debate underway. I particularly want to congratulate the bill's chief sponsors, Senator GORTON and Senator ROCKEFELLER, for guiding the bill swiftly through the Commerce Committee, and I applaud Senator DOLE's leadership in bringing the issue promptly to the floor.

I might say, having been involved in this issue for now 11 years, going back to a prior period of Republican majority as chairman of the Court Subcommittee of the Judiciary Committee, we listened to lots of hearings and