now in a private session, as I understand it, discussing this measure.

I move that the Senate stand in recess until the hour of 2:30 p.m.

The motion was agreed to.

Thereupon, the Senate, at 1:22 p.m. recessed until 2:29 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. ABRAHAM).

Mr. DOLE. Mr. President, I understand there are speakers on the way to the floor. In the meantime, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

CONDOLENCES TO CITIZENS OF OKLAHOMA CITY

Mrs. BOXER. Mr. President, I wanted to add my voice, on behalf of the people of California, my voice that is going to say today that we send our love, our condolences, and our sympathies to our friends in Oklahoma.

A couple of California residents happened to be in that building at the time of the blast so we certainly share in this tragedy. I send my words of thanks to the incredible people who have shown up from all parts of this country to help the people of Oklahoma City cope with this tragedy.

I have a lot of thoughts and feelings, but rather than say them today, I will be writing them down because I do not want to misspeak or in any way say anything that could be misconstrued.

Today I just wanted to say that I am very fearful that what occurred in Oklahoma City could be a signal that America is losing something very special that we have always had, which is an ability to take our dissent and take it right to the ballot box.

If we lose that, and if we all do not guard against violence, we will lose the very essence of our Government, the Government of, by, and for the people. When we attack people who work for the Government, we are attacking our neighbors and friends, and indeed we are attacking ourselves.

One of the things that has concerned me for a long time is the dropoff in voter participation that I have seen. There are many people that are disgruntled and discontented with laws that are passed, the debates that we have here.

I encourage them to participate, to take that frustration and those feelings and organize politically and get your candidates here to the U.S. Senate, to the House of Representatives—whatever a person's philosophy, be it on the left, right, in the center, it matters not.

The beauty of what we have in America is this incredible democracy where everyone has a chance to get here. Certainly I got here very unexpectedly myself, a first-generation American—my mother never even graduated from high school—and I got to the U.S. Senate.

This is an open country and there is no need to harbor bad feelings toward one another. Here in this Senate we debate many times and we sometimes get angry at each other because we disagree with each other. However, it is done with respect. I only hope in the years that I am here it will continue to be done with respect.

COMMONSENSE PRODUCT LIABILITY AND LEGAL REFORM ACT

The Senate continued with the consideration of the bill.

Mrs. BOXER. Mr. President, we have many problems that need fixing in our country. I just have to say that product liability law should not be one of the problems. It is not a problem. Yet we are here, facing this bill, S. 565, the Product Liability—it is called Fairness—Act when this is not a problem.

Why do I say this? First, this country has an enviable record of producing safe products. All the countries in the world wonder how we do it. Well, we have laws that hold people responsible if they produce a dangerous product. The people who want this bill want to change that law.

Why should we tinker with laws that contribute to one of the best safety records for products known to human kind? The only thing I can imagine is that there are some special interests who do not like it.

That is why, I think, we are here discussing S. 565, because it certainly is not going to contribute to safer products. Indeed, I say, if it passes—and I am doing everything I can so that it does not pass and it does not become law—it is going to contribute to unsafe products, products that harm the people of my State and products that will harm the people of this country.

Second, there are those who say that we have an explosion of frivolous lawsuits related to product liability, to dangerous products. I want to say unequivocally, and I will repeat it many times during this debate, that it is a figment of someone's imagination that there is an explosion of litigation around dangerous products.

Let me give the facts, because there is a lot of rhetoric around here. Product liability lawsuits are only one-third of 1 percent of all civil lawsuits in State courts. Let me repeat: They are one-third of 1 percent of all civil lawsuits in State courts.

Listen to this: In 25 years, the last 25 years, there have only been 355 punitive damage awards. Now, what is a ''punitive damage award?'' Punitive—meaning to punish. When a company harms an American citizen, a person using a product, because of shoddy manufacturing and a mistake was made, and the person is injured, say, burned beyond recognition, that company is sued for punitive damages, meaning, ''Let us punish the people who caused this grief''—sometimes for loss of life and limb.

In a single year during that 25-year time period, there were an average of 11 punitive damage awards. Yet this bill is going to limit punitive damages—the ability of an average person to walk into court and get justice—because this Congress has decided it knows better than a jury. There is no wave of frivolous lawsuits here. We know where the frivolous lawsuits are: businesses suing businesses. That is where the explosion is, but this bill does not deal with that. This is the Business Protection Act.

I find it really intriguing that many of the Senators who were pushing this bill, which would take precedence over State law, are the very ones who say let the States do everything else. ''Oh, let the States do the School Lunch Program. But we know better, all of a sudden, than the States and the State legislatures, when it comes to products liability.'' I find that really astounding.

This is a rigid law. How could we determine now what the cap on punitive damages should be? I assure my colleagues, if a multibillion-dollar corporation makes a mistake in building a bus and the bus explodes, to punish a multibillion-dollar corporation $250,000 or three times economic damages is not going to cut it. Why not just repeal punitive damages while you are at it? The reason is they cannot get the votes to do that.

This law would pretend to know all the facts of every case in advance without seeing them. We are the all-seeing Senators here. We are the all-knowing Senators here. We know every case in advance here, and we can say here, without any problem, we ought to limit the ability of juries and judges to make awards. We know all the scientific evidence, I suppose, and all the circumstances under which a product was sold and manufactured. That is what this bill says.

There are billions of products manufactured each and every year, and this bill says we can foresee that under no circumstances should a company have punitive awards greater than $250,000, or three times economic damages. We, the almighty Senators, know—better than a jury, better than the States.

S. 565 would shift the current level playing field against the average person in favor of big corporations and there is no question about it. It would remove much of the responsibility of manufacturers and sellers of dangerous products. They do not have to fear a big jury award. They can just write it off as a cost of business. So what if a drug you took made you infertile? So what if a product your child got a hold of caused that child great damage to his brain or his limbs? It would take away the hard-won rights of average citizens to a safe marketplace for

goods. That is why every major consumer group is fighting against this bill. There are many groups fighting against this bill.

But one group of companies love this bill. The tobacco companies love this bill. Because some day in the future, when some court finds out that they knew their products were addictive, they will be shielded by this bill. And each and every Senator voting for it will have to say to the people who lose their loved ones to smoking, ''You know, I didn't realize it when I voted for this S. 565. You're right, it would limit punitive damages for cigarette companies.'' But that is what we are about to do here.

Current law, that S. 565 seeks to change, contains incentives for manufacturers to consider possible dangers before selling products to the unsuspecting public. That law would be changed. This law gives corporations and sleazy, marginal retailers an incentive to sell a dangerous product. Consumer safeguards will be displaced.

I believe this bill is nothing more than special interest legislation dressed up with a virtuous title: fairness. These are the words you hear so much around Congress these days: fairness; products liability fairness. It is really not fairness, it is a repeal of sensible product liability law, law that has worked, law that has not resulted in an explosion of lawsuits. That is a myth.

The backers of this bill are powerful. I can say that. I mentioned the tobacco companies. Many of them are unseen. You do not see the tobacco companies lobbying around here, but they are behind this. I say the public has a right to safe products. They have a right to a legal system that deters the sale of unsafe products. And the public has a right to fair compensation if they are harmed by a dangerous product. Let me say that again. The public has a right to safe products. They have a right to a legal system that deters the sale of unsafe products. And, finally, they have a right to adequate and fair compensation if they are harmed by a dangerous product.

I had a press conference in California with women who were harmed by silicone gel breast implants, and women who are called DES daughters. DES is a drug that was given to their mothers to help them sleep during pregnancy, which wound up giving them terrible, terrible problems and pain and suffering. The DES daughters and the silicone breast implant victims are lobbying against this bill.

What is their special interest? They have none. They are just sounding a warning cry to future victims if we pass this bill. This bill would prevent juries from imposing deterrents to future sale of defective products.

Mr. ROCKEFELLER. Will the Senator yield?

Mrs. BOXER. Yes, I will be happy to yield.

Mr. ROCKEFELLER. Is the Senator aware in this bill about DES?

Mrs. BOXER. DES.

Mr. ROCKEFELLER. We had that discussion, the Senator and I did, yesterday.

Mrs. BOXER. The Senator said DES was not approved by the FDA, did the Senator not?

Mr. ROCKEFELLER. By the modern FDA.

Mrs. BOXER. It was approved by the former FDA.

Mr. ROCKEFELLER. But not by the one by which the law was formerly interpreted.

Mrs. BOXER. The FDA——

Mr. ROCKEFELLER. If the Senator will yield? What the Senator fails to understand is that if this law before the Senate had been in effect at the time that, for example, Representative PATSY MINK went through her horrible circumstances, that in fact she would have had the recourse to sue that she does not have under the present law. Because under the present law in some cases the statute of limitations runs out in 2 years after time of injury. She did not know something was wrong for quite a while.

Very specifically, in our bill, it is explicitly laid out that if something happens 20 years later, 30 years later, 40 years later, the statute of limitations does not begin until a person knows, first, that they have been hurt; and, second, why they have been hurt—what is the cause, why they have been hurt. It is at that point that the statute of limitations begins to run. So that Representative PATSY MINK could have indeed gone, even today, had this bill been in effect back then.

Mrs. BOXER. Mr. President, if I might say to the Senator, Representative MINK is opposed to this bill and so are the DES daughters. They think this bill is a terrible bill. They think this bill is a step backward. There are many other parts of the bill, as my friend knows because he is so involved in it, that do not deal with the statute of limitations but that deal with capping damages.

I say to my friend again, it is very nice to hear that the Senator from West Virginia feels that the bill would be good for victims of DES, but the victims of DES oppose this bill. The victims of breast implants oppose this bill. Women's groups oppose this bill. So they do not see it the way the Senator from West Virginia sees this bill.

Mr. ROCKEFELLER. I did not try to explain that they did see it the way the Senator from West Virginia sees it. What I was suggesting is that they do not know that in this bill, they are not eliminated by the statute of limitations. The statute of limitations changes entirely. Whether or not they know it, that is the fact. That is just something I want those who are listening to understand.

It is the same thing as last year, when we had the FDA in and the consumer groups that the good Senator refers to. They were constantly saying, ''Well, that would mean that if you had a problem with the Dalkon shield or breast implants, you did not have a cause of action.'' All of which was totally an untruth, but it was said—megaphoned and megaphoned so loudly—that because they had never been approved by the FDA, therefore, they will have no defense whatsoever.

Mrs. BOXER. I say to my friend, maybe he misunderstood. What the groups were saying is that this is a bill about what happens in the future, and that a full one-half of the FDA-approved pharmaceuticals are recalled.

Mr. ROCKEFELLER. On this bill——

Mrs. BOXER. My friend raised the issue. It was in the bill last year and, as he knows, it is in the House bill. The FDA excuse is in the bill. That was passed the House. And if this bill passes—I know the Senator is working toward that end and I am working toward an opposite end—but if the bill does pass, and it has a chance of passing, it will go to conference and I hope my friend will in fact oppose it if the FDA excuse is in it.

The point is the Senator from West Virginia raised the issue of the FDA excuse and said that the groups did not really understand what we were doing when they mentioned silicone breast implants. The fact is, the silicone breast implants were grandfathered into an approval process, No. 1. But even if that is not as clear as a sure FDA approval, what the groups were trying to say—and they have no ax to grind, in my view, these are people who consumed, these are people who are victims of these terrible drugs, whether it is DES or silicone breast implants or the Dalkon Shield is one thing. Whether or not they were approved by the FDA, what they were talking about last year was the fact that since half of the drugs that are approved by the FDA are recalled, that FDA approval does not necessarily carry with it total and complete safety.

And in this bill, what you did not do last year, you capped punitive damages, and many women who understand this bill understand that women are going to be penalized because, if it is a choice between $250,000 or three times economic damages, women still in our society earn 71 cents for every dollar earned by men. Many do not work, many more do not work, and their economic damage of lost wages, et cetera, will be lower.

So I think that the Senator has every right to support this bill. I admire him and respect him for his belief in this bill. But when the Senator gets up and says PATSY MINK would have been better off, I think an average listener would have assumed that Congresswoman PATSY MINK, who had a DES daughter, would support this bill. She not only opposes it, she opposes this bill with passion.

Mr. ROCKEFELLER. I understand that very well. I simply was responding to the point that the Senator made about the DES. And the point is that had this bill been in effect at the time

that PATSY MINK went through her terrible situation, she would have been in an entirely different circumstance. I wanted the Senator to know that.

When the Senator mentions that women are hurt by this bill, women in America now have long been deprived. If the Senator wishes to further yield—

Mrs. BOXER. I am happy to yield. I wanted to make a point. Since the Senator brought up Congresswoman MINK, her daughter was harmed by a defective product. I am not sure, but I believe her daughter did recover some damages.

Mr. ROCKEFELLER. Good.

Mrs. BOXER. I am happy to continue to yield to my friend.

Mr. ROCKEFELLER. I thank the Senator very much.

Understand that this bill would not in any way protect anybody who makes a product, the Dalkon shield or any harmful product, such as silicone breast implants. The Senator does understand that?

Mrs. BOXER. No, I do not, because my friend under this bill is capping their punitive damages. Current law is much tougher on the people who make these products. This bill would cap punitive damages. So, therefore, it is a great step back. That is why the big business community supports his bill and consumers oppose it, because whereas each State would decide, there would be a cap on punitive damages. By the way, in California, we have no cap on punitive damages. We have other caps in place, but there is no cap on punitives. My people in California who would be victims of a future Dalkon shield would suffer under this bill.

Mr. ROCKEFELLER. I am trying to give a different point of view, that the Dalkon shield and breast implants are not covered because they are not approved by the FDA and besides the FDA defense from last year's bill is not even a part of this bill.

It is interesting. The New England Journal of Medicine indicated that women, and particularly women, I believe, who are pregnant, are now being excluded from clinical studies of different pharmaceuticals. That is not helpful for women. Benedictine is a morning sickness drug that in fact was approved and is used all over the world, and is not used in this country because they felt that they were unable to withstand litigation and potential charges. So there must be millions of women who do not have the advantage of that particular drug, which is approved everywhere else in the world.

Mrs. BOXER. If I could say to my friend, since I am yielding, and I think it is best we have a dialog on each point with respect to thalidomide, which was a drug made in England. My friend and I are from the same generation. We remember the tragedy of babies born without limbs and brains, and the rest of it. The FDA did not approve that drug here. And maybe our product liability laws kept that company out of America.

I want to say, in behalf of the women, at least from the State that I represent, they do not want any more Dalkon shields and they do not want thalidomide and they do not want unsafe products and silicone breast implants. That is just what they are going to get if bills like this go forward, because you are protecting companies in this bill and, therefore, they will be less vigilant. And that is why of consumer group in this Nation opposes this bill.

Mr. ROCKEFELLER. I say to the Senator further that where she refers to big business, about 30 percent of the businesses in this country are run by women, owned or run by women. The great majority of them are in fact small businesses. The guess is that by the end of this century, about 40 percent of all small businesses in this country will be run by women. Of course, it is the small businesses who are the least able to take on the risk of litigation and often withdraw products rather than subject themselves to that because they could be thrown out of business because maybe of a jury decision.

Julie Nimitz, obviously a woman, in Senate testimony—she runs a sporting goods company and is the chief executive officer of it, in fact.

She is one of the two CEO's who run a U.S. manufacturer of football helmets, and she said, ''Our employees hold their breath every time a case goes to the jury because a runaway award would mean the end of the company.''

Norma Wallace, who is head of an engineering company, said that the current situation with litigation—and evidently her company is in the machine tool industry—is made a great deal less competitive by the product liability system.

So the question of will women be helped or will women be hurt, I think, is not quite as easy as my friend indicates.

Mrs. BOXER. If I could respond to my friend.

Mr. ROCKEFELLER. Please.

Mrs. BOXER. It is not small businesses that brought these drugs to the market. My friend knows that. These drugs are developed over years. Millions of dollars go into these drugs, and they are sent to the marketplace. The fact that we——

Mr. ROCKEFELLER. I was not——

Mrs. BOXER. Excuse me. I believe that I am making a point here. I raised the issue of women, not women who own businesses or women who work for business. I raised the issue of women as consumers.

What I am saying to my friend is I believe I speak for the vast majority of women who would say to my friend today if they had the opportunity—and I am standing in here for some of them—please do not make it easier to push on us silicone breast implants. Please do not make it easier to push on us the Dalkon shield. Please do not make it easy for us to get thalidomide. Please do not change the legal system in such a way that we are no longer protected by the best system in the world.

Everybody always says this is the greatest country in the world. I have heard my friend say it. We have the best marketplace in the world, even though we do recall 50 percent of the drugs the FDA approves. We are the envy of the world.

I would say to my friends in small business—and my friend is right, small business is the engine of this economy—we are talking about this very narrow bill that focuses on basically product liability and mostly on punitive damages caps, that in a study, there were 355 punitive damage awards in 25 years. And was it last year there were 11—excuse me. I stand corrected. The last year of the study was 1990. There were an average of 11 cases per year. So my friends who are in small business, when it comes to punitive damage awards, they should know that there have been 300 plus in 25 years. So when I talk about the women of this country, I am talking about them as, frankly, people who have been victimized by dangerous products.

It is hard to know what it is worth if your mate is sterile and you cannot have a child. I am going to be a grandmother. It is one of the most exciting things that has ever happened to me. My friend is a proud dad. If I did not have that opportunity—and many DES daughters never had that opportunity—what kind of cap could I put on that? How can I tell you what it is worth? If I was to ask my friend what are his children worth, I do not think he could even measure it. But we are saying right now to future victims of products which might make them sterile, male or female, $250,000 or three times economic damages; that is all it is worth. And I do not believe in many cases that will punish these huge businesses and corporations that can write off $250,000 as easily as most Americans can write off a dollar or 10 cents.

Mr. ROCKEFELLER. Let me say to my friend from California, if she has time to engage in this, let me just go on further on this business of women and the effect on them.

Phyllis Greenberger is the executive director of the Society for Advancement of Women's Health Research, and she has said this year, ''The current liability climate is preventing women from receiving the full benefits that science and medicine provide. There is evidence,'' she says, ''that maintaining the current liability system harms the advancement of women's health research.''

I would point out to my good friend from California, with whom I agree on 95 percent of matters, 98 percent perhaps, under the current product liability system there is only one major

pharmaceutical company still investing in contraceptive research. So whether it is Benedictine for morning sickness or it is contraceptives or whatever, it is not the fact that there have only been *x* number of punitive damages awarded. It is the fact that punitive damages are always out there and that they have the effect of deterring people.

In fact, we have come to the point where I think 47 percent of business—no. I forget the exact number. It was a big percentage of businesses have indicated that when they want to improve a product that they already have, they often reject the chance to improve the product for fear that it will indicate their previous product was somehow deficient, which is just not the way things work in America. So it is not the number just of punitive damage awards. It is the chilling effect of the possibility of what could happen. It is, in fact, cutting off enormous amounts of research which affect women's health, all of which is basically what I am trying to say to my good friend.

Mrs. BOXER. Let me say to my friend I come from a State that has one of the largest pharmaceutical fields in the whole country. It is very robust. It is very exciting. And I say to my friend, I wish he would come with me. There is one company called Shaman Pharmaceutical. Shaman is sort of a doctor in the rain forest. And Shaman Pharmaceutical was founded by a young woman who said there are many of these products among the flora and fauna that hold promise. So the current liability laws did not stop Lisa Contey, who is the CEO of that company, from starting a new company from scratch, from building it up to the point where she has three products before the FDA.

What I am saying to my friend is I think the people who support this bill because they say there is a crisis are making up a crisis. There are many new drugs on the market. We want to work with the FDA to get swifter approval in some cases, and we will. But I say to my friend be very, very cautious. We are the envy of the world. I do not want to rush to get a new contraceptive that might hurt and maim and destroy people. You do not either, I say to my friend. So why mess with a law that has protected us? If we did not have laws like this, we might have gotten thalidomide on the market. If we did not have laws like this, we might have gotten many more dangerous drugs that you read about in other countries that are not as careful.

So I say that if, in fact, there is only one company doing this research and they are being careful and they are testing carefully and we do not have to—how many more times do women have to be used as guinea pigs in this country? It is not once that it has happened. It has happened with contraceptives continually. And maybe these companies will start making contraceptives for men. Maybe they will be a little more careful because, contrary to my colleague's remarks, it happens to be that these large pharmaceuticals are mostly dominated by men.

That is a fact of life. But I say that the laws we have in place are part of the patchwork approach to safe products, and I feel very differently than does he. I am not that concerned that there are not seven new contraceptives coming on the marketplace because, frankly, I would rather that they come slowly and that they be safe than that we expose women to the torture of some of these DES daughters. The one I met at my press conference, I tell you, it will haunt me for the rest of my life. She went through menopause in her twenties, and she has struggled ever since with the most life-threatening diseases because of DES.

So I do not want to have a law passed that will say to everyone out there, ''Come on. Bring your products onto market, because you can be taken to court but you're pretty well protected with a cap on punitive damages.''

I think it is a big mistake to do it. And I say that in behalf of, frankly, tens and tens of groups who really oppose this bill, many women's groups and consumer groups who represent both men and women.

Mr. ROCKEFELLER. I would just conclude, because my friend from Wisconsin has been more than patient in waiting to speak, by just saying two things.

No. 1 is, I ask unanimous consent to have a letter from the American Small Business Leaders on Product Liability Reform printed in the RECORD.

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

JOINT LETTER TO MEMBERS OF CONGRESS FROM AMERICAN SMALL BUSINESS LEADERS ON PRODUCT LIABILITY REFORM—APRIL 3, 1995.

DEAR MEMBERS OF CONGRESS: On behalf of the nation's more than 21 million small and growing businesses, we are writing to strongly urge your support of S. 565, The Product Liability Fairness Act of 1995.

You know the problem: A single lawsuit can and has put many small business owners out of business.

For many small businesses, the explosion in product liability cases means it is simply impossible to find and keep affordable liability insurance.

You've heard the horror stories. (If you haven't, give us a call.)

Why should you care? Small business create virtually all the net new jobs in the economy. And businesses owned by women now employ more people than the entire Fortune 500 combined. While most of our company names are not household words, small business comprises the backbone of the nation's economy—from Main Street to Wall Street.

We need your help!

Product liability reform was the #1 issue at the White House Conference on Small Business in 1986. Finally, after more than a decade of struggle, product liability reform seems within our reach.

Please support of S. 565. The Product Liability Fairness Act of 1995, and help protect U.S. consumers, workers and small businesses. Our future, and the future of our nation's economy, depends on it.

Thank you for your support.

Gary Kushner, President, Kushner & Company, Inc., President, National Small Business United, Kalamazoo, Michigan; Carol Ann Schneider; President, Seek, Inc., President, Independent Business Association of Wisconsin; Patty DeDominic, President, National Association of Women Business Owners (NAWBO), Los Angeles, California; Willis T. White, President, California Black Chamber of Commerce, Burlingame, California; Thomas Gearing, President, The Patriot Company, Federal Reserve Board, Small Business Advisory Committee, Milwaukee, Wisconsin; Margaret M. Morris, NAWBO Chapter President, Chevy Chase, Maryland; Lewis G. Kranick, Chairman of the Board, Krandex Corporation, Wisconsin Delegation Chair—1986, White House Conference on Small Business, Milwaukee, Wisconsin; Linda Pinson, Principal, Out of Your Mind, and Into the Marketplace, NAWBO Financial Services Council, Tustin, California; Dale O. Anderson, President, Greater North Dakota Association, Bismark, North Dakota; Chellie Campbell, President, Cameren Diversified Management, Inc., NAWBO Public Policy Council, Pacific Palisades, California; Brooke Miller, NAWBO Chapter President, St. Louis, Missouri, John F. Robinson, President & C.E.O., National Minority Business Council, Inc., New York, New York; Lucille Treganowan, President, Transmissions by Lucille, Inc., NAWBO Chapter President, Pittsburgh, Pennsylvania; Wanda Gozdz, President, W. Gozdz Enterprises, Inc., NAWBO Public Policy Council, Plantation, Florida.

Frank A. Buethe, Manager, Advance Business Development Center, Green Bay Chamber of Commerce, Green Bay, Wisconsin; Rachel A. Owens, Family Business Specialist, Mass Mutual, NAWBO Chapter President, Irvine, California; Brenda Dandy, Vice President, Marine Enterprises International, Inc., NAWBO Financial Services Council, Baltimore, Maryland; Terry E. Tullo, Executive Director, National Business Association, Dallas, Texas; Tana S. Davis, Owner, Tana Davis C.P.A., NAWBO Chapter President, Encino, California; Mary G. Zahn, President, M.G. Zahn & Associates, NAWBO Public Policy Council, Philadelphia, Pennsylvania; Gary Woodbury, President, Small Business Association of Michigan; Hector M. Hyacinthe, President, Packard Frank Organization Inc., New York Delegation Chair—1986, White House Conference on Small Business, Ardsley, New York; Mary Ellen Mitchell, Executive Director, Independent Business Association of Wisconsin, NSBU Council of Regional Executives, Madison, Wisconsin; Susan J. Winer, President, Stratenomics, Illinois Delegation Chair—1986, White House Conference on Small Business, Chicago, Illinois; Lucy R. Benham, Vice President, Keywelland Rosenfeld, P.C., NAWBO Public Policy Council, Troy, Michigan; Beverly J. Creamer, Chief Executive Officer, I & S Packaging, NAWBO Chapter President, Kansas City, Missouri; C. Virginia Kirkpatrick, President/Owner, CVK Personnel Management & Training Specialists, NAWBO Financial Services Council, St. Louis, Missouri; Mary Ann Ellis, President, American Speedy Printing, NAWBO Chapter President,

Boynton Beach, Florida; Shaw Mudge, Jr., Vice President, Operations, Shaw Mudge & Company, Connecticut Delegation Chair—1986, White House Conference on Small Business, Stamford, Connecticut; Eunice M. Conn, Executive Director, Small Business United of Illinois, NSBU Council of Regional Executives, Niles, Illinois; Ronald B. Cohen, President, Cohen & Company, Immediate Past President, NSBU, Cleveland, Ohio; Hilda Heglund, Executive Director, Council of Small Business Executives, Metropolitan Milwaukee Association of Commerce, Milwaukee, Wisconsin; Karin L. Kane, Owner/Operator, Domino's Pizza, NAWBO Chapter President, Salt Lake City, Utah; Suzanne F. Taylor, President & Owner, S.T.A. Southern California, Inc., Vice President—Public Policy Council, NAWBO, South Laguna, California.

Suzanne Pease, Owner, Ampersand Graphics, NAWBO Chapter President, Morganville, New Jersey; Mary Jane Rebick, Co-Owner, Executive Vice President, Copy Systems, NAWBO Public Policy Council, Little Rock, Arkansas; Arlene Weis, President, Heart to Home Inc., NAWBO Public Policy Council, Great Neck, New York; Deepay Mukerjee, President, R.F. Technologies, 1995 Delegate, White House Conference on Small Business, Lewiston, Maine; David Sahagun, Dealer, Castro Street Chevron, 1995 Delegate, White House Conference on Small Business, San Francisco, California; Dona Penn, Owner, Gigantic Cleaners, NAWBO Public Policy Council, Aurora, Colorado; Barbara Baranowski, Owner, Condo Getaways, NAWBO Chapter President, North Monmouth, New Jersey; Sheelah R. Yawitz, President, Missouri Merchants and Manufacturers Association, Chesterfield, Missouri; David R. Pinkus, Executive Director, Small Business United of Texas, Texas Delegation Chair—1986, White House Conference on Small Business, Austin, Texas; David P. Asbridge, Partner, Sunrise Construction, Inc., 1995 Delegate, White House Conference on Small Business, Rapid City, South Dakota; Marj Flemming, Owner, Expeditions in Leadership, 1995 Delegate, White House Conference on Small Business, Signal Mountain, Tennessee; Jo Lee Lutnes, Owner, Studio 7 Public Relations, 1995 Delegate, White House Conference on Small Business, Columbus, Nebraska; Margaret Lescrenier, Vice President, Gammex RMI, Small Business Committee Member, Wisconsin Manufacturers and Commerce; Gordon Thomsen, Chief Executive Officer, Trail King Industries, Inc., 1994 Small Business Administration National Exporter of the Year, Mitchell, South Dakota; Leri Slonneger, NAWBO Chapter President, Washington, Illinois; Shalmerdean A. Knuths, Co-Owner/Director of Administration, Rosco Manufacturing Company, 1995 Delegate, White House Conference on Small Business, Madison, South Dakota; Allan M. Shaivitz, President, Allan Shaivitz Associates, Inc., 1995 Delegate, White House Conference on Small Business, Baltimore, Maryland; Linda Butts, President/Owner, Prairie Restaurant & Bakery, Member, NFIB, Carrington, North Dakota; Malcolm N. Outlaw, Owner/President, Sunwest Mud Company, Board Member, Small Business United of Texas, Midland, Texas; Suzanne Martin, Council of Small Enterprises, Greater Cleveland Growth Association, NSBU Council of Regional Executives, Cleveland, Ohio.

David L. Condra, President, Dalcon Computer Systems, 1995 Delegate, White House Conference on Small Business, Nashville, Tennessee; Doris Morgan, Vice President, Cherrybark, 1995 Delegate, White House Conference on Small Business, Hazlehurst, Mississippi; Dr. Earl H. Hess, Lancaster Laboratories, Inc., Pennsylvania Delegation Chair—1986, White House Conference on Small Business, Lancaster, Pennsylvania; Ralph S. Goldin, President, Goldin & Stafford, Inc., 1995 Delegate, White House Conference on Small Business; Landover, Maryland; John C. Rennie, President, Pacer Systems, Inc., Past President, NSBU, Billerica, Massachusetts; Murray A. Gerber, President, Prototype & Plastic Mold Company, Inc., Connecticut Delegation Chair—1986, White House Conference on Small Business, Middletown, Connecticut; Robert E. Greene, Chairman & CEO, Network Recruiters, Inc., 1995 Delegate, White House Conference on Small Business, Bel Air, Maryland; Julie M. Scofield, Executive Director, Smaller Business Association of New England, Waltham, Massachusetts; Jack Kavaney, President, Gateway Properties, 1995 Delegate, White House Conference on Small Business, Bismarck, North Dakota; Leo R. McDonough, President, Pennsylvania Small Business United, Pittsburgh, Pennsylvania; H. Victoria Nelson, Proprietor, Jamel Iron & Forge, 1995 Delegate, White House Conference on Small Business, Hagerstown, Maryland; Helen Selinger, President, Sloan Products Company, Inc., 1995 Delegate, White House Conference on Small Business, Matawan, New Jersey; Charles B. Holder, President, Hol-Mac Corporation, 1995 Delegate, White House Conference on Small Business, Bay Springs, Mississippi; Marguerite Tebbets, President, Window Pretties, Inc., President, Women Business Development Center, Kennebunk, Maine; Catherine Pawelek, NAWBO Chapter President, Coral Gables, Florida; Max Gonzenbach, Vice President, Valley Queen Cheese Factory, Inc., 1995 Delegate, White House Conference on Small Business, Milbank, South Dakota; Geoff Titherington, Owner, Bonanza, American Franchisees Association, Sanford, Maine; Richard Watson, Executive Vice President, Walker Machine Products, Inc., National Screw Machine Products Association, Collierville, Tennessee; Tonya G. Jones, President, Mark IV Enterprises, Inc., NFIB Guardian Advisory Council, 1995 Delegate, White House Conference on Small Business, Nashville, Tennessee.

Mr. ROCKEFELLER. Mr. President, this is a letter from Patty DeDominic, who is the president of the National Association of Women Business Owners, and others, in which they write: ''On behalf of the Nation's more than 21 million small and growing businesses,'' we ask you to support this bill.

This is just not the idea, therefore, that this is all big business. I mean that really is not the case.

Second, and finally, and with great respect to my friend from California, who cares passionately that people be protected, as do I. I think the Senator knows my heart as well as the Senator's, not as well as the Senator knows her own heart, but she knows what I stand for and who I am.

But I think the statement is fine, which is one company which is doing research on contraceptives, or if you put that over into other areas such as Alzheimer's.

I had dinner last night with a person who has Parkinson's. He was describing to me a little bit of what that was like. That happened to be a man and not a woman. But I really never, ever want, as in the Soviet Union, where there is one company which is doing research on Alzheimer's and Parkinson's and some of these enormous diseases that affect men and women. I mean, the whole point is competition in the marketplace. And even worse is the fact that companies are withdrawing the amount of money that they spend on research in general.

Mrs. BOXER. I say to my friend, what I said—because I do not want to be mischaracterized—is that it is fine that unproven drugs are not being pushed on the marketplace because in many cases if unproven drugs are pushed on the marketplace they will kill people.

Mr. ROCKEFELLER. They certainly will.

Mrs. BOXER. They will maim people. They will hurt people. And nowhere could this be more true than when it comes to contraceptives or drugs given during pregnancy and the like. And women have been used as guinea pigs.

So when my friend says, in terms of contraceptives, that he is very worried that it is this legal system that is stopping these drugs, I say better that we go slowly, better that we move wisely, better err that we test these products and not have another case of the Dalkon Shield or the DES. We do not need these.

We learned a lesson and the lesson should not be that you open up the floodgates by protecting companies. The lesson should be that we should be very, very cautious.

Mr. ROCKEFELLER. And the lesson should also be that we open up the floodgates of the courthouse door to people who might be afflicted by anything that might happen in the future.

Mrs. BOXER. I think the courthouse door is fine right now. I mean, on the one hand——

Mr. ROCKEFELLER. Are you satisfied with the system the way it is?

Mrs. BOXER. With product liability; I think it is fair to say that we do not have the problem with product liability. If you want to talk about other areas of the law where there is frivolous lawsuits, that is fine.

But when I see that there were an average of 11 punitive damages awards for products cases in a single year, nationally, I do not think we have an explosion.

And then my friend says let us open up the courthouse door, on the one

hand, when many on his side say already the courthouse door is too wide open.

I just want to say to my friend when it comes to Alzheimer's, I am very interested, and his heart is there. We know that a new drug was put on the market last summer. We also know for Parkinson's there is a new operation that holds some promise. We are making progress.

I do not think we need to take a system that has acted as a protector of the American consumer and destroy it, as this bill would.

Now this bill only goes halfway to destroy it. The one in the House, that some of my friends here on the Republican side of the aisle like, goes to the heart of it, goes to the heart of it. They just want to get this bill in conference and go all the way with this bill if they can do it, and keep the votes together. I think we are playing a very dangerous game here.

Mr. ROCKEFELLER. Final question, with apologies to both the Senator from California and the Senator from Wisconsin.

Mrs. BOXER. The Senator does not have to apologize, I say to my friend. I enjoy this give and take.

Mr. ROCKEFELLER. Sure.

The Senator appeared to be saying that she is, Mr. President, entirely satisfied with our present system. I believe she did say that.

Mrs. BOXER. I said, on product liability, I think that we have a good system.

Mr. ROCKEFELLER. The status quo on product liability is absolutely fine and there does not need to be any changes made. I mean, most trial lawyers will not say that.

So what I was going to ask my friend from California, if there was a bill that was able to balance the requirements of getting more opportunities for research and discoveries, more opportunities for new drugs, and balance the needs of business in that respect and also the question of how business is treated so business, even though there were only 11 punitive damage cases in one particular year, that, in fact, the chilling effect of those 11 cases hangs over hundreds of thousands of businesses and, therefore, affects, in effect, hundreds of thousands of businesses and, on the other hand, was able to protect consumers and open up new avenues of protection for consumers, if it were possible to develop such a bill, would the Senator be interested?

Mrs. BOXER. I will work with my friend to make sure that we can encourage the best and the brightest people in this country to work on research. That is why I am such a proponent of NIH grants. Because, as my friend knows, right now we are only approving one in five grants. We are only funding one in five approved NIH grants.

I will work with my friend if he can show me part of the law that he thinks is hurting the people of this country. I am just saying to my friend that we have, with all of its faults and all of its problems, the safest products in the world. And I am saying to my friend, even though we have had our share of problems, we are still the safest.

Why would we go back from that? I think that is where my friend and I disagree. He does not seem to think that the current law has protected people. I mean, my friend has stated here and to me in other settings that he thinks his bill is good for future victims.

Mr. ROCKEFELLER. This Senator thinks that the bill before us offers a number of areas which would make it substantially a more protected situation, a more have-your-chance-at-the-courthouse situation, have access to alternative dispute resolutions on a voluntary basis where the claimant never has to pay anything but the defendant does.

I think there are a number of areas where this bill does, in fact, open up new opportunities for protection and due process to women.

This will be my fourth attempt to close, and I am picking on myself, not the distinguished Senator from California.

There is one more thing that I notice here. Again, the New England Journal of Medicine, 1993, concluded that the manufacturers' liability concerns are contributing to the exclusion of women, which I indicated earlier, from clinical studies.

Now, that is a terribly serious statement. That is the same thing as I ran into in the Persian Gulf war syndrome with the use of the drug pyridostigmine, which when used in connection with other chemicals may be a contributing factor to the tens of thousands of men and women in this country who have a so-called mystery illness, which is no mystery to me but which evidently seems to be to our scientists.

And women in the test that the Department of the Defense conducted to test this pill were entirely excluded. Not one single woman, even though the bodyweight of women obviously is not as great as that of the average man and, therefore, the effect of the pill, which was made on men and women, would be much worse on women. So the importance of having women in clinical studies in this research is very, very important.

Having said that, for my part I want to thank my friend from California, and apologize to my friend from Wisconsin and yield the floor.

Mrs. BOXER. Thank you very much.

Mr. President, I am very pleased that the Senator from West Virginia and I were able to engage in this dialog. I think today people have to know that when there is disagreement among friends, you still talk to each other. We do that too seldom, even on the floor of the Senate. ''No, I won't yield. I want to say my piece. I don't agree with you and I won't yield.''

I think the fact that we can go back and forth—and we are really in disagreement on this bill, there is no question about that—is a good thing.

I say to my friend that I know he is doing what he is doing because he thinks it is best for everyone. But I think at some point one has to take a look at who opposes you and listen to the groups that oppose your bill, and to stand on the floor and say, ''I'm doing it for DES people, I'm doing it for consumers, I'm doing it for women,'' how about giving these people the credit to know themselves whether this bill is good for them?

I told a story about this Boy Scout who saw this little old lady and went over to her and took her across the street. And he wondered why she did not say thank you. Finally, he said, ''Why didn't you say thank you to me?''

She said, ''Because I didn't want to go across the street.''

Why are we taking the consumers across the street? They do not want to go. Why are we telling the women in this country to go across this street? They do not want to go. I understand why one would support this bill. There are some big businesses that desperately want this bill. The tobacco companies want this bill. They do not like the threat of large punitive damages. Why would they? They would just as soon put a product on the market, take the risk and know they are protected.

I am talking for consumers, I am talking for women, and I am not making it up. I am going to read you the list, and it may take a while. I am not going to read the whole list:

Action on Smoking and Health opposes liability reform. AIDS Action Council opposes it. Alabama Citizen Action opposes it.

Here are others in opposition: The American Bar Association; American Coalition for Abuse Awareness; American Council on Consumer Awareness; American Public Health Association; American University Washington College of Law; Americans for Nonsmokers Rights; Arizona Citizen Action; Arizona Consumers Council; Aviation Consumer Action Project; California Citizen Action; California Public Interest Research Group.

This is an unprecedented group of people across the political spectrum, in my opinion.

The American Bar Association has lawyers on both sides of this; Center for the Public Interest Law at the University of San Diego; Center for Public Representation, Inc.; Center for Women Policy Studies; Children Now; Citizen Action; Citizen Action of Maryland and New York; Citizen Advocacy Center; Citizens Action Coalition of Indiana; Clean Water Action Projects; Coalition for Consumer Rights; Coalition of Labor Union Women; Colorado Public Interest Research; Communications Workers of America; Connecticut Citizen Action Group; Connecticut Public

Interest Research Group; Consumer Action; Consumer Federation of America.

All these groups oppose liability reform, and people will get up and say this bill is good for the consumers, and people will get up and say it is good for women, and people will get up and say it is good for victims. Well, that is the best kept secret in America because here are the groups that oppose it:

Consumer Federation of California; Consumer Protection Association; Consumers for Civil Justice; Consumer League of New Jersey; Consumers Union.

It goes on: DES Action USA. We heard the Senator from West Virginia get up and say he thought it would be better for DES people if this bill was law. Interesting. DES Action USA opposes the bill. So do DES Sons. So they do not want this bill to become law.

Empire State Consumers Association; Families Advocating Injury Reduction; Fair Housing Council of San Gabriel Valley; Federation of Organization for Professional Women oppose.

My friend talked about how women want this. Well, there is no such thing. Some women, I guess, who are in business want it and some do not.

Georgia Citizen Action; Fund for Feminist Majority.

It goes on.

Hollywood Women's Political Committee; Idaho Citizens Action Network; Idaho Consumer Affairs; Illinois Council Against Handgun Violence; Illinois Public Action; International Brotherhood of Teamsters; Iowa Citizen Action Network; Kentucky Citizen Action; Latino Civil Rights Task Force; Lambda Legal Defense and Education Fund. I am going to lose my voice. I might have to save this for a later debate.

I think I have made my point.

And I have not even told you all the prestigious, important, decent organizations that do not want this bill to pass. This is America. They do not want this bill to pass.

National Organization on Disability; the National Rainbow Coalition; the National Women's Health Network. They do not think liability reform is good for women.

Nebraska Citizen Action; New Hampshire Citizen Action; New Jersey Environmental Federation; New Mexico Citizen Action; North Carolina Consumers Council. It goes on. I am only on the O's.

Public Citizen; Uniformed Firefighters Association of Greater New York.

Mr. ROCKEFELLER. Will the Senator yield?

Mrs. BOXER. Yes, I will be happy to yield. I am getting tired.

Mr. ROCKEFELLER. When you go on to the R's, that would be an appropriate time to yield to me.

Mrs. BOXER. Go ahead. I yield to you now.

Mr. ROCKEFELLER. I noticed that the Senator mentioned one AIDS interested group. That compels me to say something which, again, I think is so important, that one of the reasons that the list is so long is people on a subject like this, and when you have a very intense group fighting so hard—the Senator mentioned lawyers in general—but there is a particular group of lawyers that is fighting this thing very, very hard, a tremendous amount of sensationalism.

I have a letter which is being passed around West Virginia written by one of these particular kinds of lawyers basically saying that if you have been exposed to asbestos, ROCKEFELLER is trying to cut off your chance for recourse, which is an absolute falsehood because this bill is entirely prospective and asbestos does not enter into it at all.

What I am suggesting is that many, in fact, amazingly, many of these consumer groups are so completely wedded to the status quo that they do not want to see any change.

I can remember—every year I do this. I ask the president of the American Trial Lawyers Association to come into my office, which they always do with one of their particular lobbyists. And I say, ''Is there anything I can do to work with you on this problem because I want to solve it in a way which is fair to both business and consumers.''

I come from a State where consumers far outnumber businesses, and I want to make sure it is a fair bill.

Every year the answer is, ''No, the bill is fine exactly the way it is. There is no need for any kind of change whatsoever. Which is a remarkable attitude when you consider, for example, what Abbott Laboratories said. Abbott Laboratories has made the decision to drop plans for human trials of the drug to prevent HIV-infected mothers from transmitting the AIDS virus to their unborn children. Abbott Laboratories is not a small operation. They are not doing that anymore.

Dr. Fauci, who is Director of AIDS research at the National Institutes of Health called these liability concerns ''very real,'' and ''something we have to address.'' This is the area of AIDS. A pharmaceutical company and a major Government research organization agree on the need to make some reforms in our product liability system.

All the junior Senator from West Virginia is trying to suggest to my friend from California is that somehow—here is another, Dr. Elizabeth Connell, Chair of FDA's obstetrics and gynecology devices panel, said that the United States is losing its leadership role in the area of contraceptive technology ''with potentially disastrous consequences for women and men in this country and elsewhere.''

All I am trying to say to my good friend from California is that I think one of the real problems on this piece of legislation, frankly, is that people really have not looked at the bill; that there is this atrocious mindset on the part of those who oppose it—I hope not on the part of those who propose it—that it is atrocious to bring it up. Often, in my State's legislature, somebody would bring up the beginning of an idea, an amoeba, and the lobbyist would crush it immediately before it had a chance to grow in any direction, so that it might in fact become something.

All I am saying is that opposing any change, praising the status quo, when such things as testing for AIDS passed from a mother to a child could no longer be carried out is beyond my understanding.

Mrs. BOXER. Mr. President, my friend should come to me about this situation, no drugs are being developed. The pharmaceutical industry is basically the fastest growing industry in California. I might tell my friend that the Pediatric AIDS Foundation is intimately involved in making sure that we do research on pediatric AIDS. I happen to know the doctor who actually made the finding that the AIDS virus passed through the mother's milk to the baby. The fact of the matter is, I do not see one reason that has been offered by any of my friends in the U.S. Senate on either side of the aisle that there is an explosion of lawsuits that is chilling this whole Nation.

I think that we have a system of justice in this country regarding product liability that is working. The truth is, with all of the talk about this great explosion of lawsuits, we heard all that and nobody put down one statistic about it. We finally got the statistic, and now they are coming up with another reason for the bill. Oh, it is a chilling effect. Yes, there are only 355 cases over 25 years, but it is a chilling effect. I say to my friends, if you want to see an explosion of litigation, it is in the business law area. That is where businesses are suing businesses and an explosion in litigation is taking place in that arena.

So there is no case to be made that there is this explosion of litigation. This is, in fact, an area of the law where the law serves as a deterrent from terrible, harmful products, be they drugs, medical devices, toys, or be they buses that explode. I am not a lawyer—which is a little refreshing around here—but I am not stupid when it comes to what is important for the rights of the people. I am not stupid when it comes to thinking about what it would mean if I did not have a baby because I was a DES daughter or I took a drug that was not carefully thought through. And then to say $250,000 capped for any horrible damage that was done to me, you know, if you lose your ability to bear a child, if that is your damage, you may be able to work. You may have very low economic damages. And if you can tell me that we know better in this U.S. Senate than they do in the States and on a jury in any and all cases what that punitive damage award can be, I say that is being ''Big Brother'' at its worst, and I might say ''Big Sister,'' depending on the gender of the Senator involved.

I am very concerned about this bill, very concerned about this bill. I have to say, I think it is an offense to the names of the groups that I read here to say that these people have somehow been hoodwinked—that was not my friend's word; I tried to write down what he said—riled up, made to believe that this is a bad bill when really it is a good bill for them.

I know some groups. You try to tell the Hollywood Women's Political Committee what is good for them and they will show you the door because they are going to figure out what is good for them. I have tried it on things on which they do not agree with me. They are not going to believe me in the American Trial Lawyers or the American Bar Association. They are going to look and they are going to decide. They have a very simple idea in their mind: They are going to oppose legislation that hurts people. That is what they believe. Do not blame it on the fact that they are so naive that they will follow the lawyers.

I do not know whether my friend knows it, but lawyers are not that well thought of these days. I happen to like lawyers. I am married to one. My father was one and my son is one. If you ask the average person, they are not going to follow lawyers, they are going to make up their own minds. If they agree with the lawyers, they will follow them. But to say some of these groups would follow blindly, I find that insulting on behalf of these groups. How about the YWCA, the Young Women's Christian Association? They oppose certain liability reform. I do not think they did it because they follow the lawyers.

In any event, there is going to be a lot more debate. I am going to close and again thank my friend for engaging me in this dialog.

I want to remind my colleagues of a few people: 14-year-old Shannon Fair, of Kentucky, in 1988, was in a school bus and it was hit by a drunk driver. No one was hurt by the collision itself, but the entire bus was engulfed in flames because the manufacturer decided against installing a metal safety cage for the fuel tank. Reckless frugality. Sixty-four children and four adults lost their lives. And we are going to cap, in this bill, the punishment to a company like that? We ought to be ashamed of ourselves.

Let us remember people like James Hoscheit of Minnesota, who at age 14 lost both of his arms when they were caught in a forage blower. If the piece of farm equipment had a simple safety guard, which cost the company $1, James Hoscheit would have his arms. And we are going to say, in our great wisdom, from Washington, DC, in the U.S. Senate, that we know better what kind of award James Hoscheit should get? I would rather leave that up to the people on the jury. Maybe they will find he should get $100,000. Maybe they will find he should get $200,000 or $1 million, because he lost both of his arms. I am not going to say what that should be. I think anyone who votes to do that is not fair to the future victims.

Don Taylor, Moreno Valley, CA, was driving his morning commute—and it could be any one of us—when another car cut him off. The Ford Bronco he was driving rolled three times and the roof caved in. The seat belts failed to retract. He was paralyzed from the shoulders down. Ford had notice of the defective seat belts, and he was still driving with the defective seat belt, and he is permanently paralyzed. Am I going to tell the jury from here what that is worth to him and his family? Not this Senator. I am going to fight against that.

Punitive damages are meant to punish and discourage flagrant or wanton conduct. And, as I said, punitive damages are awarded only rarely in product liability cases, and that is what we want. We want them used rarely—this is an important point, I say to my friends—because if they are used rarely, it means punitive damages are working because their very existence shapes up these companies, makes them think twice and three times and 10 times and 100 times before they put a potentially dangerous product into the hands of American consumers.

That is what we want. We want these punitive damages set on an individual basis, but we do not really want them at all. If everyone produces safe products, we will not have these awards. Why mess with a system that is deterring dangerous products?

You know, these caps they are talking about here are going to hurt women because they do not earn as much as men do. If you have a woman and a man and in the same bus and you have the exact same injury, but the man has a top-level job. You know, 95 percent of all of the top jobs in this country are held by men; it is just true.

It is just true. We women have a long way to go. We are getting there. However, it is slow.

If you have a woman and a man in the same bus, and they suffer the same injury, under this bill—under this bill—the man is going to receive more punitive damage awards because we will figure if he was not paralyzed, he would have earned so much more money, and he will be rewarded, and he will get a higher award. And the woman, who may not have been working at the time or worked at a lower job, will get less.

This is discriminatory on its face. Take the case of the Copper-7 IUD, intrauterine device. My friend and I talked a lot about these devices. The manufacturer knew for more than 10 years that their product could cause loss of fertility, serious infection, and the need to remove reproductive organs. The manufacturer continued to produce the Copper-7 IUD.

Now, the jury awarded one $7 million punitive damage award for this intentional misrepresentation of its birth control device. Under this bill, it would have been $250,000, or three times the plaintiff's economic damages. This is not a good bill.

I say to my friends, we should put a human face on this issue. We should remember the people who have suffered. However, they were able to go to court and be made whole because the law allowed that to happen. We should not jump in and preempt 50 States on this. We should allow the jury system to work.

I hope that after long debate—and I think we will have long debate on this; we already have had several days of debate—our colleagues will realize a couple of things. They will realize there is no explosion in this area of the law, no explosion of litigation. And they will realize that, by having a good, strong product liability law in all the various States that we have, that acts as a deterrent against unsafe products.

We have had our fill of the DES problem, of the silicone breast implant problem, of the Copper-7 IUD problem, of trucks and cars that explode. We should protect the people we were sent to represent, and we should not approve this bill. I yield the floor.

Mr. KOHL addressed the Chair.

The PRESIDING OFFICER (Mr. THOMPSON). The Senator from Wisconsin.

Mr. KOHL. I ask unanimous consent, and with permission from the Senators ROCKEFELLER and GORTON, I be allowed to speak as in morning business for a brief period.

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

SUPREME COURT DECISION STRIKES BIPARTISAN LAW

Mr. KOHL. Mr. President, I am quite disappointed and even puzzled today by the Supreme Court's decision in the United States versus Lopez case. Usually, the courts speak with one voice, but today the majority of the court spoke for several separate opinions.

By a slim 5 to 4 margin, the court struck down the bipartisan Gun-Free School Zones Act, a law that prohibits possession of firearms within 1,000 feet of a school.

In my judgment, this is a classic example of judicial activism, and it ignores the safety of our American children.

I will briefly say something about the facts that the court today ignored. Each day in our country more than 100,000 students bring guns into our schools. One-fifth of urban high school students have been threatened with firearms, and several hundred thousand schoolchildren are victims of violent crimes in or near their schools every year. Moreover, the problem of youth violence is rapidly escalating. In 1984, a total of 1,134 juveniles were arrested for murder; by 1993, that figure had more than doubled. According to the Justice Department, the vast majority