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## House of Representatives

The House met at 2 p.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We pray, gracious God, that You would watch over us and keep us in Your favor, that You would support us in our obligations and direct us in the right path, that You would sustain us in our endeavors and point us to the way of truth. O loving God, from whom we have come and to whom we shall return, may Your peace that passes all human understanding abound in our lives. Though we may depart from You, O God, may Your grace and mercy never depart from us. This is our earnest prayer. Amen.

### THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

### PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from North Carolina [Mr. BALLENGER] come forward and lead the House in the Pledge of Allegiance.

Mr. BALLENGER led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.

### MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 2064. An act to grant the consent of Congress to an amendment of the Historic

Chattahoochee Compact between the States of Alabama and Georgia; and

H.R. 2243. An act to amend the Trinity River Basin Fish and Wildlife Management Act of 1984, to extend for three years the availability of moneys for the restoration of fish and wildlife in the Trinity River, and for other purposes.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 1743. An act to amend the Water Resources Research Act of 1984 to extend the authorizations of appropriations through fiscal year 2000, and for other purposes; and

H.R. 1836. An act to authorize the Secretary of the Interior to acquire property in the town of East Hampton, Suffolk County, New York, for inclusion in the Amagansett National Wildlife Refuge.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 811. An act to authorize research into the desalinization and reclamation of water and authorize a program for States, cities, or qualifying agencies desiring to own and operate a water desalinization or reclamation facility to develop such facilities, and for other purposes; and

S. 1720. An act to establish the Nicodemus National Historic Site and the New Bedford National Historic Landmark.

The message also announced that the Senate agrees to the report of the committee on conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 641) "An Act to reauthorize the Ryan White CARE Act of 1990, and for other purposes."

The message also announced that pursuant to sections 276d-276g of title 22, United States Code, as amended, the Chair, on behalf of the Vice President, appoints Mr. CHAFEE, Mr. HATCH, Mr. PRYOR, Mr. PRESSLER, Mr. GRASSLEY, Mr. GORTON, Mr. JEFFORDS, Mr. MACK, Mr. BURNS, Mr. BENNETT, Mr. INHOFE, Mr. DEWINE, and Mr. GRAMS, as mem-

bers of the Senate delegation to the Canada-United States Interparliamentary Group during the 2d Session of the 104th Congress, to be held in southeast Alaska, May 10-14, 1996.

The message also announced that pursuant to sections 276h-276k of title 22, United States Code, as amended, the Chair, on behalf of the Vice President, appoints Mr. MURKOWSKI, Mr. BROWN, and Mr. COVERDELL, as members of the Senate delegation to the Mexico-United States Interparliamentary Group during the 2d Session of the 104th Congress, to be held in Zacatecas, Mexico, May 3-5, 1996.

### COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,  
HOUSE OF REPRESENTATIVES,  
*Washington, DC, May 2, 1996.*

Hon. NEWT GINGRICH,  
*Speaker, House of Representatives.*

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House on Thursday, May 2nd at 4:15 p.m. and said to contain a message from the President wherein he returns without his approval H.R. 956, the "Common Sense Product Liability Legal Reform Act of 1996."

With warm regards,

ROBIN H. CARLE,  
*Clerk, House of Representatives.*

### COMMON SENSE PRODUCT LIABILITY REFORM ACT OF 1996—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. 104-207)

The SPEAKER laid before the House the following veto message from the President of the United States:

This symbol represents the time of day during the House proceedings, e.g.,  1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.



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*To the House of Representatives:*

I am returning herewith without my approval H.R. 956, the "Common Sense Product Liability Legal Reform Act of 1996."

I support real commonsense product liability reform. To deserve that label, however, legislation must adequately protect the interests of consumers, in addition to the interests of manufacturers and sellers. Further, the legislation must respect the important role of the States in our Federal system. The Congress could have passed such legislation, appropriately limited in scope and balanced in application, meeting these test. Had the Congress done so, I would have signed the bill gladly. The Congress, however, chose not to do so, deciding instead to retain provisions in the bill that I made clear I could not accept.

This bill inappropriately intrudes on State authority, and does so in a way that tilts the legal playing field against consumers. While some Federal action in this area is proper because no one State can alleviate nationwide problems in the tort system, the States should have, as they always have had, primary responsibility for tort law. The States traditionally have handled this job well, serving as laboratories for new ideas and making needed reforms. This bill unduly interferes with that process in products cases; moreover, it does so in a way that peculiarly disadvantages consumers. As a rule, this bill displaces State law only when that law is more favorable to consumers; it defers to State law when that law is more helpful to manufacturers and sellers. I cannot accept, absent compelling reasons, such a one-way street of federalism.

Apart from this general problem of displacing State authority in an unbalanced manner, specific provisions of H.R. 956 unfairly disadvantage consumers and their families. Consumers should be able to count on the safety of the products they purchase. And if these products are defective and cause harm, consumers should be able to get adequate compensation for their losses. Certain provisions in this bill work against these goals, preventing some injured persons from recovering the full measure of their damages and increasing the possibility that defective goods will come onto the market as a result of intentional misconduct.

In particular, I object to the following provisions of the bill, which subject consumers to too great a risk of harm.

First, as I previously have stated, I oppose wholly eliminating joint liability for noneconomic damages such as pain and suffering because such a change could prevent many persons from receiving full compensation for injury. When one wrongdoer cannot pay its portion of the judgment, the other wrongdoers, and not the innocent victim, should have to shoulder that part of the award. Traditional law accomplishes this result. In contrast, this bill would leave the victim to bear these damages on his or her own. Given how often companies that manufacture

defective products go bankrupt, this provision has potentially large consequences.

This provision is all the more troubling because it unfairly discriminates against the most vulnerable members of our society—the elderly, the poor, children, and nonworking women—whose injuries often involve mostly noneconomic losses. There is no reason for this kind of discrimination. Non-economic damages are as real and as important to victims as economic damages. We should not create a tort system in which people with the greatest need of protection stand the least chance of receiving it.

Second, as I also have stated, I oppose arbitrary ceilings on punitive damages, because they endanger the safety of the public. Capping punitive damages undermines their very purpose, which is to punish and thereby deter egregious misconduct. The provision of the bill allowing judges to exceed the cap if certain factors are present helps to mitigate, but does not cure this problem, given the clear intent of the Congress, as expressed in the Statement of Managers, that judges should use this authority only in the most unusual cases.

In addition, I am concerned that the Conference Report fails to fix an oversight in title II of the bill, which limits actions against suppliers of materials used in devices implanted in the body. In general, title II is a laudable attempt to ensure the supply of materials needed to make life-saving medical devices, such as artificial heart valves. But as I believe even many supporters of the bill agree, a supplier of materials who knew or should have known that the materials, as implanted, would cause injury should not receive any protection from suit. Title II's protections must be clearly limited to nonnegligent suppliers.

My opposition to these Senate-passed provisions were known prior to the Conference on the bill. But instead of addressing these issues, the Conference Committee took several steps backward in the direction of the bill approved by the House.

First, the Conference Report seems to expand the scope of the bill, inappropriately applying the limits on punitive and noneconomic damages to lawsuits, where, for example, a gun dealer has knowingly sold a gun to a convicted felon or a bar owner has knowingly served a drink to an obviously inebriated customer. I believe that such suits should go forward unhindered. Some in the Congress have argued that the change made in Conference is technical in nature, so that the bill still exempts these actions. But I do not read the change in this way—and in any event, I do not believe that a victim of a drunk driver should have to argue in court about this matter. The Congress should not have made this last-minute change, creating this unfortunate ambiguity, in the scope of the bill.

In addition, the Conference Report makes certain changes that, though

sounding technical, may cut off a victim's ability to sue a negligent manufacturer. The Report deletes a provision that would have stopped the statute of limitations from running when a bankruptcy court issues the automatic stay that prevents suits from being filed during bankruptcy proceedings. The effect of this seemingly legalistic change will be that some persons harmed by companies that have entered bankruptcy proceedings (as makers of defective products often do) will lose any meaningful opportunity to bring valid claims.

Similarly, the Conference Report reduces the statute of repose to 15 years (and less if States to provide) and applies the statute to a wider range of goods, including handguns. This change, which bars a suit against a maker of an older product even if that product has just caused injury, also will preclude some valid suits.

In recent weeks, I have heard from many victims of defective products whose efforts to recover compensation would have been frustrated by this bill. I have heard from a woman who would not have received full compensatory damages under this bill for the death of a child because one wrongdoer could not pay his portion of the judgment. I have heard from women whose suits against makers of defective contraceptive devices—and the punitive damages awarded in those suits—forced the products off the market, in a way that this bill's cap on punitives would make much harder. I have heard from persons injured by products more than 15 years old, who under this bill could not bring suit at all.

Injured people cannot be left to suffer in this fashion; furthermore, the few companies that cause these injuries cannot be left, through lack of a deterrent, to engage in misconduct. I therefore must return the bill that has been presented to me. This bill would undermine the ability of courts to provide relief to victims of harmful products and thereby endanger the health and safety of the entire American public. There is nothing common sense about such reforms to product liability law.

WILLIAM J. CLINTON.

THE WHITE HOUSE, May 2, 1996.

The SPEAKER pro tempore (Mr. HORN). The objections of the President will be spread at large upon the Journal, and the message and bill will be printed as a House document.

Mr. HYDE. Mr. Speaker, I ask unanimous consent that further consideration of the veto message on the bill, H.R. 956, be postponed until Thursday, May 9, 1996, and that upon further consideration of the veto message on that day, the previous question be considered as ordered on the question of passage of the bill, the objections of the President to the contrary notwithstanding, without intervening motion or debate except 1 hour of debate on the question of passage.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. Without objection, consideration of the veto message on H.R. 956 will be postponed until Thursday, May 9, 1996, and, upon further consideration of the veto message on that day, the previous question shall be considered as ordered on the question of passage of the bill, the objections of the President to contrary notwithstanding, without intervening motion or debate, except 1 hour of debate on the question of passage.

There was no objection.

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#### PERMISSION FOR COMMITTEE ON HOUSE OVERSIGHT TO FILE REPORT ON HOUSE RESOLUTION 417, PROVIDING AMOUNTS FOR EXPENSES OF SELECT SUB-COMMITTEE ON UNITED STATES ROLE IN IRANIAN ARMS TRANSFERS TO CROATIA AND BOSNIA

Mr. HYDE. Mr. Speaker, I ask unanimous consent that the Committee on House Oversight may have until midnight tonight, May 6, 1996, to file a report on House Resolution 417, providing amounts for the expenses of the Select Subcommittee on the United States role in Iranian arms transfers to Croatia and Bosnia of the Committee on International Relations in the Second Session of the 104th Congress.

The SPEAKER pro tempore. Is there objection to the request from the gentleman from Illinois?

There was no objection.

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#### THE PRETEND PRESIDENT

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, President Clinton is just pretending to be President. He is just pretending to propose solutions to our Nation's problems. Let me illustrate what I mean.

Take the issue of helping the working poor. The President, by proposing an increase in the minimum wage, has a pretend solution to a real problem. Raising minimum wage will cause job loss and won't help the working poor. Even President Clinton agrees. He said so in Time magazine in 1995. If President Clinton thought raising the minimum wage was a good idea, he should have raised it when the Democrats had control of the Congress during the first 2 years of his term. He didn't. I can only conclude that the President doesn't want to help the working poor, only wants to pretend to help.

Another recent example of pretending is the announcement that he will sell 12 million barrels of oil from the strategic petroleum reserve in an effort to reduce rising gasoline prices. Twelve million barrels sounds like a lot of oil, but it is less than a day's supply for the Nation. The sale of oil will have a neg-

ligible effect on prices. If he wanted a real solution to a real problem, he would support repeal of his 4.3 cents a gallon gasoline tax of 1993. However, President Clinton would rather make a bold announcement and pretend to do something about rising gas prices.

We need a President that has real solutions for real problems. Not a President who is playing "let's pretend."

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#### MEDICARE TRUSTEES REPORT

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, the Medicare trustees reported last year that the part A trust fund, covering all inpatient hospital care, would be bankrupt by the year 2002, essentially confirming the findings of the Kerrey Commission. However, in light of new Treasury Department estimates that the trust fund ran a \$4.2 billion deficit through the first half of fiscal year 1996, experts, including the former Chief Actuary to HCFA, now conclude that the trust fund could be bankrupt in the year 2000, just 4 years from now. These facts should propel the administration to join the congressional initiatives to preserve Medicare. Instead, the April 1 deadline for this year's trustees report has come and gone with no White House action. It seems the White House is employing stalling tactics and stonewalling Medicare reform rather than saving the program. I urge the President to shelve the excuses, produce the report and join with the efforts currently underway in Congress to save Medicare now. Our Nation's seniors and others dependent on Medicare cannot tolerate the same White House failures to fix Medicare that we have endured for the last 4 years.

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#### PERSONAL EXPLANATION

Mr. GOSS. Mr. Speaker, on Wednesday, May 1, I was unavoidably detained for rollcall votes 141 through 145.

Had I been present, I would have voted "aye" on votes 141, 142, 144, and 145. I would have voted "no" on rollcall No. 143.

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#### SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

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#### THE THING THAT WILL NOT DIE—REPUBLICANS' PLAN TO CUT EDUCATION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Connecticut [Ms. DeLauro] is recognized for 5 minutes.

Ms. DELAUR. Mr. Speaker, increasingly the extreme agenda of the gen-

tlemen from Georgia [Mr. GINGRICH] and his leadership team reminds me of a bad 1950's B movie plot: The thing that would not die. They continue to resurrect bad ideas that have rightfully been shot down because in fact they have hurt working families in this country.

The latest example of a bad idea that will not stay dead is the House Republicans' plan to cut education.

It was only about 2 weeks ago when Speaker GINGRICH and other congressional Republicans waved the white flag and surrendered their extreme position on cutting education. They proposed making the deepest cuts in the history of public education in this Nation, totaling \$3.1 billion, and it took the outrage of parents and teachers and students at the grassroots level in addition to the determination of the President, of the congressional Democrats, to force Republican leadership to stop this wrongheaded attitude and attack on our Nation's future.

But let me say that parents do not rest easy. No sooner do we think that this bad idea is dead and buried, that then it finds new life.

Yesterday House Majority Leader DICK ARMEY proposed cutting education to pay for the repeal of the gas tax. I quote:

But the fact of the matter is, given our ability to contain the cost of energy and give tax relief, maybe we ought to take another look at the amount of money we are spending on education.

Direct quote: I watched the program.

Now I support a cut in the gas tax and would vote for such a thing. But who is going to get the benefit of it? Is the consumer going to get the 4.3 cents, or is that money going to go into the pockets of big oil?

That is what the danger is here, and what is going to get cut in order to pay for that tax cut? The last thing I want to see is a political game being played that does not really save the consumers any money in the end.

Is it not funny that when the increase, when it goes up, when the stock market goes up in its price, and the gas prices go up at the pump, when that goes down, when the stock market goes down, is it not funny that the gas prices for consumers and for families grudgingly comes down and takes a very, very long time for it to do it?

If we are going to cut the gas tax, then we should have the big oil companies pay for that gas tax cut and not education programs that serve working families in this country.

The other thing that we ought to consider at the same time is how come the prices rose so quickly, how come all the prices went up at the exact same time with the exact amount of increase? Is not that strange?

Let us take a look at and investigate that portion of this debate.

Let me just say that instead of cutting corporate pork the gentleman from the big oil State of Texas proposes cutting education for our kids to