

Permitting innovative doctors to charge a fee every time their new technique was used would be a windfall for the doctor but a huge and costly burden for the patient community. Because these innovations would occur anyway, these additional costs would be wholly unnecessary.

Second, it would greatly jeopardize patients' right to privacy. In order to know if a patent was infringed upon, patent holders could demand access to surgical notes and other detailed medical records to know precisely what kinds of procedures were used. Not only would this raise serious privacy concerns, but providing all of these records would be an administrative nightmare.

Third, allowing pure procedure patents would undermine the medical community's tradition—and ethical duty—of freely exchanging information for the benefit of patients. As a surgeon, I know first hand that medical training involves a very important social contract between health professionals. Making improvements in surgical or medical care and sharing those innovations with others is a critical part of the medical profession's commitment to advancing its art.

I was fortunate enough to innovate in my capacity as a heart transplant surgeon, but I always understood that my innovations were possible because I stood on the shoulders of giants.

I was able to advance the science of heart transplants because I had the benefit of superb teachers who themselves were great innovators. For me to have sought patents on new surgical techniques would have violated this social contract.

Fourth, it will open the door to FDA regulation of all aspects of medical practice.

While the FDA regulates medical devices and pharmaceuticals, it has no authority to regulate the general practice of medicine. The response to those who have advocated comprehensive FDA regulation of medical practice has been that checks and balances already exist to assure that patients receive appropriate care. One of those checks is the peer review process. If we undermine the peer review process but injecting patent-seeking into the heart of the practice of medicine, we will have opened the door for proponents of more expansive FDA regulation.

If we accept the argument that innovations in pure procedures should be treated no differently than innovations in drugs or devices for purposed of patent law, we open ourselves up to the argument that they should be treated no differently for other purposes as well—including FDA regulation.

Not only would pure procedure patents have disastrous effects on health care, they are unnecessary to encourage innovation.

It is important that we not lose sight of the underlying purpose of patent law. Its function is not to reward innovations after the fact. Its purpose is to

encourage innovation that would not occur otherwise. This rationale does not apply to innovations in pure medical and surgical procedures because such innovations have and will continue to occur without the benefit of patent law.

Further, unlike innovations in medical devices or drugs, pure-procedure innovations do not require huge investments of capital. As Dr. Pallin's no stitch cataract surgery indicates, most breakthroughs are discovered in the course of treatment. This is partly why the AMA's Code of Medical Ethics holds pure-procedure patents to be unethical.

Doctors have an ethical duty to seek the best care for their patients. This includes the duty to innovate when necessary. Also, recognition among one's peers for innovation and excellence is a tremendous incentive for doctors. Every doctor wants the cachet of publishing an article in a medical journal detailing their innovation. Finally, to augment these private motivations to innovate, millions of dollars in public and private grants are available each year to advance pure-procedure technology further.

As a result, not only would allowing pure procedure patents to be enforced against doctors be detrimental to health care, it would not serve the underlying purpose of patent law which is to encourage innovation.

In closing, I want to thank Congressman GANSKE with whom I have been working for the past year on this important subject. His amendment provided the impetus to address this important matter in the waning days of this Congress.

I also want to thank Senator GREGG and his staff for their strong support. Without Senator GREGG's commitment, this legislation would not have been possible.

Finally, I want to assure opponents of my legislation that I take seriously their concerns and will be the first to join them in revisiting this issue if its unwitting effect is to chill medical innovation. While I do not believe this will be the effect, I agree that it warrants a watchful eye.●

#### MEDICARE BENEFICIARY SHARES CONCERNS ABOUT THE NEW DOLE PLAN

Mr. ROCKEFELLER. Mr. President, a few weeks ago, a number of my Democratic colleagues and I held a forum on how former Senator Dole's economic plan would affect the Medicare Program and the 37 million people who rely on it for their health care needs. Unfortunately, there have been no formal congressional hearings to examine the consequences of this mammoth plan on the lives of the American people, or in particular, on Medicare beneficiaries.

Our forum heard from highly respected economic and health care experts who warned us that the Dole plan

would require deep cuts in Medicare, which would force major changes in the program, cuts in payments to the professionals and institutions that provide Medicare services, and reductions in the quality of the medical care provided to Medicare beneficiaries. In my view, this is one of the most obvious and compelling reasons to do everything possible to prevent the Dole economic plan from ever becoming reality. It astounds me that we are seeing this revival of a supply-side proposal that once again puts Medicare on the chopping block in order to pay for tax relief for the wealthy.

We also were privileged to hear from an extraordinary senior citizen and Medicare beneficiary, Betty Miller. Betty Miller told us that the Medicare cuts required to pay for Dole's tax cut plan would seriously threaten her health care security. Betty was a powerful witness and I think she truly represents what the majority of Medicare beneficiaries would tell us if they had the chance to share their views about the Dole plan's harsh Medicare cuts.

I want all my colleagues to be able to listen to Betty's comments about Medicare. I submit Betty's testimony for the RECORD, and urge each of my colleagues to take the time to read what a real Medicare beneficiary cares and worries about when candidates propose financing tax breaks with their Medicare Program. Again, I thank Betty for taking the time to tell us about her health care worries, and about what Medicare means to her.

This testimony underscores, I submit, the reasons to protect Medicare from being raided for anything but the future of this crucial health care program. A promise was made to Betty Miller that she could experience her retirement years with the peace of mind of health care security. And a promise was made to future retirees, who are now working hard to pay into the Medicare Trust Fund, so they can count on the same health security. The Dole plan threatens this promised health care security, and should be rejected.

The testimony follows:

My name is Betty Miller. I am 77 years old and in good health, fortunately.

Nine years ago my husband died of emphysema and complications, amassing bills of one quarter of a million dollars. I would be impoverished today, and so would my children, if it were not for Medicare.

Since then I have cost Medicare less than one hundred dollars (\$82.24) for the total nine years. My pension deductions for Medicare amount to \$510 annually. I have worked since I was 17 years old. In the years before my retirement ten years ago my Health Insurance tax was deducted from every salary check.

I like the Medicare program. It gives me peace of mind. I can sleep at night knowing that I may not become a financial burden to my children. My four children are fine, upstanding citizens gainfully employed, but they are not wealthy. They could not face the burden of a major health expense for me. A burden which might rob my six grandchildren of a higher education or other economic requirements.

This is why we are so concerned with Republican proposals, the proposal you have

just heard about which my Representative and her Republican colleagues support. A 15% tax cut at my income level would be peanuts compared to my possible medical bills.

At my age I do not worry about dying, but without Medicare I would worry about surviving. Many of my friends are in the same position.

We need Medicare for ourselves and our children.●

#### TRIBUTE TO SAID FREIHA

● Mr. BROWN. Mr. President, I rise today to speak about the life of Mr. Said Freiha, a past chairman of the influential Arab publishing house, Dar Assayad, and the founder of Assayad, a weekly newsmagazine.

Born in Lebanon in 1912, Mr. Said Freiha rose from humble beginnings committed to the belief that a strong society full of freedom, pride and dignity could only be achieved through free enterprise and democracy. In 1970, Mr. Freiha established the Said Freiha Foundation for Welfare and Scientific Services. The foundation has been instrumental in providing financial, medical and professional aid to members of the Arab media and their families.

Under this leadership, Dar Assayad became one of the top three printing and publishing houses in the Arab world. When Mr. Freiha died in March 1978, he left behind a press empire now producing 12 publications.

Said Freiha's memory will remain as a beacon in the Arab world. Readers from across the Arab world will continue to benefit from the literary treasures he left behind.●

#### TREASURY, POSTAL SERVICE AND GENERAL GOVERNMENT APPROPRIATIONS

● Mrs. MURRAY. Mr. President, I want to thank the chairman and ranking member for working together to report this bill. I will certainly support final passage.

One of the most important budget items in this bill to me and my Seattle area constituents is funding for the new Federal courthouse. This courthouse has been needed, and in the works, for almost a decade. As Congress has expanded the role of Federal courts in crime fighting and other areas, our judges have gotten more and more squeezed. There is no doubt a new courthouse is needed.

At this time, the General Services Administration, working with the city of Seattle, has tentatively selected the main library for the city as the site for the new courthouse. The library is in sore need of replacement or major restoration. The library is a cherished public asset. The people in and near Seattle check out books at a rate of 1 million per year. They bring their children to story hour, attend the diverse programs, and conduct tremendous amounts of personal and professional research.

The city of Seattle recognizes the need for expansion of the Federal

courthouse and is committed to working energetically in partnership with the GSA to make this a reality. Seattle has offered to relocate its library to expedite expansion of the courthouse. I am pleased the city and GSA intend to work together, as quickly as possible, to find a mutually agreeable resolution of the cost and timing questions.

Mr. President, I again thank the chairman and ranking member for doing their part to move this courthouse toward completion. The need for the courthouse and a smooth, cost-efficient transition to a new library cannot be overstated. I look forward to working with you further in the coming years of this project to ensure the Federal justice system is poised to meet the growing needs of the region, and that Seattle's central library is kept whole in the process.●

#### FOREIGN DIFFERENTIAL EXPORT TAX SCHEMES

● Mr. GRASSLEY. Mr. President, last month when we were considering legislation to extend the Generalized System of Preferences [GSP], I raised an issue involving an unfair trade practice that has been of great concern to U.S. growers and processors of soybeans. I described a tax policy employed by certain countries, including some who are major beneficiaries of the GSP program, to give their processors and exporters of agricultural products an unfair competitive advantage in world markets. This policy is used particularly to benefit foreign soybean meal and oil processors and exporters.

This tax policy, known as a differential export tax scheme [DET], in effect operates as an indirect subsidy for exports of soybean meal and oil, permitting oilseed processors in those countries to underprice their competitors and obtain greater market shares for these products. As a consequence, the United States share of the world export market for soybean products has declined significantly, while the countries that engage in these trade-distorting practices, such as Brazil and Argentina, continue to experience tremendous export growth in these same products. Moreover, these tax schemes have had the effect of creating artificial downward pressure on world price levels for these products, which has severely reduced U.S. soybean industry revenues.

In my statement last month, I cited the tax structure utilized by the State of Rio Grande do Sul in Brazil as a particularly egregious case in point. At that time, I noted the commitment of the Brazilian Federal Government to reforming that system. I am pleased to report that earlier this month, the Government of Brazil enacted reform legislation that eliminates these taxes on exports of raw materials and semi-manufactured goods. I want to publicly congratulate the Government of Brazil for this major accomplishment. I hope the example of leadership that Brazil

has set in taking this important step will encourage other countries that continue to utilize these tax schemes to take similar steps toward free and fair trade. I will continue to carefully monitor these developments and, as I noted in my previous statement, I am prepared to consider appropriate measures to encourage further progress in this regard.●

#### UNITED STATES-JAPAN INSURANCE AGREEMENT

● Mr. MURKOWSKI. Mr. President, today I would like to call to this Chamber's attention the continuing failure of the Government of Japan to honor the United States-Japan Insurance Agreement. My colleagues will recall that I offered a resolution on this issue on July 25 during our consideration of the foreign operations appropriations bill. That resolution was adopted unanimously by the Senate.

It was my hope at the time that the Government of Japan would soon begin to implement the obligations it undertook in the insurance agreement signed in 1994. Regrettably, not only has Japan not fulfilled its obligation to open its insurance market, as called for under the agreement, it is now poised to commit a grave violation of it. Such a violation would undermine Japanese credibility and could cost American companies millions of dollars of hard earned business. Rather than leading to a more open market, this agreement and Japan's new insurance business law, are being implemented by the Ministry of Finance in ways that could lead to substantially reduced American market share.

Our well-respected Ambassador to Japan, Walter Mondale, told the National Press Club earlier this month that it appears possible that the Ministry of Finance [MOF] "is going to permit these huge insurance companies to develop subsidiaries to go into the third sector and swamp the third sector with the army of insurance agents they have, without opening the primary sector. . . . And I think many of [the foreign insurance companies] would be driven out." For the benefit of those Members unfamiliar with the insurance market, the so-called "third sector" includes such niche products as personal accident and long-term disability insurance, and it is the only sector where foreign firms currently can compete.

Since Ambassador Mondale made that statement, the possibility of a violation has grown. Just last week USTR met again with the MOF to take stock of our respective positions. What this meant in fact was the Japanese Government withdrew—in response to domestic industry pressure—all the concessions offered at earlier negotiations in Vancouver.

Rather than making progress, the negotiations are back to where they had been in March and April. And I believe we are now at a brink. Ambassador