

Day: A National Day of Celebration of Greek and American Democracy." That resolution was submitted by our distinguished colleague from Pennsylvania, Senator SPECTER, and it was agreed to by the Senate unanimously on March 6.

Today commemorates the 175th anniversary of the beginning of Greece's struggle for independence from the Ottoman Turkish Empire. After 400 years of foreign domination, and after 11 years of struggle against the despotic rule of the Ottoman Turks, Greece's independence was a cataclysmic event in European Affairs. At that time, outside of Britain and France, Europe was composed mainly of autocratic empires and states whose borders had little relation to their composite nationalities.

The astounding accomplishment of the Greek people in achieving their independence from the vast Ottoman Empire acted as a catalyst in transforming the aspirations of Europeans across the continent. Greece's independence from the Turks was, in many ways, even a greater feat than the other great struggle for national independence 45 years earlier: the American Revolutionary War. Although the Greek people received support from many other countries, particularly from the United States, they enjoyed no advantage similar to a protective ocean or the active assistance of an ally such as France.

During the last 175 years, the ideals of national independence and democracy, which were first expounded by the ancient Greeks, have spread widely throughout Europe and so much of the rest of the world. Greece's achievement of independence helped to spread not only the belief in the inherent right of national independence, but the belief that it is possible for a nation to assert its rights, despite seemingly impossible odds.

Mr. President, it is appropriate to remember the meaning of March 25, which remains a powerful symbol of the ideals that America holds dear and upon which our own Nation was founded. But this is a symbol not only for the Greek and American people to celebrate. It should also be a day of commemoration for the many young, struggling democracies around the globe, as well as for the numerous nations and peoples still yearning to be free. ●

PRODUCT LIABILITY FAIRNESS ACT

● Mr. KYL. Mr. President, I support the conference report of the Product Liability Fairness Act.

This is a historic day in the effort to enact meaningful civil justice reform. For the first time in more than two decades, the Senate and the House of Representatives have debated and passed product liability reform.

Product liability reform was part of the Contract With America. According

to the Luntz Research Co. survey released in March 1995, "83 percent of Americans believe that our liability lawsuit system has major problems and needs serious improvements."

Now, all that remains is for the President to do his part to make product liability reform a reality.

I commend the efforts of my colleagues from Washington and West Virginia, Senators GORTON and ROCKEFELLER, for their 15-year effort to bring needed reform to the Nation's product liability laws.

Historically, America's economic strength has been in manufacturing, where much of our wealth has been created. It is essential that the Congress move to protect our Nation's manufacturing base from unreasonable litigation. Although product liability law is a small area of tort law, it is also a critical area in which America is losing its competitive edge.

Mr. President, the conference report contains many important provisions which were contained in the original Gorton-Rockefeller bill. The alcohol and drug defense would create a complete defense created if the claimant was more than 50-percent responsible for his or her injury. The bill also provides for a reduction in damages by the percentage of the harm resulting from claimant's misuse or alteration of a product.

The bill provides for a punitive damages cap that limits recovery to \$250,000 or 2 times compensatory damages, whichever is greater. Exceptions are established for small business—under 25 employees—and individuals with a net worth of less than \$500,000. With these two exceptions, the limit is \$250,000 or 2 times compensatory, whichever is lesser.

The bill's statute of limitations requires that suits be filed within 2 years after the harm and the cause of the harm was discovered, or should have been discovered.

The bill provides for joint and several liability for all economic damages, but several liability only for noneconomic damages.

The bill provides that biomaterial suppliers who furnish raw materials, but are not manufacturers or sellers, are protected from liability when the supplier is not negligent. Further, a product seller can be held strictly liable as a manufacturer only in two circumstances: where the claimant can't get service of process on the manufacturer, or where the judgment is unenforceable against the manufacturer, as is the case when the manufacturer is judgment-proof.

During the product liability floor debate, I offered three amendments. Amendment 1, which passed by a vote of 60 to 39, struck out provisions in the original Senate bill that penalized, with attorney fees and court costs, only defendants, but not plaintiffs who refused to enter into ADR. Under State law, ADR provisions are equally applicable to plaintiffs and defendants, and we should keep it that way.

Amendment 2, which was tabled by a vote of 56 to 44, would have limited non-economic damages to \$500,000 in medical malpractice cases. Amendment 3—which was tabled by a vote of 65 to 35—would have limited attorneys' contingency fees to 25 percent of the first \$250,000. The amendment also provided that 25 percent of a punitive damage award is rebuttably presumed to be ethical and reasonable.

Although the House bill had both a non-economic damages cap of \$250,000 in medical malpractice cases and an attorney-fees limitation provision, neither of these two provisions were included in the conference report. I will continue to work to see that these provisions are enacted into law. However, one important provision from the House version that was included by the conferees shortens the statute of repose from 20 to 15 years, thus reducing the time period during which a claimant may bring a product-liability action after taking delivery of a durable good.

The conferees also limited the "additur" provision contained in the original Senate bill. Thus, in a case of egregious conduct, a judge may raise the claimant's punitive damage recovery no higher than the amount proposed by the jury, unless State law provides otherwise.

I want to note some other important provisions contained in the House bill that unfortunately were dropped by the Senate-House conferees. The "loser pays" provision, which would discourage frivolous lawsuits, was dropped. The "FDA defense," which would prohibit the imposition of punitive damages upon a manufacturer of a product that has received FDA approval, was also eliminated. And, as I mentioned earlier, the conferees also dropped the \$250,000 cap on non-economic damages in medical malpractice actions. Moreover, the conferees dropped provisions that would have extended the punitive damage cap and joint and several liability reform to all civil cases. I regret that these provisions are not in our bill.

In spite of the narrow scope of the conference report, President Clinton has indicated that he will veto this bill. And this is despite the fact that back in August 1991, Governor Clinton was leader of the National Governor's Association when it approved—unanimously—Federal product-liability reform. Also as Governor, Mr. Clinton twice supported NGA resolutions calling for product-liability reform.

The President's track record on this issue caused the Washington Post, in a March 14 editorial, to predict that the bill should be "accepted by both houses and signed by the President." The veto decision prompted another Post editorial 5 days later, this one entitled, "Trial Lawyers Triumph."

Mr. President, I could not agree more, and it is a real shame.

The limited reform in this bill will be an important first step, but only a first

step. Ultimately, the Congress and a more responsive President must go beyond product-liability reform and must comprehensively overhaul the entire civil justice system. We must repeal the regressive "tort tax" that depletes our economy, raises prices, destroys jobs, stifles innovation, and reduces exports. The "tort tax" created a capricious legal lottery that divides neighbor from neighbor, and causes doctors to add billions to our national health-care costs each year by practicing defensive medicine.

In Arizona, for instance, medical malpractice premiums have increased by nearly 200 percent since 1982. Attorneys' fees and transaction costs are an increasingly large part of this increase in litigation expenses.

The U.S. Department of Commerce has estimated that only 40 cents of each dollar expended in product-liability suits ultimately reaches the victims. A Rand Corp. study showed that 50 cents of each liability dollar does not go to victims, but to attorneys fees and other transaction costs. It is clear that the Product Liability Fairness Act is a small but critical step toward the goal of national legal reform.

It is my understanding that this body will consider more comprehensive legal reform legislation later this year, including Senator HATCH's Civil Justice Reform Act of 1995, and Senator MCCONNELL's, Lawsuit Reform Act of 1995. I am also hopeful that the Senate Judiciary Committee will hold hearings on S. 11, the Medical Care Injury Compensation Act of 1995, a bill I introduced on the first day of the 104th Congress. This legislation caps non-economic damages such as pain and suffering at \$250,000; imposes a limit on attorneys' fees of 25 percent of the first \$150,000 recovered and 15 percent of any amount in excess of \$150,000; provides for periodic payments where damages for future economic loss exceed \$100,000; provides for mandatory offsets for damages paid by a "collateral source"; and reforms "joint and several" liability.

Mr. President, I would like to close by addressing one of the arguments used by the President in his veto message. This argument asserts the unconstitutionality of the preemption of State liability laws under the commerce clause of the U.S. Constitution.

It is clear that no individual State can solve the problems created by abusive litigation. This is particularly true in the case of product-liability litigation: a product is frequently manufactured in one State, sold in a different State, and causes injury in a third State. In fact, Government figures establish that, on average, over 70 percent of the goods manufactured in one State are shipped out of State for sale and use.

It is clearer that a national solution is justified by the fundamentally interstate character of product commerce. The threat of disproportionate, unpredictable, punitive damage awards exerts an economic impact far beyond the borders of any individual State. This

threat reduces investments, dampens job creation, and prevents new products from reaching the marketplace. In an increasingly integrated national and international economy, the confusing, inconsistent patchwork of State liability awards has cut deeply into America's economic strength.

Unfortunately, since the signing of the Constitution, the commerce clause has been stretched and contorted to authorize virtually every activity Congress chooses to regulate—except interstate commerce. Opponents of legal reform profess concern about the preemption of State law and interference with States' rights. And yet it was many of the same interests that favored intrusive Federal regulations imposed on the States by OSHA, FDA, EPA, and other Federal regulators.

In truth, States' rights is not what is being defended here, but rather, the status quo. Otherwise, why is the litigation industry the only segment of the economy that opponents of legal reform believe should remain beyond the reach of Federal law?

Mr. President, legal reform will not cause the creation of a single new Federal program or the expenditure of a single new appropriation; Legal reform will not impose new taxes or regulations on our citizens. Legal reform will simply create clear, consistent legal standards covering civil actions brought in State and Federal courts.

Mr. President, legal reform will enhance the essential principle of due process. As the U.S. Supreme Court has said many times, due process, criminal and civil, is fundamental to our concept or ordered liberty.●

SALUTE TO MEDINA LIONS CLUB

● Mr. FRIST. Mr. President, I rise today in support and appreciation of the Medina Lions Club, which will celebrate its 50th anniversary this Thursday. These club members from Gibson County, TN have devoted countless hours of their time and energy over the years to helping their community of Medina, and I would like to take a moment to recognize some of their many achievements.

Since its inception, more than 210 different members have joined the Medina Lions Club. Today, there are 33 active members, including 2 who helped found the club in 1946. Over the years, the club has raised enough money to provide college scholarships to 38 deserving local students and furnish local schools with cafeteria equipment, library books and furniture, and athletic and playground equipment. Many of the club's successful fund raising drives have become yearly favorites among the residents of Gibson County, including a horse show, a minstrel show, and a "haunted" farm.

In addition to education projects, the club has used the money it raises to provide glasses and surgery for local residents, remodel and redecorate a civic center, erect a park pavilion, purchase equipment for the local fire department, erect a community war me-

morial, purchase hospital equipment, and sponsor Little League baseball in Medina. As Little League sponsors, the club members helped furnish lighting, fencing, and concessions equipment for the Little League ballpark. It is also saving money to help build a new city park, which will include a walking track, football field, baseball field, fence lighting, and paved parking.

Mr. President, the members of the Medina Lions Club have a long history of giving back to their community. Their commitment has won the Medina club the Top Club in the State award twice, and the members have received numerous other individual awards. Mr. President, I would like to commend and thank every member—past and present—of the Medina Lions Club for their commitment and their dedication. They have established a long record of service for others to follow, and I wish them all the best as they celebrate the club's 50th anniversary.●

CLETIS WAGAHOFF

● Mr. JOHNSTON. Mr. President, I rise today to pay tribute to an outstanding public servant and my friend, Cletis Wagahoff. On March 31, 1996, Cletis will retire from the U.S. Army Corps of Engineers after serving selflessly for nearly 27 years and after a total of 35 years of Government service.

Cletis Wagahoff has served as the deputy district engineer for Project Management in the corps' New Orleans District Office since 1988. If the daily challenges of managing several of our Nation's largest civil works projects were not enough to ask of someone Mr. President, the job of deputy district engineer also requires that Cletis be the liaison for all congressional inquiries from the Louisiana Congressional Delegation. For this alone, he deserves our deepest gratitude, not to mention a medal. In fact, Cletis was recently awarded the Meritorious Civilian Service Award for his performance as a highly skilled engineer and proven leader in his field.

I have had the pleasure of working with Cletis on many of Louisiana's navigation, hurricane, and flood protection projects and have often sought his counsel and advice on critical problems like coastal erosion and protecting our valuable wetlands. His reputation as a consensus builder and a man of unwavering integrity is well known by Louisiana's elected officials and our community and business leaders.

Mr. President, Cletis Wagahoff and his wife, Betty, have given much to Louisiana and our great Nation during their many years of service, and for this we are eternally grateful. On behalf of the Louisiana congressional Delegation and all Louisianians, we wish them every success, good health, and much happiness as they turn the pages of life to begin a new chapter.●