

Mr. INSLEE. Mr. Speaker, I come to the floor to express concern about the European Union's first step in a decision against Microsoft, one of the most creative engines of economic growth in American history. The reason we all ought to be concerned about this European Union decision is it essentially breaches and disturbs, if not destroys, a carefully wrought-out resolution of antitrust issues in the American judicial system.

Whatever one thinks of our judicial system, we ought to know one thing, that it is better that these matters be resolved in the American system than internationally when the international groups now could turn into a feeding frenzy, if you will, of upsetting this apple cart after we have worked for years and millions of dollars of effort to have a very carefully calibrated resolution of these antitrust issues.

We hope that our government expresses and does not acquiesce in this issue since we need to have comity and a consistent application of antitrust rules across borders. We hope that our government will take that position.

MEDICARE

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

Mr. BLUNT. Mr. Speaker, like many other Members who voted for the addition of prescription drugs to Medicare and Medicare reform on both sides of the aisle, I have been out in my district talking to people about this first significant change in Medicare in 38 years. What I am finding is a tremendous rejection to the changes we have made:

The prescription drug card that will be available in June where people can call in and find out, based on the medicines they take, which card is best for them; the significant assistance to low-income seniors who not only get that card for free but also get \$600 of credit on that card; and as we move into the full Medicare program in 2006, get their premiums paid if they choose to get their premiums paid. But, of course, as you are dealing with seniors and many of us who are not all that comfortable with change, the most important thing you can say is, You don't have to do anything if you don't want to, but you can look at these new options and see if these options are better for you than what you've got. If they aren't better for you than what you've got or you just don't want to change, you don't have to.

The addition of prescription drugs to Medicare brings Medicare in line with medicine. It is about time, Mr. Speaker. I am glad we did it.

SUPREME COURT TO RULE ON PLEDGE OF ALLEGIANCE CASE

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

Mr. PENCE. Mr. Speaker, Thomas Jefferson wrote those transcendent words in the Declaration of Independence, that our founders believed that we were endowed by our Creator with certain unalienable rights. Abraham Lincoln, in establishing the first National Day of Prayer, quoted scripture as he affirmed that which had been truth throughout the ages, that only those nations are blessed whose God is the Lord.

Nevertheless, at this hour across the street the Supreme Court of the United States of America is hearing a case about whether the American people may acknowledge that we are one Nation under God in our Pledge of Allegiance. This case today I offer, Mr. Speaker, is less about the facts than it is about who we are as a Nation, a Nation with a Congress that opened this day in prayer, and a court, a Supreme Court, that actually opened their work today with the words "God save the United States and this honorable court," about a government that displays the name of God throughout its buildings and in its best traditions, telling the American people that they cannot do likewise.

Let us hope and pray that those nine jurists on the Supreme Court see the freedom of religion and not the freedom from religion in the first amendment of our Constitution.

MEDICARE TRUSTEES REPORT

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

Mr. STEARNS. Mr. Speaker, the Medicare trustees have reported that the Medicare trust fund is in trouble. Imagine what would happen if the Democrat minority had successfully passed their bill. The reforms that we passed to preserve the life of the Medicare system would have disappeared and the trillion-dollar-plus price tag of the Democratic bill would have ended Medicare as we know it. We would have no choice but to make painful cuts or increase taxes to pay for the Democrats' Medicare bill.

The irony is that now that we are so close to finally implementing the law and finally getting cheaper prescription drug benefits for seniors, the Democrats want to repeal it. What we should do, Mr. Speaker, is not take away the prescription drug coverage for American seniors, but rather we should try to improve upon it, modify it and eventually make it fiscally responsible and highly workable.

MEDICARE REFORM

(Mr. PORTMAN asked and was given permission to address the House for 1 minute.)

Mr. PORTMAN. Mr. Speaker, following on the comments of my colleague from Florida, I will say that this Medicare bill that the House

passed last year, which adds a prescription drug benefit, is good medicine. It comes after years and years of this Congress talking about adding a prescription drug benefit for our seniors. Lots of rhetoric, no action. Finally, late last year, this House got together on a bipartisan basis and passed a benefit that truly helps seniors.

It is a good bill because it adds prescription drugs, but it is even better than that because it adds another great, exciting new tool for our seniors, but also for all Americans, to be able to save tax free for their health care: health savings accounts. You make a contribution tax free, it builds up tax free, and when you pay for your health care needs, it is tax free.

This will help in a few different ways. One, it will encourage preventive health care, people taking care of themselves, reducing costs in Medicare as a result. Second, it will add more competition to the health care system. It is your own dollar now that you are spending. That also will reduce costs in Medicare. Finally, it will help with the uninsured.

Many small businesses who do not now provide coverage for the uninsured will now be able to provide that coverage and individuals will be able to make contributions to an account like this to be able to cover their own health care needs.

Mr. Speaker, it is a good part of a good bill.

MEDICARE

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

Mr. GERLACH. Mr. Speaker, I rise today to speak about the importance of the new Medicare-endorsed prescription drug discount card. Starting in May, seniors across America will have the choice to enroll in a drug discount card plan. At this time, over 100 companies have applied to offer a prescription drug discount card. In June, older Americans can begin using those cards to save anywhere from 10 to 25 percent on their prescription drugs. Low-income seniors who choose to enroll in a drug discount plan will receive \$600 of Federal assistance in 2004 and 2005 to further defray the costs of their medications.

The discount cards enable seniors to save money on their prescription drugs now while work is being done to implement the new Medicare Part D benefit. For those older Americans with no prescription drug coverage, waiting is not an option.

It is vital that we communicate to seniors their options regarding prescription drug assistance. I encourage all of my colleagues to reach out to seniors in their districts to explain the choices and benefits that older Americans now have.

I encourage seniors to visit Medicare on the Web at www.medicare.gov or to

call Medicare's 24-hour toll-free information line at 1-800-MEDICARE to get the answers to any questions they may have about their benefits.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken later today.

□ 1030

MULTIDISTRICT LITIGATION RESTORATION ACT OF 2004

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1768) to amend title 28, United States Code, to allow a judge to whom a case is transferred to retain jurisdiction over certain multidistrict litigation cases for trial, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1768

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Multidistrict Litigation Restoration Act of 2004".

SEC. 2. MULTIDISTRICT LITIGATION.

Section 1407 of title 28, United States Code, is amended—

(1) in the third sentence of subsection (a), by inserting "or ordered transferred to the transferee or other district under subsection (i)" after "terminated"; and

(2) by adding at the end the following new subsection:

"(i) Subject to paragraph (2) and except as provided in subsection (j), any action transferred under this section by the panel may be transferred for trial purposes, by the judge or judges of the transferee district to whom the action was assigned, to the transferee or other district in the interest of justice and for the convenience of the parties and witnesses.

"(2) Any action transferred for trial purposes under paragraph (1) shall be remanded by the panel for the determination of compensatory damages to the district court from which it was transferred, unless the court to which the action has been transferred for trial purposes also finds, for the convenience of the parties and witnesses and in the interests of justice, that the action should be retained for the determination of compensatory damages."

SEC. 3. TECHNICAL AMENDMENT TO MULTIPARTY, MULTIFORM TRIAL JU- RISDICTION ACT OF 2002.

Section 1407 of title 28, United States Code, as amended by section 2 of this Act, is further amended by adding at the end the following:

"(j) In actions transferred under this section when jurisdiction is or could have been based, in whole or in part, on section 1369 of this title, the transferee district court may, notwithstanding any other provision of this section, retain actions so transferred for the determination of liability and punitive damages. An action retained for the determination of liability shall be remanded to the district court from which the action was transferred, or to the

State court from which the action was removed, for the determination of damages, other than punitive damages, unless the court finds, for the convenience of parties and witnesses and in the interest of justice, that the action should be retained for the determination of damages.

"(2) Any remand under paragraph (1) shall not be effective until 60 days after the transferee court has issued an order determining liability and has certified its intention to remand some or all of the transferred actions for the determination of damages. An appeal with respect to the liability determination and the choice of law determination of the transferee court may be taken during that 60-day period to the court of appeals with appellate jurisdiction over the transferee court. In the event a party files such an appeal, the remand shall not be effective until the appeal has been finally disposed of. Once the remand has become effective, the liability determination and the choice of law determination shall not be subject to further review by appeal or otherwise.

"(3) An appeal with respect to determination of punitive damages by the transferee court may be taken, during the 60-day period beginning on the date the order making the determination is issued, to the court of appeals with jurisdiction over the transferee court.

"(4) Any decision under this subsection concerning remand for the determination of damages shall not be reviewable by appeal or otherwise.

"(5) Nothing in this subsection shall restrict the authority of the transferee court to transfer or dismiss an action on the ground of inconvenient forum."

SEC. 4. EFFECTIVE DATE.

(a) SECTION 2.—The amendments made by section 2 shall apply to any civil action pending on or brought on or after the date of the enactment of this Act.

(b) SECTION 3.—The amendment made by section 3 shall be effective as if enacted in section 11020(b) of the Multiparty, Multiforum Trial Jurisdiction Act of 2002 (Public Law 107-273; 116 Stat. 1826 et seq.).

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentlewoman from Texas (Ms. JACKSON-LEE) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1768, the bill, currently under consideration.

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

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation addresses two important issues in the world of complex multidistrict litigation. First, the bill reverses the effect of the 1998 Supreme Court decision in the so-called "Lexecon" case. For 30 years prior to the Lexecon decision, a Federal judicial entity, the Multidistrict Litigation Panel, selected the one U.S. district court that was best suited to handle pretrial matters in complex multidistrict cases filed in State and Federal district courts around the

country. The district courts selected, called the "transferee" court, would then invoke a separate general venue statute to retain all the cases for trial matters. This situation promoted judicial administrative efficiency, then produced results that were more uniformly fair to the litigants.

In the 1998 Lexecon decision, the Supreme Court ruled that the statute empowering the MDLP to operate did not authorize a transferee court to retain cases after the pretrial matters were concluded. The bill amends the Federal multidistrict litigation statute by explicitly allowing a transferee court to retain jurisdiction over referred cases for trial, for the purposes of determining liability and punitive damages, or to refer them to other districts as it sees fit. It simply responds to the Court's admonition that Congress amend the statute to allow the MDLP and the affected transferee courts to act as they had done without incident for 30 years prior to Lexecon.

Second, the passage of H.R. 1768 ensures that a special "disaster" litigation statute enacted last term will operate as Congress intended. Among other prescribed conditions, this new law creates original jurisdiction for U.S. district courts to adjudicate cases in which the accident has led to 75 deaths. This provision, now codified as a part of the Department of Justice authorization act from the 107th Congress, contemplates that the Lexecon problem is solved.

In other words, the new disaster litigation law only creates original jurisdiction for a U.S. district court to accept these cases and qualify as a transferee court under the multidistrict litigation statute. But the transferee court still cannot retain consolidated cases for the determination of liability and punitive damages which effectively guts the statute. In this sense, the Lexecon fix set forth in H.R. 1768, its freestanding merits aside, also functions as a technical correction to the recently enacted disaster litigation statute.

In sum, this legislation speaks to process, fairness, and judicial efficiency. It will not interfere with jury verdicts or compensation rates for litigators.

I urge my colleagues to join me in a bipartisan effort to support this bill.

Mr. Speaker, I reserve the balance of my time.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself such time as I may consume.

Let me first of all, Mr. Speaker, say that there is good news for those victims who had been victimized by catastrophic injuries and catastrophic accidents such as airplane crashes, terrorist actions, and others because we have been able to provide for an opportunity for those cases to remain in their jurisdiction of the incident or the jurisdiction that is accommodating to those plaintiffs; and I applaud that relief that was given by the exclusion