

It took nearly 80 years, and an official expedition sanctioned by the government in 1870, to sort out the myth about Yellowstone from the striking reality.

Shortly thereafter, President Ulysses S. Grant signed the law in 1872 establishing Yellowstone National Park "as a public park or pleasuring ground for the benefit and enjoyment of the people."

President Theodore Roosevelt, a great protector of the environment and treasures like Yellowstone, visited the park in 1903.

One hundred years ago this spring, he laid the cornerstone for the official gateway to the park. The gateway is still known as the Roosevelt Arch.

The American people's love of Yellowstone helped lead to the establishment of our National Park Service. Today the Park Service protects and preserves 83 million acres of natural treasures across our country.

The Park Service employees at Yellowstone have done a wonderful job of protecting the park's natural beauty, while providing opportunities for people to enjoy it.

For example, all of the large mammal species known to exist in Yellowstone before European Americans arrived have been restored to their natural habitats.

I recently had the good fortune, after many years, to once again visit Yellowstone National Park. I was only able to spend a couple of hours there, but it was a great experience.

I first went there shortly after my wife and I returned from law school in Washington. We traveled from Las Vegas on one of the first vacations we ever took.

I still look back with great awe at Old Faithful and the many other things we were able to see, the buffalos and other animals. So when I returned there, even though it was only for a few hours, the place I wanted to go visit again was Old Faithful.

Old Faithful spewed a few times during the time I was there. We took a walk through Geyser Park. We saw buffalo lying right near the geysers. The reason these great animals come and lie down near these spewing geysers is that, to a great extent, they keep the pests off themselves by doing so.

Even though I was there just a short time, it was wonderful again, after 25 years, to reflect back on my little children when they were tiny going there and visiting that park.

I am sure that millions of Americans also keep a special place in their hearts for Yellowstone and the memories it holds for them.

I hope our grandchildren's grandchildren will be able to enjoy the wonders of Yellowstone National Park, the way we do today.

HONORING OUR ARMED FORCES

SGT CORY R. MRACEK

Mr. NELSON of Nebraska. Mr. President, SGT Cory R. Mracek was a dedi-

cated and distinguished soldier who loved the military and was excited to go to Iraq. He attended Chadron State College for one semester before joining the National Guard and then later, the U.S. Army.

He spent his first year in Korea, where he was awarded several medals. He was chosen to be a United Nations Command Honor Guard for 6 weeks, an honor for which only the best soldiers were chosen. He came home 4 years later and worked as a night stocker at Wal-Mart. However, army life was calling him and he missed it more than he thought. He re-enlisted and was again stationed in Korea for 12 months. Because of the war in Iraq, his tour was extended to 15 months. He returned to the States in October 2003 and proceeded to Ft. Benning, GA, where he trained to be a paratrooper. He loved the thrill the first time he jumped from the plane and it had been his dream to be a part of the 82nd Airborne Unit in Fort Bragg, NC. He had been in Iraq just 8 days when a roadside bomb exploded west of Baghdad and killed him and two other soldiers.

SGT Cory Mracek's sacrifice will forever remind this Nation of the danger that comes with the duty to protect our Nation's interests and the freedoms of other arounds the world. As a nation we are grateful to soldiers like Cory Mracek who make the ultimate sacrifice so that all Americans can live in freedom.

SGT DENNIS A. CORRAL

Mr. NELSON of Nebraska. Mr. President, SGT Dennis Corral served our Nation bravely and honorably. He entered the Army in 1989 and later left the service to pursue other interests. In 1997 he re-entered the Army and was sent to Iraq in December of 2003. Corral was not scheduled for deployment to Iraq until January 2004, but he volunteered to go earlier in place of another soldier who was married and had children. Sergeant Corral was not one to complain, and readily accepted every task that was asked of him. His arrival was greatly anticipated by his company, as they had been without a supply sergeant, and were greatly in need of his skills. Immediately upon his arrival, he set to work improving the company supply system—organizing, filing, and issuing out equipment. In all that he did he showed his dedication and his love for serving his country. Sergeant Corral was the first American soldier to die in Iraq in 2004. SGT Dennis A. Corral will always be remembered as a soldier who fought for freedom and made the ultimate sacrifice on behalf of his country.

THE SUPREME COURT'S REVIEW OF THE EXECUTION OF CHILD OFFENDERS

Mr. FEINGOLD. Mr. President I want to speak today on the Supreme Court's recent decision to review whether the execution of child offenders—those under 18 at the time the crime was

committed—is constitutional. The Court will soon hear the case of Christopher Simmons, a Missouri man who was sentenced to die for a crime he committed at the age of 17. The case is called *Roper v. Simmons*.

In the past few years, our Nation has taken important strides toward fairness and justice in the administration of the death penalty. In 2000, former Illinois Gov. George Ryan took the courageous step of halting executions in his State pending a top-to-bottom study of the use of capital punishment in Illinois. Following an exhaustive review of his State's system, Gov. Ryan commuted the death sentences of all death row inmates in Illinois in December 2002. Former Maryland Gov. Parris Glendening suspended executions in his State in the face of glaring racial and geographic disparities in the Maryland death penalty system. Current Maryland Gov. Robert Ehrlich has since lifted the State's moratorium, but an execution has not taken place in Maryland since 1998.

A number of State legislatures have inched closer and closer to abolishing the death penalty or instituting moratoria in their jurisdictions. And in 2002, in a significant turning point for our Nation, the Supreme Court ruled unconstitutional the execution of the mentally retarded. That decision, in the case of *Atkins v. Virginia*, confirmed that our Nation's standards of decency concerning the ultimate punishment are indeed evolving and maturing.

While these events are steps toward fairness and indications of progress, they also serve as reminders that our system is seriously flawed. The statistics and stories of innocent people wrongly convicted are shocking. In the modern death penalty era, 113 individuals in 25 different States have been exonerated after being convicted and put on death row. The most recent exoneration occurred just last week in a case from North Carolina. This should be disturbing to all Americans who believe in the founding principles of our Nation, liberty and justice for all.

As Supreme Court Justice John Paul Stevens wrote in a 2002 dissent, after the Court refused to consider another case involving child offenders, the practice of executing child offenders is "inconsistent with evolving standards of decency in a civilized society." In my view, Justice Stevens is right. Executions of child offenders have occurred in only eight countries since 1990: China, the Democratic Republic of the Congo, Iran, Nigeria, Pakistan, Saudia Arabia, Yemen, and the United States of America. Most of these countries, however, have since banned executions of child offenders, leaving the United States as the only country that acknowledges its use of capital punishment for child offenders.

According to Amnesty International, there have been 34 executions of child offenders since 1990—19 of them in the United States. And there are currently

child offenders on death row in America who are scheduled to be executed this year. In fact, incredibly, Texas has scheduled the execution of four child offenders between March and June of this year, despite the Supreme Court's announcement that it will consider the constitutionality of such executions in the Simmons case this term.

Currently, 38 States authorize the use of the death penalty. Nineteen of those States have decided that they will only execute defendants who were 18 or older at the time of the crime. But 5 States use 17 as the minimum age, and the other 16 States permit the execution of defendants who were as young as 16 when they committed the crime.

The State Department has said: "Because the promotion of human rights is an important national interest, the United States seeks to hold governments accountable to their obligations under universal human rights norms and international human rights instruments." But we can only call ourselves protectors of human rights if we practice what we preach. Here at home, we continue to apply capital punishment to those who were convicted of crimes committed before legally becoming adults. Spreading decency and humanity must begin here at home. As long as America executes child offenders, our reputation as a shining example of respect for human rights is tarnished.

At the beginning of the 108th Congress, I introduced the National Death Penalty Moratorium Act, which would suspend Federal executions while we conduct a thorough study of the administration of the Federal death penalty at the State and Federal levels. My bill would specifically require a commission to review all aspects of the system, including the practice of sentencing child offenders to death. I urge my colleagues to cosponsor and support the National Death Penalty Moratorium Act, and I look forward to the Supreme Court's review of this important issue. I am hopeful that the Court will build upon the progress it made two years ago when it ended the execution of the mentally retarded. Banning the execution of child offenders is the right thing to do. Congress should act if the Court doesn't.

HEALTHY MOTHERS AND HEALTHY BABIES ACCESS TO CARE ACT OF 2003

MEDICAL MALPRACTICE

Mr. KYL. Mr. President, last year, the Senate considered legislation to try to mitigate healthcare cost increases by reforming the medical malpractice system. The bill we took up was S. 11, "The Patients First Act of 2003," which I had co-sponsored. Unfortunately, gridlock prevailed when a cloture motion was defeated. While I was disappointed that the Senate could not address healthcare liability reform on a comprehensive basis, we now have the opportunity to address the obstet-

rics and gynecological specialty with S. 2061, "The Healthy Mothers and Healthy Babies Access to Care Act."

There is a reason that the OB/GYN specialty should be one of the first areas addressed by medical malpractice. It is one of three specialties subject to the highest liability insurance premiums. Nationally, the dramatic increases in premiums—more than 160 percent over 16 years, 1982 to 1998—have greatly outpaced the rate of inflation, and many physicians and hospitals have been unable to keep up with these escalating costs. In Arizona, OB/GYN practices face premiums averaging \$67,000—up 16 percent in just one year's time.

There are only a few ways doctors and hospitals can bear these costs. They can pass a portion of them on to patients or they can alter their practice patterns. Some physicians have cut the salaries of their hard-working, professionally trained medical staff or reduced headcount in their practices. Those who are still employed after the cutbacks are overworked, stretched thin with added responsibilities. Other doctors have reduced or completely eliminated some gynecological, surgical or high-risk obstetric procedures. Perhaps most disturbing are the instances of physicians retiring early, relocating their practices to states with friendly laws, or dropping obstetrics altogether.

The result is that women's access to prenatal and delivery care is compromised. There are fewer physicians in practice to tend to women; patients have less time with their doctor. I am concerned that women seeking prenatal care and delivering their babies in Arizona may have to travel long distances, passing by hospitals along the way, just to find a facility that can accommodate their needs. While Arizona is not deemed a medical liability "crisis state" by the American Medical Association—I am working to make sure that does not become the case—instances of facilities having to close are too frequent. For instance, Copper Queen Community Hospital in Bisbee, AZ, closed its maternity ward after physicians there, who were able to deliver babies, lost their liability insurance coverage. Imagine a community hospital that cannot meet one of the primary needs of its residents because of escalating medical liability costs.

The problem lies with a tremendous backlog in our courts and excessive jury awards that average \$3.9 million. With more than 50 percent of jury awards totaling over \$1 million, and the number of cases presented steadily on the rise, medical malpractice insurance carriers incur a great expense for defending suits, even those that are dismissed with no indemnity payment. Physicians Insurers Association of America claims that it costs physicians more than \$75,000 to defend themselves in cases that they win—of course, even more in cases where they are found liable. Most notable may be

the number of cases that are settled out of court without an admission or determination of guilt, just to avert the possibility of a "mega award" that could bankrupt a practice.

Looking ahead, I am troubled by the number of medical students and residents who are feeling medical liability's sting. Almost 50 percent of America's medical students say they factor the medical liability crisis in their choice of specialty. Can we afford to have some of the best and brightest physicians of tomorrow dissuaded from specialties because we did not do what was right and fix the system today?

The Healthy Mothers and Healthy Babies Access to Care Act only addresses obstetrical and gynecological care. It would establish parameters to maximize returns to the patients instead of trial lawyers. It would hold physicians and insurers accountable for medical expenses in instances where they are clearly wrong. The legislation would establish a period of 3 years from the date of injury for a person to bring forth a claim, making exceptions to this statute of limitations in cases involving minors. S. 2061 would allow for unlimited awards of economic damages, while placing reasonable caps on non-economic damages—pain and suffering. This is an important distinction that I want to take a moment to address.

Economic damages are for the payment of medical expenses—both past and future—the loss of earnings—both past and future—as well as the cost of having services in the home to assist someone who has been injured or incapacitated from a negligent act. There is no limit on these awards. It is important to me to preserve a patient's access to full medical care when a party has been found negligent. This legislation does that.

Non-economic damages meant to compensate for physical and emotional pain and suffering are not easily quantified. For these damages, awards would be capped at \$250,000 and would be in addition to economic damages awarded. Very often, juries have awarded individuals millions of dollars to punish a defendant, not necessarily to compensate for what is an intangible loss.

Under S. 2061, contingency fees would be set to make sure that patients with valid claims do not see their awards siphoned away by lawyers. The bill would allow lawyers to recoup fees and make a profit, but not at the unfair expense of the plaintiff.

We have been down this road before and I am hopeful that my colleagues on both sides of the aisle will join me in support of medical malpractice reform. This legislation will deliver on the promise made to our constituents to fix the healthcare system in this country and rein in excessive and frivolous lawsuits.