

PERSONAL EXPLANATION

HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 1, 1996

Mr. PASTOR. Mr. Speaker, during rollcall vote number 139 on the Journal I was unavoidably detained. Had I been present, I would have voted "yes." I ask unanimous consent that my statement appear in the RECORD immediately following rollcall vote number 139.

GAS TAX RESTITUTION ACT OF 1996

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 1, 1996

Mr. RAHALL. Mr. Speaker, today I am introducing legislation to transfer to the highway trust fund revenues received from the 4.3 cents of the Federal motor fuel tax that is currently going to the general fund.

Many of us concerned with our surface transportation infrastructure were troubled when in 1993 this tax of 4.3 cents per gallon of motor fuel was imposed not for the purposes of bolstering receipts into the highway trust fund, but for the purpose of deficit reduction. I would note, however, that this was not the first time this occurred. As part of the Omnibus Budget Reconciliation Act of 1990, the Federal motor fuel tax was increased by 5 cents, with one-half of this amount dedicated to the general fund. This 2.5 cents was later restored to the highway trust fund effective September 30, 1995.

As we all know, the basic premise of the Federal motor fuel tax is that it is a user fee collected for the express purpose of making improvements to our road and highway infrastructure. It is one of the few taxes where Americans can see an immediate and direct result for having to pay it as they drive on the Nation's highways.

Today, the debate is centered on repealing the 4.3-cents-per-gallon tax. I offer an alternative. Restore it to the highway trust fund.

Few, if anyone in this body, can say that the areas they represent do not require road and highway improvements. The legislation I am introducing today will not only restore faith with the American people on the uses of the Federal motor fuel taxes, but will certainly assist in making needed surface transportation enhancements.

THE COMMON SENSE PRODUCT LIABILITY REFORM ACT

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 1, 1996

Mr. GINGRICH. Mr. Speaker, I would like to bring to the attention of my colleagues the following statements, made during a press conference on April 30, 1996, marking the transmission to the president of the Common Sense Product Liability Reform Act.

First, a statement of former Attorney General Dick Thornburgh; second, statement of

Lewis Fuller, president of Fuller Medical Company; third, Tara Ransom, 9-year-old girl who uses a silicone shunt; and fourth, Linda Ranson, mother of 9-year-old Tara.

SENATE MAJORITY LEADER DOLE AND HOUSE SPEAKER GINGRICH BRIEFING ON PRODUCT LIABILITY LEGISLATION

Speaker GINGRICH: Let me thank all of you for coming today. We are transmitting to the president today our product liability reform bill. We believe that product liability reform will lower prices to consumers, lead to the faster development of better products, and as you'll hear today, in some cases literally save lives, because of some products which are being priced out of existence and threatened out of existence by lawsuits and by the problems of unnecessary litigation.

We believe that the product liability reform bill is an important reform of the legal system. I would just point out that Dr. Edwards Deming, the founder of the quality movement and the man who taught the Japanese the concept, said consistently for his entire lifetime that the American litigation system was a major blockage point to us being able to compete in the world market, that it caused unnecessary lawsuits and led to unnecessary expenses and did unnecessary harm. We hope that the president will decide in the interest of lower consumer prices and better products and greater American competition in the world market, that we need a product liability reform bill, and I hope—we hope that he will sign this bill. And I think when you've listened to today's statements, and particularly listened to Linda and Tara Ransom (sp), you'll see why it is vitally important to have a product liability reform bill to help Americans in a variety of ways.

And let me now turn this over to former Attorney General Dick Thornburgh.

Mr. THORNBURGH. Thank you, Mr. Speaker. Good morning. As a former governor of the state of Pennsylvania and attorney general of the United States, I've been a long-time advocate of civil justice reform. The damage lawsuit abuse does to our economy and to the rule of law in this country has reached the stage where reform is absolutely necessary. As you will hear, today's distorted system inflicts injury on thousands of small businesses like Louis Fuller's (sp), and it can do real harm to shunt-dependent children like Tara Ransom and my son Peter.

Congress has finally wrapped up its long and productive debate over civil justice reform. And I want to commend Majority Leader Dole and Speaker Gingrich, in signing the letter of transmittal for this measure today, and sending it to the president. And we must acknowledge something else, something remarkable that happened in this session of Congress to make this day possible. This was a bipartisan effort.

Senators Rockefeller and Lieberman joined Senators Dole and Gorton in spearheading the passage of this legislation to curb lawsuit abuse through its voyage through the Senate—a truly non-partisan effort against some truly non-productive practices.

As Senator Lieberman said, "This is a moderate, thoughtful bill reflecting years of effort and many compromises." He observes, "Opponents of this bill have tried to paint the bill as pro-business and anti-consumer, but the status quo is terrible for consumers. The current system is inefficient, unpredictable, costly, slow and inequitable."

He continues: "Injured people wait years for judgments. Some of those with the worst injuries are under-compensated, while those with smaller injuries are over-compensated. Businesses act defensively, avoid innovation as too risky, and devote enormous numbers of personnel and resources to litigation. The length between fault and judgments and set-

tlements is more and more attenuated. Consumers pay higher prices in order to cover product-related costs." "And," Senator Lieberman acidly concludes, "lawyers prosper."

Reform has been too long coming. This is a modest measure. It corrects the worst abuses of our current system while fully respecting the plaintiff's need for justice. Yet defying his own personal history of support for this legislation, and after offering signals that he would sign this bill, President Clinton has promised so far to veto it. So this looks to be the message from the White House: No matter how desperately the Louis Fullers (sp) and the Tara Ransoms (sp) of America may need lawsuit reform, we're going to have to wait for a change of heart by the president, or a change of presidents to get it. I don't like to draw invidious conclusions; it's not my style. But it doesn't take this former law enforcement official long to make a link between the promise of a veto and the motive for the president's threatened action. Where's the smoking gun? I'm compelled to respond: Follow the money.

Trial lawyers give a great deal of money in political campaign contributions, more than the top 10 oil companies and the big three auto companies combined. And the doors of the Clinton White House appear to have swung wide open for this lobby of greed, while closing the door on average Americans who seek justice.

The top 50 big-giver trial lawyers contributed a total of \$2.6 million to Mr. Clinton's 1992 campaign. In just the first nine months of 1995, lawyers and law firms pumped another 2½ million into the president's reelection campaign coffers.

Listen to Senator Jay Rockefeller. He said, "The president needs trial lawyers and their money more than he needs good public policy." Now the president obviously does not want to appear to be buckling to this special interest, so he says he opposes reform because he's concerned that the measure will be unwarranted intrusion on state authority. This argument was dismissed years ago, when the National Governors' Association, true defenders of state authority, called for a uniform national product liability standard. Among them at the time was then-Governor Bill Clinton of Arkansas. He was in fact part of the very committee that persuaded his fellow governors to call for national lawsuit reform to greatly enhance the effectiveness of interstate commerce.

Now President Bill Clinton espouses a kind of phoney federalism to resist reform. Now he chooses to put the interests of the trial lawyers ahead of those of thousands whose lives depend on medical innovation. Now this president is banking his campaign on the forces of greed and putting the rewards of a small, powerful elite before the national interest.

And unless he has change of heart, President Clinton will be putting the interests of those trial lawyers before the lives of those like this little girl that you will hear from later, Tara Ransom (sp).

We should call and we do call on President Clinton to take a second look at his promise to veto this bill. It's not too late to change one's mind, and it's certainly not too late to change one's heart.

Mr. LOUIS FULLER (sp): Thank you, General Thornburgh.

My name is Lewis Fuller. I live in Gadsden, Alabama, where I am the president of a small medical supply company.

Every now and then, I hear Alabamans debate whether or not we need a state lottery. I remind them that we already have one—it's called the civil justice system.

I'm sure most of you have heard about the lawsuit in Alabama where a wealthy doctor

won a \$2 million judgment because the paint job on his car was partially refinished. It was a paint job that lead to a snow job on American justice. That decision was so bad—the judicial system that arrived at that decision is so corrupted by trial lawyer money—that this case is now before the Supreme Court of the United States.

The Alabama trial lawyers are capable of generating that kind of national publicity makes me mad. It makes me mad because Alabama is a great state, a great place to live and—all things considered—a great place to do business.

We don't deserve to live under the kind of system that we have. The cost of that system goes far beyond car companies. Lawsuit abuse hurts us all—as consumers, workers, taxpayers.

Yet our state is dominated, top to bottom, by the trial lawyers and the judges whose campaigns they bankroll. In a state where you can get \$2 million for a car paint job, the danger of a reckless, ruinous punitive award is taken very seriously, a threat to one's very livelihood. That's why we have 10 times the punitive damage settlements as our four neighboring states combined.

This is the constant threat I live under as a small businessman. This is the liability threat that forced me to stop supplying my community with products that can mean the difference between life and death.

I am sad to report that because of the possibility of a ruinous lawsuit, Fuller Medical had to stop offering baby monitors designed to warn parents of the possible onset of Sudden Infant Death Syndrome.

We have no choice. We cannot afford the insurance premiums that would allow us to continue offering these in-home-life-support devices.

We were forced to shut down this part of our operation in 1993 and no company in our immediate area has filled the gap. Thanks to the greed of trial lawyers, a potential life-saving device has been strangled in the crib.

Another casualty of lawsuit abuse is our van conversion business.

I'm not talking about making vans prettier. I am talking about making them more accessible to handicapped citizens. We did these conversions for several years, which made the vans hand-controlled, giving a handicapped driver greater mobility. But under our system of joint-and-several liability, we could be sued for any problem with a van, even if we were not actually at fault.

I have no trouble with reasonable damages for genuine fault. But I cannot pay an unlimited damage for any mistake someone else might make.

In these two ways, you see how the threat of limitless punitive damages and joint-and-several liability forced us out of these two ventures. Both of these measures would be addressed by the reforms Congress is sending to the President.

I cannot understand why Mr. Clinton has threatened to veto this bill. I cannot understand why an Administration that gives so much lip service to small business would defend a system like this one.

I cannot understand why Bill Clinton would take this stand, when any former governor must surely know that the ultimate victims are not the large corporations, or small businesses like mine. It is not even the consumers who must pay higher prices.

It is the handicapped, who need a way to drive themselves to work.

It is the parents, who don't want to lose another child to Sudden Infant Death Syndrome.

And it is tens of thousands of people like this sweet little girl, Tara Ransom, who depend on medical innovation and technology just to stay alive.

Mr. President, if you hear my words, please change your mind. Not simply for my small business, but for this little girl. Mr. President, it is not too late to do the right thing.

PHOENIX, AZ,
March 29, 1996.

DEAR MR. CLINTON: My name is Jara Ransom. I am 8 years old. I'm in 3rd grade at Magnet Traditional School.

I have a silicone shunt for hydrocephalus. I get the hydrocephalus when I was a baby. I have had 5 operations.

I need the shunt to live. I have talked to Congress about it when I testified last summer. Mom says we need a liability bill. I only know a little bit about it, but I know it will help me live. Please sign it.

I know Mrs. Clinton likes kids. Can she help me too?

Sincerely,

JARA RANSOM.

My name is Linda Ransom. I'm not a lawyer. I'm not a lobbyist. I'm just a desperate mother.

My daughter, Tara, and I have flown here from our home in Phoenix, Arizona to give President Clinton this message: President Clinton, it's not too late to change your mind. It's not too late to help Tara. Please don't veto this bill.

You see, Tara has a medical condition called hydrocephalus, and the only treatment for it is a surgically-implanted shunt in her brain which is made out of silicone. The shunt takes the excess cerebral fluid away from her brain in a silicone tube and carries the fluid down through her chest into her abdomen, with the help of a small pump under her scalp. Kids outgrow shunts, and Tara has already had 5 surgeries. She will have to have more—that is, if the shunts are still available.

They may not be, under our current legal system. Already, three of the major suppliers of raw materials have decided to restrict or stop supplying manufacturers of medical implants. One of them, Dow Corning, is the sole supplier of the raw silicone used to make Tara's shunt. While the shunt is still available for the 50,000 hydrocephalics who depend on it to stay alive, the situation is looking worse and worse for the medical device industry.

Outrageous punitive damages awards are not really the problem, although the risk is always there. The medical implant industry is more threatened by the day-to-day cost of defending itself from thousands of lawsuits, only to be found not liable again and again. Many times, the cost of the raw materials in a medical device—the Teflon in a pacemaker, or the polyester yarn in a suture—amounts to just pennies. But these suppliers are forced to spend millions of dollars defending themselves in court, from lawsuits that they shouldn't have been dragged into in the first place.

This bill would change that. Caps on punitive damages will help, but more importantly, ending joint and several liability will mean that only those who are responsible for damages will be brought to court. This will free up millions of dollars in legal costs that could be better spent on research.

Tara's long-term future lies in the hands of medical researchers—the ones who might invent a better device that won't need surgery, or maybe a drug to control the excess fluid in the brain. Today, not enough bright young people are going into research, and I think a lot of it has to do with the frustration of not getting devices off the drawing board because of the liability.

Tara may be the person to find the cure for AIDS or become the first woman President. She is a very bright girl, who is at the top of

her class and has skills is beyond her current 3rd grade level at the Magnet Traditional School. Whatever her future is, she has a future because of a tiny piece of silicone plastic.

Tara is the perfect example of hope—hope in the surgeon's skills, hope in medical technology, hope in the shunt itself. She is also the perfect example of faith—faith in the belief that God's miracles are the hands of the surgeons and the minds of the scientists who make the discoveries and create the devices. Senator Dole and Speaker Gingrich have done their job in getting the bill passed. President Clinton, it's up to you. Don't take our hope away. Sign this bill.

CONGRATULATIONS ON 55
SUCCESSFUL YEARS

HON. JOE KNOLLENBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 1, 1996

Mr. KNOLLENBERG. Mr. Speaker, I rise today to honor my friends Frances and Bartlett Smith, of Milford, who are celebrating their 55th year of marriage this year.

In 1937, they came to Detroit to seek their fortune and found each other. Frances, with her sister Ann, came from Milford to work at Detroit Bank & Trust. Bartlett B. Smith came from Kalamazoo to attend the Detroit College of Law and work at the National Bank of Detroit. Bart and Fran met, courted and were married May 17, 1941, at the Jefferson Avenue Presbyterian Church in the Indian Village area of Detroit.

Following Bart's graduation from law school, they moved back to the family farm in Cooper Township near Kalamazoo where Bart's family had been original settlers. Not only did he work the farm, he worked 12-hour days welding tanks for the war effort as he awaited the results of his bar exam. When Bart joined the U.S. Army, 3d Armored Division in Fort Knox, KY, Frances and their two young children, John and Sarah, moved back to Milford, MI, to be near her family.

At the end of the war, Bart joined the Oakland County prosecutors office and served for 2 years. He opened his own firm in Milford, practiced for 46 years and retired in 1993. He was admitted to practice before the U.S. Supreme Court having been sponsored by U.S. Senator Philip A. Hart and Oakland County Circuit Judge William John Beer. Frances joined the practice as secretary in the late 1950's and son Christopher joined him as partner following his graduation from law school.

Civil duty has long been a family tradition. Frances has served on the Milford Township Library Board for 47 years, the last 30 as president of the board. She continues to serve today.

Bart served as Milford Village president, councilman, member of the township board, and justice of the peace. He is a member of various civic organizations including the American Legion, Rotary, Chamber of Commerce, and Masons. His service began in the 1940's, when as "Sam McCall's son-in-law" he was grand marshal and led the V-J Day parade down Main Street on horseback.

Oldest son John is a veterinarian practicing in Ypsilanti, MI. Daughter Sarah Redmond is a financial advisor for American Express Financial Advisers. Son Steve lives in Johnson