

These young men were in search of more than just food and beverages. Their hunger and thirst was much deeper. They wanted to drink from the fountain of equality and freedom and were therefore attacking the social order of the time. The first day there were four; the second day 20. What ensued was that thousands started. As they say, "If you start me with 10 who are stout-hearted men, then I'll soon give you 10,000 more." Of course today we have to be gender sensitive, so I would paraphrase it by saying, "Start me with 10 who are stout-hearted men or women and I'll soon give you 10,000 more."

They used to say, "It is better to build boys than to mend men." We have a difficult time making it fit, but I say men and women, too. But let me say that these four young men started a revolution.

So in a world full of images and symbols, I can think of nothing more powerful than the idea of these four young men, because it is said that nothing is as important as a dream whose time has come. As these men sat silently and calm at Woolworth's lunch counter in Greensboro, North Carolina, in 1960, it showed the courage and image that embodied a movement that changed the face of America.

As I conclude, Frederick Douglass once said, in 1857, "Those who profess to favor freedom and yet deprecate agitation are men who want crops without plowing the ground. They want rain without thunder and lightning. They want the ocean without the awful roar of its waters. Power concedes nothing without a demand. It never did and it never will."

I conclude again by saying that we are thankful for those young men at that time. I also participated in Newark by us supporting them in those days, picketing Newark's Woolworth's store. I know recently Woolworth's announced the closing of 500 or so stores. I was just wondering whether that lunch counter in Greensboro, North Carolina, was one of those that finally closed.

Mr. LEWIS of Georgia. Mr. Speaker, I would like to thank my friend and colleague, the gentleman from New Jersey, for those kind and moving words.

I yield to my friend and colleague from the great State of Iowa (Mr. GANSKE).

Mr. GANSKE. I thank my friend from Georgia for yielding.

Mr. Speaker, between 1882 and 1968, thousands of black men and women and children were hanged, burned, shot or tortured to death by mobs in the United States. Of those crimes, only a handful ever went to a grand jury. In New York City at this moment, there is a photo exhibition in which 60 small black and white photographs are on display. The name of this exhibition is Witness. It is at the Roth Horowitz Gallery. I am looking on page 17 of the latest New Yorker Magazine which

shows one of the photographs from this exhibit. It shows two men, James Allen and John Littlefield, two black men, who in August 1930 were lynched. It shows them hanging from a tree. It shows a large crowd at their feet. There are 13- and 14-year-old young girls in this crowd. Some of them hold ripped swatches of the victims' clothing as souvenirs. This photograph became a souvenir and 50,000 of these postcards were sold at 50 cents each.

I thank the gentleman for having this special order tonight. Here in Washington, we have a Holocaust museum. It would be my sincere hope that this photographic exhibit of 60 small photographs comes to Washington and travels around the country. I think every American should see this as part of a very tragic part of our American history.

Mr. LEWIS of Georgia. I want to thank the gentleman from Iowa for bringing that to our attention. I have seen the exhibit. I have seen the book. It is very, very moving. It makes me very sad sometimes to think that in our recent history that our fellow Americans would do this to other Americans. Some of these photographs makes me want to really cry. It is very painful to see. I think that is a wonderful suggestion, to bring this exhibit to Washington, let it travel around America, because we must not forget this part of our history. Just maybe we will never ever let something like this happen again in our own country.

Mr. Speaker, I want to thank all of my colleagues for participating in this special order.

□

#### THE INTERNATIONAL GLOBAL ECONOMY AND PATIENT PROTECTION LEGISLATION

The SPEAKER pro tempore (Mr. SHERWOOD). Under the Speaker's announced policy of January 6, 1999, the gentleman from Iowa (Mr. GANSKE) is recognized for 60 minutes.

Mr. GANSKE. Mr. Speaker, tonight I want to talk about two issues. First I want to talk about the international global economy, and then I want to say a few words about patient protection legislation, just so I will not disappoint any of my colleagues.

While the international global economy is no longer a vision of the future, it is here, it is a reality, we are now establishing the rules that govern this economy; and the outcomes of these debates will have a direct impact upon my State of Iowa as well as on the country as a whole.

Our country and my State have benefited greatly from the growing international marketplace and American efforts to reduce tariffs and trade barriers. For example, my home State of Iowa's exports increased nearly 75 percent over 5 years to \$5 billion in 1998. Export sales from Des Moines alone totalled nearly half a billion dollars in 1998. This growth was a two-way street. My State has attracted more than \$5

billion in foreign investment. This level of international trade and investment supports thousands of jobs in Iowa and across the country, and it greatly benefits our economy in general.

Over the past 30 years, we have made significant progress in breaking down barriers to trade. The General Agreement on Tariffs and Trade, or GATT; the World Trade Organization, or WTO; and the North American Free Trade Agreement have been effective in promoting the development of free trade. Yet we need to do much more. I have a book in my office published each year by the Office of the U.S. Trade Representative entitled "National Trade Estimate Report on Foreign Trade Barriers," not exactly something that you want to read if you want to stay awake late at night. The 1999 edition is more than 400 pages long, but those 400 pages detail the impediments that still exist to fully achieving a free international economy. America as the largest economic force in the world will benefit greatly if we eliminate those barriers.

So tonight I want to talk about some of the trade issues Congress may be addressing this year and how they tie into the goal of expanding market access and promoting free trade.

One of the first things Congress could do is to enact sanctions reform. The United States uses trade sanctions to apply economic pressure against countries to force them to modify their policies. Our trade sanctions against Cuba are an example. Often, these sanctions prohibit the export of food and medical products. These sanctioned markets currently buy \$7 billion in agricultural commodities each year from the international community. That is \$7 billion in agricultural commodities that they are not buying from us. The Department of Agriculture estimates that rural communities lose \$1.2 billion in economic activity annually as a result of these unilateral sanctions. For this and other reasons, we need to end unilateral sanctions on food and medicine, except in cases of national security.

First, they do not work. Our allies freely supply these products to the sanctioned states, undermining our efforts and taking away potential markets. Second, withholding food and medicine from civilians because we disagree with their governments' policies, in my opinion, is less than civilized. And, third, these unilateral sanctions punish America's farmers and further depress commodity prices by denying access to significant international markets. When our Nation's farmers are struggling for survival, that is not acceptable. By exempting agricultural and medical products from unilateral sanctions, we can provide our farmers with additional market opportunities and provide a humanitarian service to people living under those oppressive regimes.

Another tool we can implement to promote free trade is fast-track negotiating authority. Fast track allows the

President to negotiate international trade agreements and then bring those agreements to Congress for an up-or-down vote without amendments. This authority is authorized for limited periods of time. Beginning in 1974, fast track was extended several times, until its most recent expiration in 1994. Armed with that fast-track authority, Presidents were able to assure our trading partners that they have the necessary authority to negotiate trade agreements and that Congress will not change the conditions of those agreements.

It was under such authority that two multilateral trade agreements were reached under GATT, including the Uruguay Round which produced great dividends for U.S. farmers, U.S. interests and established the WTO, the World Trade Organization. Fast track also helped America reach free trade agreements with Israel in 1985 and Canada in 1988, as well as the North American Free Trade Agreement, or NAFTA, in 1993. But in 1994, authorization for fast track expired; and it has not yet been reauthorized.

Now, last year President Clinton announced in his State of the Union address that he would again seek renewed fast-track authority. Unfortunately, that was followed by a rather anemic and unsuccessful effort by President Clinton in 1998. So today, we still do not have fast-track authority.

I believe that if we wish to continue making substantial improvements and advances in promoting free trade and if we want to shape or have input in the current negotiations of WTO, we need to reauthorize fast-track authority. In this year's State of the Union address just last week, President Clinton spoke about nearly everything, except fast-track authority.

□ 1945

I hope the President and Vice President put full White House support behind an effort to reauthorize fast track, and I hope we in Congress can pass it before we adjourn this fall.

While sanctions reforming fast track will help America's efforts to enhance free trade and market opportunities for our industry and farmers, we must also engage other nations in multilateral agreements if we hope to get anything done. This can be done most effectively through international trade organizations.

The system that has received the most attention lately is the World Trade Organization, the WTO. Everyone is aware of the events that took place in Seattle with the tear gas and the rioting in the streets. The Republican presidential primary candidates have been debating the merits of U.S. participation in WTO.

Despite some of the concerns being expressed, I fully support U.S. membership in WTO and other international trade organizations. Opponents of trade organizations like to focus on the apparent negative effects of an inter-

national market. In the current international economic system, nations are looking for competitive advantages. The United States, for example, has great technology and we have an agricultural surplus, so we seek to promote these for our benefit. Others do for their particular industries.

Many have argued that international agreements threaten to weaken other segments in our economy and should therefore be avoided. Some argue that we should not participate in these agreements because they threaten our national sovereignty.

Well, I understand the concerns about opening our markets to other nations and the need to secure ourselves from threats against our sovereignty, and we must never relinquish control over our own destiny. However, these opponents fail to consider that these agreements in which we are involved were reached with our input. The rules of these organizations exist to ensure fair treatment from market to market and to reduce tariffs and restrictions, concepts that have greatly benefited America.

One of the most effective agreements America has brokered is NAFTA. NAFTA has had a significant impact on Iowa's economy since it went into effect in January 1994. The agreement set a schedule for reduction and eventual limitation of tariffs between the United States and our neighbors, Canada and Mexico. This has resulted in a terrific growth for North American trade, greatly increasing our export market.

For example, my home state of Iowa. Exports to Canada and Mexico nearly doubled in NAFTA's first 4 years. In 1998 alone, Canada and Mexico imported \$2.3 billion in Iowa products, more than 44 percent of Iowa's export total. This growth supports thousands of jobs and has brought substantial economic benefits to our businesses and agricultural communities.

NAFTA serves as a model for the international community. It reduces barriers, it promotes trade, and it capitalizes on America's advantages. The goal of the World Trade Organization is "to help trade flow smoothly, freely, fairly, and predictably." I believe the WTO has significantly improved the international economy.

The Uruguay Round which produced the WTO established a system of rules for member nations to ensure fair market treatment. In addition, it established a process by which member nations could seek redress for their grievances without resorting to immediate trade retaliation. That action helps prevent disruptions in international markets, and the result has been a global lowering of tariffs, an easing and elimination of import quotas and an overall more free system of trade. These are essential components to future prosperity for America and our trading partners.

Of significant importance to our Nation's agricultural trade was the imple-

mentation of the Sanitary and Phytosanitary Agreement, or SPS. This states that a nation or trading block cannot impose restrictions on the import of agricultural or food products based on a health concern unless that concern can be backed by scientific evidence.

This strikes at the heart of many of the barriers that other nations have erected to keep out our American agricultural products. It helps open markets that have traditionally been closed to our farmers.

But I want to talk for a minute about the role of WTO in resolving trade disputes, because it is this function that is at the heart of many of the criticisms of WTO. The set of rules by which members must abide were agreed to by all of the members. However, nations sometimes violate those rules, despite their commitments. When this happens, the WTO dispute settlement process offers a forum through which nations can seek solutions to their differences without immediately imposing trade barriers.

When a member files a complaint, a WTO-appointed commission reviews the case and issues an opinion. Countries have the ability to appeal those findings. After the appeals process is exhausted, the loser of the case must modify their policies to comply with the rules to which they themselves agreed.

Now, the WTO does not have enforcement authority, but it does have international opinion and the collective will of the members of the organization in an enlightened way and enlightened self-interest to encourage nations to comply with World Trade Organization rules. Thus, the WTO is only as strong as the commitment of its member nations. But the collective will of the international market is a significant factor in reducing barriers to trade.

The current round of WTO trade negotiations must address the issue of compliance while seeking to further reduce barriers to trade. If the European Union, one of the largest members of WTO, continues to violate the rules of the agreement, the future of WTO is in jeopardy.

The future of WTO will be determined in the next couple of years, determined by the new round of negotiations and determined by the potential accession of China to the World Trade Organization.

I was very disappointed with events in Seattle at the end of last year. I believe this new round is a terrific opportunity for us to expand our role in the international economy by improving market access for Iowa's products. For the opening session to be disrupted in the way it was was very unfortunate, to say the least. This round will determine the future effectiveness of the World Trade Organization, and the United States should use the WTO to make significant advances in the reduction of barriers to America's goods.

An issue that may change the international market significantly is the

prospect of China joining the WTO. The United States and China a few months ago reached a bilateral agreement on China's accession to the World Trade Organization. This agreement looks very promising, and I would like to point out a few details that may interest you.

Overall, China agreed to cut tariffs from an average of 24.6 percent in 1997 to an average of 9.4 percent by the year 2005. For U.S. priority products, tariffs will be cut to 7.1 percent. That is a 62 to 71 percent drop in tariff rates on most imported goods. In addition, China agreed to phase out most import quotas by the year 2005, making these new tariff rates applicable to most products, regardless of quantity.

China also agreed to give American companies more control of the distribution of their products at both the wholesale and the retail levels. American suppliers will no longer have to go through state trading enterprises or Chinese middlemen. American companies will be allowed to provide maintenance and services for their products, something particularly important, for instance, with automobiles.

In agriculture, China agreed to lower the average tariff on American agricultural products from nearly 40 percent to 17 percent. In addition, it will set tariffs on U.S. priority products, such as pork, beef and cheese, at 14.5 percent. That is a significant concession.

The agreement also establishes tariff rate quotas which represent the maximum level of imported product for which lower tariffs are applied. The goal of trade negotiations are to increase those quotas and eventually eliminate them, thus producing the greatest possible benefits for the exporting nation.

For example, China agreed to eliminate oil seed quotas by the year 2006 and to increase the quota for corn to 7.2 million metric tons by the year 2004. By comparison, China currently imports only 250,000 metric tons of American corn.

China also agreed to abide by the Phytosanitary Safety Agreement and to accept the U.S. Department of Agriculture certification that American meat and poultry is safe. What this means is that China will now open its market to U.S. pork, beef, and poultry, access which has been denied because of China's claim that American meat is not safe enough for consumption.

I can guarantee you, America's meat is safe for export. I go overseas to Third World countries. Let me tell you, on most any given day, I would rather have an American piece of meat.

In addition, China pledged not to provide export subsidies for its agricultural products. Let me repeat that. China pledged not to provide export subsidies for its agricultural products. So they are opening up their market, they are reducing their quotas, they are reducing their tariffs, and they are also agreeing not to subsidize their own producers, giving them an unfair

or uncompetitive advantage. These agricultural concessions are very attractive and they hold forth the promise of significant growth for our nation's farmers.

We passed the Freedom to Farm Bill here a few years ago. I think overall moving away from restrictions on planting and giving farmers freedom to plant the crops that they want is a good move, but part of the bargain of that bill is also that we work hard to remove export barriers and import barriers in other countries. This is part of what we are doing with the accession agreement with China.

Another component of the agreement of interest to our nation is in the area of financial services. Currently foreign insurance companies are allowed to operate in only two cities in China. This bilateral agreement will remove all geographic limitations for insurance companies within 3 years. Within 5 years, foreign insurers will be able to offer group, health and pension insurance, which represents 85 percent of all premiums sold.

Foreign firms will be allowed under this agreement 50 percent ownership for life insurance and will be allowed to choose their own joint venture partners. Non-life insurance companies will be allowed to establish local branches, hold 51 percent ownership upon accession, and form wholly-owned subsidiaries within 2 years.

In addition, China agreed to lower tariffs on American automobiles to 25 percent from the current rate of 80 to 100 percent, and American financing programs for these cars would also be available. Tariffs on information technology like computers and Internet-related equipment would be eliminated by the year 2005 and banks and financial institutions would have unprecedented access to the Chinese population. China promised to conduct business in a fair, non-discriminatory manner, and in accordance with WTO rules.

The United States also ensured that its existing anti-dumping protection provisions and product safeguard programs will remain in place for the next 12 to 15 years.

Well, despite the apparent benefits of this agreement, I still think we need to be careful. China does not have a great track record in complying with trade agreements. Currently our trade relationships with China continue to be tilted in favor of China. Despite continued engagement and extension annually of normal trade relations or most-favored-nation status, the U.S. trade deficit with Beijing has increased from \$6.2 billion in 1989 to \$56.9 billion in 1998.

In 1992, we signed a memorandum of understanding to improve market access between the United States and China.

□ 2000

The Chinese Government has failed to reduce significant trade barriers to U.S. products. In addition, our bilat-

eral agreement is not the final document concerning China's membership in the World Trade Organization.

China must now complete bilateral agreements with the European Union, with Canada and with other trading partners. These agreements will then be combined into a comprehensive, multilateral package, that would be presented to Congress. Congress must then decide whether to grant China permanent Most Favored Nation status, or normal trade relations.

A year ago, I opposed a 1-year extension of NTR to China. I did so for several reasons, the unfair balance of our trade relationship; the 40 percent import tariffs that China puts on our agricultural products, I do not think that is fair; China's violations of our national security; their disregard for human rights and their threatening posture towards their neighbors.

Additionally, I did not feel that past extensions of NTR had greatly benefited America's interests. Rather, despite NTR, China's actions jeopardized our national and economic security. However, this bilateral accession agreement could open a tremendous market for American and Iowan products, if, and this is the big if, China actually complies with the provisions of the treaty.

The unprecedented access for international businesses would expose Chinese society to outside influences like never before. While the jury is still out, the fine print has not yet been made available for review, I expect the President will request Congress to waive the Jackson-Vanick amendment which requires annual extension of NTR for China and ask us to improve permanent NTR status.

This is going to lead to a vigorous and energetic debate on this floor of the House of Representatives. The stakes are very high. This may sound like an arcane subject. Maybe it is not as personal as the patient protection legislation that I am going to be talking about in a few minutes, but I can say what we decide on the floor of this Congress on this treaty could have significant impact on each and every one of us in this country in terms of how our economy is going to do.

If Congress approves permanent normal trade relations for China and abandons the annual review requirement, do we risk losing valuable leverage in future negotiations? If we grant permanent NTR, will we actually experience significant reform in the Chinese markets, or will China renege on its promises as it has in the past?

If we do not grant permanent normal trade relations, will we be watching from the sidelines as other nations take advantage of new market opportunities to 1 billion people? These are some of the questions that Congress will have to ask this session. I look forward to the debate, and I am learning more about the fine print of this agreement.

In summary, I think the United States must pursue free trade whenever possible. This includes reforming our sanctions policies to provide American food and medicine to needy civilians. It involves granting the President fast track negotiating authority to ensure our place in global trade negotiations. It involves participating in international trade organizations to open new and expanding markets. It involves reducing trade barriers in order to spur further economic growth for our economy, but we must remain aware of the implications such action may have on our security, and we must make those decisions appropriately.

At this time, I am leaning towards a yes vote on permanent normal trade relations with China, and I am looking forward to the debate.

#### PATIENT PROTECTION LEGISLATION

Mr. GANSKE. Mr. Speaker, I want to say a few words about patient protection legislation, particularly in response to what I consider to be a rather inaccurate publication that has been sent to Congress, all Members of Congress recently, by the HMO industry.

Before I go any further, I want to be crystal clear what my position has been throughout this long debate. As we have developed patient protection legislation, I have always believed that any entity, whether a doctor, a health plan or a business, that makes decisions on medical necessity must be held responsible for those decisions. Moreover, I find it reprehensible that there are those who would promote the argument that an entity should be able to wrongfully cause the death of a patient and be shielded from legal responsibility.

Currently, doctors are held responsible for the medical decisions they make, but health plans and even employers can dodge such responsibility through the ERISA preemption clause. Recognizing that plan sponsors and some employers do make these decisions, the Norwood-Dingell-Ganske bill, the Bipartisan Consensus Managed Care Improvement Act of 1999, erases this unintended shield by making those plans responsible for any decision they make regarding medical necessity.

Of those lawsuits that are brought, most would not be against employers or plan sponsors because they are generally not involved in the medical necessity decisions that could lead to a personal injury or death. Therefore, our bill protects health plans and employers by ensuring that they can only be sued if they decide to do more than offer health insurance. In a recent communication entitled Health Plan Liability, What You Need to Know, the American Association of Health Plans makes a number of dubious assertions about the Norwood-Dingell-Ganske Bipartisan Consensus Managed Care Improvement Act of 1999. I would advise my colleagues to take this with a grain of salt. In fact, my colleagues may want to take it with a whole truckload of salt that is currently cruising the streets here in Washington.

To begin with, the AAHP implies that supporters of the Norwood-Dingell-Ganske bill are promoting lawsuits, but the supporters of the Norwood-Dingell-Ganske bill believe that patients should have an opportunity to pursue internal and external review in a timely fashion before they are harmed. It is the appeals process with an independent review panel that will improve quality of care and ensure that patients receive necessary health care, but as Governor Bush says, "at the end of the day, HMOs must be responsible for their actions."

Then AAHP claims that HMOs already can be sued under ERISA. Well, again, take that characterization with a huge grain of salt, because it is true that under ERISA HMOs can be sued but only for the costs of treatment denied. Now, how is that a just outcome for a child that has already lost his hands and his feet or somebody else who has lost their life? It is a travesty that many of these people and their families find that their legal remedy, under ERISA, through their employer plan, for their loss, is only the cost of treatment denied.

That is an unfair burden on patients. It was never the congressional intent and the Norwood-Dingell-Ganske bill provides appropriate liability and external appeals process protections for patients and their families.

Next, the American Association of Health Plan little manual says, "The current medical malpractice system demonstrates that making correct decisions does not preclude lawsuits," but under the Norwood-Dingell-Ganske bill the external appeals panel makes a determination on the appeals that are brought before it. If the health plan does not abide by the panel's decision, then the patient and his family have the ability to pursue liability action. However, if the plan abides by the independent panel's decision, then it is protected under our bill, the bill that passed this House by a vote of 275 to 151, it is protected from the punitive damages that the health plans are so concerned about.

On this point, an additional claim that our bill, "requires external review to be completed in all cases before an individual can sue the plan. Therefore, few claims will ever reach court," AAHP then states that the Norwood-Dingell-Ganske bill would, "allow enrollees to bypass external review when an enrollee claims that he or she had been harmed before an external review is initiated."

AAHP fails to point out that the Norwood-Dingell-Ganske bill allows them to go directly to State court only, I repeat only, if they have suffered personal injury or wrongful death. After a patient has already been killed, seeking any further treatment or an appeal is absurd. On external review AAHP says that we say, "expanded health plan liability is necessary because plans may not adhere to the decisions of the external review even at this time."

AAHP states that, "There is no evidence demonstrating that in States that have a binding external review system, health plans do not adhere to the decision of external review entities."

However, in the House Committee on Commerce, we heard testimony from Texas that refutes this statement by the HMO industry. That lawsuit, Plocica versus NYLCare is a case in which the managed care plan in Texas did not obey the law, and a man died. This case exemplifies why we need accountability at the end of the review process.

Mr. Plocica was discharged from a hospital suffering from severe clinical depression. His treating psychiatrist informed the plan that he was suicidal and required continued hospitalization until he could be stabilized. Texas law requires an expedited review by an independent review organization, one of those IROs that Governor Bush speaks about. Prior to discharge, such a review was not offered to the family by the plan, by the HMO.

Mr. Plocica's wife took him home. During the night he went to his garage. He drank half a gallon of antifreeze and he died a horrible, painful death.

This case shows that external review and liability go hand in hand. Without the threat of legal accountability, HMO abuses like those that happened to Mr. Plocica will go unchecked.

The lesson from Texas also is that there will not be an avalanche of lawsuits. In fact, when HMOs know that they will be held accountable, there will be fewer tragedies like those that happened to Mr. Plocica.

A couple of Sundays ago, just before the Iowa caucuses, AARP, the American Association of Retired Persons, ran a one-hour infomercial on TV. They interviewed all of the Presidential candidates on their positions on a number of issues interesting and of importance to senior citizens. One of the questions that they asked was, what is your opinion on patient protection legislation? And they had quotes from all of the candidates, both Republicans and Democrats.

I want to read a transcript of what Texas Governor George W. Bush had to say about this issue. These are Governor Bush's words. "As governor of Texas, I have led the way in providing for patient protection laws when it comes to managed care programs. I am proud to report that our State is on the leading edge of reform. People who are in managed care programs in the State of Texas have the right to choose their own doctor so long as it does not run up someone else's premium. People in my State are able to take advantage of emergency room needs and yet be covered by managed care. Women have direct access to OBGYNs. Doctors are not subject to gag rules."

Governor Bush continued. "We have information systems now that are made available for consumers who are in managed care programs. We have

done a good job of making the managed care systems in our Texas consumer friendly, as well as provider friendly."

Governor Bush continued. "I have also allowed a piece of legislation to become law that allows for people to take disputes with managed care companies to an objective arbitration panel called an independent review organization."

□ 2015

"It is a chance for the insurance provider and for consumers to resolve any disputes that may arise."

Here is the important part of this statement. These are in Governor Bush's words. This is from the Texas experience.

"If after the arbitration panel makes a decision, and if the HMO ignores that decision, i.e., in this gentleman's case where he drank half a gallon of anti-freeze case and died because of that HMO's medical necessity decision, then consumers in the State of Texas will be able to take the HMO to a court of law to be able to adjudicate their dispute."

George Bush finished his statement by saying, "I believe this brings accountability to HMOs, and I know it gives consumers the opportunity to take their case to an objective panel. This law is good for Texas. I believe this law will be good law for America, as well."

Mr. Speaker, the bill that we passed here a few months ago, the Bipartisan Managed Care Consensus Reform Act of 1999, the Norwood-Dingell-Ganske Act, was modeled after the Texas laws. Let me give some examples.

The Norwood-Dingell proposal on utilization review, when a plan is reviewing the medical decisions of its practitioners, it should do so in a fair and rational manner. The bipartisan consensus bill lays out basic criteria for good utilization review: physician participation in development of review criteria, administration by appropriately qualified professionals, timely decisions. All of these things, and the ability to appeal those decisions, are in the Norwood-Dingell bill.

Guess what, this became law in Texas in 1991. These provisions that were in the Norwood-Dingell bill were enhanced in Texas law in 1995.

How about internal appeals? The bill that passed the House says, "Patients must be able to appeal plan decisions to deny, delay, or otherwise overrule doctor-prescribed care and have those concerns addressed in a timely manner. Such an appeal system must be expedient, particularly in situations that threaten the life and health of the patient, and conducted by appropriately credentialed individuals."

What is the situation in Texas? In 1995, these internal appeals were promulgated by regulations by the Texas Department of Insurance.

How about external appeals? In the Norwood-Dingell-Ganske bill, individuals must have access to an external independent body with the capability

and authority to resolve disputes for cases involving medical judgment. The plan must pay the costs of the process. Any decision is binding on the plan. If a plan refuses to comply with the external reviewer's determination, the patient may go to court to enforce the decision. The court may award reasonable attorneys' fees in addition to ordering the provision of the benefit.

What is the Texas law? The same thing. It became law in 1997. Since it has been enacted, 700 patients plus have appealed their health plan's decisions, with 50 percent of the decisions falling in favor of the patients and 50 percent of the decisions in favor of the health plan. The Texas external appeals process is being challenged in court. It could be overturned unless we act here in Congress.

How about insurer accountability? In the Norwood-Dingell-Ganske bill, health plans are currently not held accountable for decisions about patient treatment that result in injury or death under ERISA.

Currently, the Employee Retirement Income Security Act preempts State laws and provides essentially no remedy for injured individuals whose health plan decisions to limit care ultimately cause harm. If the plan was at fault, the maximum remedy is the denied benefit. The bipartisan consensus bill would remove ERISA's preemption and allow patients to hold health plans accountable according to State law.

However, plans that comply with the external reviewer's decision may not be held liable for punitive damages. That is those \$50 million or \$100 million awards. Additionally, any State law limits on damages or legal proceedings would apply. What is the situation in Texas? The same thing. It became law in 1997. Since that time, only three lawsuits are known to have been filed as a result of the Texas managed care accountability statute.

Mr. Speaker, this missive that we need to take with a truckload of salt put out by AHP says, oh, yes, but there are a bunch of cases out there in Texas that have not been filed, so we do not really know. I would point out that Texas is tracking suits filed, not decided. In Texas, there is a 2-year statute of limitations on bringing suits. If those suits were out there, we would know about them because they would have to be filed. It simply is not happening.

Before Texas passed this law in 1997, the insurance industry, the HMOs, said the sky would fall, the sky would fall. There would be a plethora of lawsuits. Instead, we have seen three filed. However, we have seen probably over 1,000 of those disputes resolved before an injury occurred. That is what we want to do.

Choice of plans, the provision that is in the Norwood-Dingell-Ganske bill, the same thing in Texas, became law in 1999.

Provider selection provisions, those regulations have already been promul-

gated by the Texas Department of Insurance in 1995. Women's protections that are in the bipartisan consensus bill became law in Texas in 1997. Access to specialists in the Norwood-Dingell-Ganske bill, the bipartisan bill, were promulgated by regulation in Texas by the Texas Department of Insurance in 1995.

Drug formulary, prescriptions. The provisions that are in our bill that passed this House with a vote of 275 became law in Texas in 1999.

Mr. Speaker, maybe Governor Bush and for that matter Senators MCCAIN and HATCH, Senator LOTT, the majority leader, the gentleman from Texas (Mr. ARMEY), and presidential candidate Gary Bauer are also aware of the December poll by the Harvard School of Public Health and the Kaiser Family Foundation which found that nearly 70 percent, let me repeat that, 68 percent, to be precise, of Republican respondents, that is two out of three, more than two out of three Republicans, said that they would favor patients' rights legislation that included the right to sue their health plans.

It is awfully hard for somebody to argue that an industry which is making life and death decisions should have a shield from liability that no other industry in this country has. Do automobile makers have a shield from liability if they make a car that explodes? Do medical manufacturers have a shield from liability if their product causes a patient to die? No. I do not know of too many Americans that think they should.

When each and every one of us is not only a purchaser but a participant in this health system, when we know that a member of our family or a friend or a colleague at work has been mistreated by their HMO and denied medically necessary care, that is why about 85 percent of the people in this country think that this Congress ought to pass strong bipartisan patient protection legislation.

I sincerely hope that we move in that direction before the end of this session. I look forward to working with my colleagues on both sides of the aisle to try to effect a bill that we can get on the President's desk, get it signed into law, that handles the medical necessity issue and that provides an effective enforcement mechanism.

□

#### AMERICA'S PROBLEMS WITH ILLEGAL NARCOTICS AND DRUG ABUSE

The SPEAKER pro tempore (Mr. SIMPSON). Under the Speaker's announced policy of January 6, 1999, the gentleman from Florida (Mr. MICA) is recognized for 60 minutes.

Mr. MICA. Mr. Speaker, I am pleased to return to the floor in really the second half of this session of Congress to renew my continued efforts to bring to the attention of the Members of this body and the American people the problem that we as a Nation face in our