

I think it is working. I just want to say that I have enjoyed the time I have spent on the Committee on Government Operations. We get an awful lot of time to look at GAO reports, learn about all the bad things about Government. Those are the ones that make the sound bites, they are the ones that get the headlines in the newspapers and stuff. I just hope as we go through this next couple of months that we all remember we have done some changes. We have done it on a bipartisan group basis. Most of these bills, I believe, were passed probably by the majority of this House. But we need to continue this on. Let us not make sound bites, let us not do it for political gain, let us do it for American taxpayers because they come first.

I thank the gentlewoman from New York [Mrs. MALONEY] for the time afforded me, and I appreciate the gentlewoman's leadership and look forward to working with her again.

THE AMERICAN LEGAL SYSTEM

The SPEAKER pro tempore (Ms. MOLINARI). Under the Speaker's announced policy of January 4, 1995, the gentleman from Nebraska [Mr. CHRISTENSEN] is recognized for 46 minutes as the designee of the majority leader.

Mr. CHRISTENSEN. Madam Speaker, the American legal system is in serious need of repair. Frivolous litigation and overzealous litigators are stifling entrepreneurship, damaging competitiveness of American products on international markets and draining the U.S. economy.

The American people are tired of hearing about multimillion-dollar awards given to someone who has been injured due to their own negligence and then goes looking for the pot of gold at the end of the legal rainbow.

Commonsense legal reform is the needle that will sew up unrestrained access to the deep pockets of corporate America and the shallow pockets of nonprofit groups like the Little League and the Girl Scouts.

The American civil justice system needs reform and needs it now.

Last month an article on legal reform by the Los Angeles Times stated that in California alone lawyers made \$16.3 billion in legal fees in 1992.

My colleagues, \$16.3 billion is more than the gross domestic product of nearly three dozen Third World nations.

Madam Speaker, in the late 1970's two men illegally entered a remote section of the Miramar Naval Station through a breach in the fence. You all know Miramar as the place where "Top Gun" was filmed.

Now, ignoring numerous Government property no-trespassing signs, the two set out on their mission to steal valuable copper cable, attached to power poles throughout the base. After being assured by one of the men that the power lines were dead, his partner in

crime climbed the pole. As he began cutting the cable, he touched an exposed wire which knocked him unconscious, but he still clung to the pole. In an attempt to rescue his friend, the other thief began climbing the pole and also touched the live wire, which threw him to the ground and paralyzed him for life.

Well, obviously, this case went to trial, and plaintiffs' lawyers pleaded their case to a sympathetic jury, and, guess what: The verdict. The two thieves won. The court was found to say that the United States, as owner of the naval base, had a duty to protect the two thieves because it was reasonably foreseeable that they or thieves like them would enter and steal the copper cable.

Absurdity, you say? Yes, indeed. But it is the reality of the American civil justice system as we know it today.

Let me tell you another story about our civil justice system in the 1990's. There is probably not a Member today who has not enjoyed meeting with a visiting Girl Scout troop from their district, gathering excited and enthusiastic youngsters who come to the Capitol for the first time, and maybe the only time in their lives, to learn firsthand the meaning of that time-honored phrase, "A government of the people, by the people, and for the people."

□ 2310

You know how they pay for their trips here and all the other activities of their individual troop? They sell cookies. As a matter of fact, they delivered to my office today my order of Girl Scout cookies. But there is probably something you do not know about these legendary cookies. I have been told that the Girl Scouts of Illinois have to sell over a million cookies just to pay their liability insurance premiums. Why? Because they have been getting sued by overzealous plaintiff lawyers.

This organization known for teaching our Nation's youth about teamwork, community, and the value of volunteering has been beset by predatory lawyers looking for anybody with pockets to pick. My fellow colleagues, it is time that this stop. We stand ready to pass H.R. 10, the commonsense legal reform bill and to shore up those organizations that teach our children about honesty and integrity as well as the corporations that employ their parents.

It is an important measure and one that we will have an opportunity to debate fully over the next 3 weeks.

Madam Speaker, I yield to the gentleman from Chatanooga, TN [Mr. WAMP], who sits on the Transportation and Science and Small Business Committees.

Mr. WAMP. Madam Speaker, I come tonight, thanking the gentleman from Nebraska, slightly under the weather tonight but I wanted to take the opportunity to come and talk about two in-

stitutions in this country, Madam Speaker, that are really not in very good shape. One is this institution, an outstanding heritage this institution of Congress has had, but today we are not in favor among the voters out there still looking at this institution as arrogant and out of touch. But you know, we are doing something about that. We came on the very first day and passed the Accountability Act, holding us to the same laws as the people in this country have to live under. And we are making major strides in the last few weeks here in Congress, to clean up our act and to be honest with the American people about what goes on here and be good stewards of the tax dollars, once again.

But another institution that I have to bring to the well tonight that is in dire need of a jump start right now in the legal institution in this country, where our lawyers have taken on the same kind of arrogance in many ways. I would argue that much like we have led the reforms of the last few weeks here and tried to clean up our act, the bar association and the attorneys in this country need to lead the way for tort reform.

I encourage our attorney friends to join us on substantive and positive reform of this system which the American people need to count on.

One of the basic tenets of our Constitution is the notion of a fair and speedy trial. If you are an American citizen that has been unfortunate enough to either be sued or have to sue somebody to pursue justice, you know that the concept of a fair and speedy trial is not easy to come by in this day and age. We have a system in this country of insurance law, where the attorneys actually work for an insurance company instead of the defendant, sometimes even instead of the plaintiff.

Once they work for that insurance company, that insurance company is just going to keep paying them until that amount that they designated that they would pay for legal fees is completely drained. And through that deep pockets theory, everybody sues everybody until everybody's insurance company is working with an attorney, and they keep working until all the money is gone. And the case is not going to be settled until the money is all gone.

We should not be about bashing lawyers. I do not want to do that. I do not want lawyers bashing Members of Congress. I think we need to uphold this institution and promote the institution and encourage our friends in the legal community to help us with their reform.

Lawyers are good people. Many of my friends are attorneys. Many of the people who helped me come to Congress are attorneys. Even some trial lawyers, I think, are good folks. But for too long they have made all the rules in this country. And it is time for the people to run the show again.

More than a decade ago, an outstanding barrister from my home city of Chattanooga, Don Warner, told me that in most construction lawsuits everybody loses, plaintiffs, defendants, and all, except the attorneys. And they all win. They get paid, get paid good. They go home. Everybody else loses. Attorneys split up the money and the plaintiffs and defendants share what is left. Most of the time that is not hardly anything.

You know, Madam Speaker, I believe in this country we must preserve the right to petition the court for justice, but we must also encourage and have a system of laws that encourage the settlement of our disputes without litigation.

I thank the Speaker tonight, and I thank the gentleman from Nebraska for his leadership on this issue. I encourage all those in this body to support H.R. 10 as we try to clean up the legal mess in the United States of America.

Mr. BRYANT of Tennessee. Madam Speaker, speaking as an attorney who also is a freshman Member of this 104th Congress, I wanted to just add to what my colleague said about all lawyers. There are some mighty good lawyers out there, both on the civil side, the defense side, and on the trial lawyer side, too. Unfortunately, like any other business or profession, there are a few out there that make some bad judgments, whether negligently or intentionally, and bring a lot of heat to bear on the lawyers.

I think most of us that practiced law for a living before coming up here would agree with Vice President Quayle that there are some improvements, some reasonable changes that can be made that need to be made and, as the gentleman from Nebraska, JON CHRISTENSEN, has said, H.R. 10, which has now been divided into two different bills by our Committee on the Judiciary, on which I serve, is coming up actually tomorrow for markup in our Committee on the Judiciary.

And both of these bills, while not perfect, are very strong improvements in the rules that govern our courts. They make some changes to some of the laws, I think, that, again, provide a fairer balance to our civil justice system.

Only recently, this House passed six criminal bills. And as a former U.S. attorney, as a Federal prosecutor, I felt very strongly about those. In fact, like most of you, probably campaigned on those types of issues. And we talked there about swinging that pendulum in the criminal system back away from the rights of the criminal more to the middle, back toward the society and to the victims. And much as we did in the criminal side now, we are looking to do that in the civil side through a reasonable set of tort reform laws. Again, bringing that balance back to a more fairer standard for both sides and to society, because I think there are legitimate complaints there.

I know you all campaigned the way I did, and that was one of the major complaints I heard. I used to laugh, and they would ask me what I did for a living. I would kind of mumble that I was a lawyer, at that I was trying to improve the status of my occupation so I was running for Congress. So I do not know if any of you had that same problem, but that certainly was there.

Mr. CHRISTENSEN. During my campaign, even though I am a licensed attorney, people would always ask me what I did. And I never would tell them that I was a licensed attorney because that was usually a strike against me.

Mr. BRYANT of Tennessee. Well, it is. I think, hopefully, as we go through this hour, we are going to talk in more detail about what these two bills do, some of the details, and how they change and, hopefully, as a result of what we do in Congress. I see the gentleman from Arizona [Mr. HAYWORTH] down there. And I think he has something we want to say.

But people will be pleased that we will get the type of bipartisan support that we are seeing in some of our other bills. We will get our colleagues in the other House to go along with us and have the President sign a bill that will vastly improve our legal system.

Mr. CHRISTENSEN. Madam Speaker, I thank the gentleman from Tennessee for his comments earlier.

I yield to my friend, the gentleman from Scottsdale, AZ [Mr. HAYWORTH], who is on the Committee on Resources, Banking, and Veterans' Affairs.

□ 2320

Mr. HAYWORTH. Madam Speaker, I thank the gentleman from Nebraska, and as I look around this Chamber and think about what has been transpiring in these first 50 days of the Contract With America, I would be remiss if I did not pause to state my very genuine admiration, not only for my friend, the gentleman from Nebraska, but his dynamic duo from Tennessee. In fact, there is a terrific trio, when we think about our good friend, Mr. HILLEARY, also serving with this distinction in this Congress.

I look here and I see my friend, the gentleman from Washington State, RICK WHITE, here in the Chamber, I am also aware of the fact that there of us in this room are blessed with spouses from the great State of Mississippi, all born down there.

It is kind of interesting here, and I look to the Chair, and there is the gentlewoman from New York [Ms. MOLINARI], and Madam Speaker, thank you for being here at this late hour, an hour that is still relatively early in my home district, but in a very real sense, for this Nation, Madam Speaker, the hour is growing late.

Madam Speaker, let me start with this simple statement. The American people want to hold wrongdoers accountable. No one in this Chamber would disagree with that statement. It is a truism, and certainly, as my good friend, the gentleman from Tennessee

[Mr. BRYANT], the former U.S. attorney in Memphis, would point out, it is the basis of our legal system, the notion of accountability.

The Common Sense Legal Reform Act restores accountability to product laws. Manufacturers should not be hit with a massive lawsuit because someone deliberately misuses their product.

We are bringing an end to the misuse of punitive damages, an aberration in our system that was increasingly used to give plaintiffs a \$1 million plus windfall that they could share with their attorneys.

However, these changes will have little meaning unless we apply them to the notorious cases that are still wreaking havoc within our legal system. It is here where the outrageous punitive damage awards are making a mockery of justice. Wrongdoers are not being held accountable. What is happening, quite sadly, in my opinion, is that some attorneys are milking the system for every cent they can get.

Madam Speaker, to illustrate what I'm taking about, let us focus on the insurance industry for just a moment. I understand that the insurance industry is not going to get a lot of sympathy. I'm not out here searching or hoping to be a defender of the insurance industry. But what is happening with insurance, a service to our society in a real sense, and a product that our society depends on in order to function, should make us think twice before we pass a bill ignoring the problems.

Take the insurance industry within the great State of Alabama, for example. The Prudential Insurance Company, a large, well-established company we all know, had an agent in Alabama. That agent sold an annuity policy to a couple. Nothing unusual there.

But the company soon learned that their own agent had greatly overstated the value of this policy. The agent had deceived the couple, which was trying to legitimately plan for its retirement. What did Prudential do? Prudential did the right thing, alerting the couple about the agent's deception, and offering to return all the premiums the couple had paid.

The company realized that the couple had been mistreated, and the company took steps to repair all the economic damage that had been done to the couple. But instead, the couple chose to sue the company, and like many of these civil justice cases, this one went to trial by jury.

The jury awarded the couple \$430,000 in compensatory damages, and then, then a staggering \$25 million in punitive damages, \$25 million, against a company that tried to right a wrong.

I understand the facts of the case. An elderly couple was deceived. They deserved compensation, no one would argue about that. But under what code of right and wrong does a jury decide that \$25 million is justice?

This is what is going on in the great State of Alabama. I conferred with one

of our colleagues who hails from that great State. He confirmed it. During the first 9 months of last year, Alabama juries handed down 11 separate multi-million dollar punitive damage verdicts.

Let me quote now from one of our Nation's top legal and criminal experts, professor George Priest of Yale University Law School. He said "The System is totally out of control in Alabama."

Now, we understand full well what will transpire. A lot of the trial lawyers' lobbyists will come down here and say "This is a state issue. The Federal Government has no business passing a national punitive damages cap." Tell that to the people who provide services or sell insurance within the great State of Alabama.

It is worth noting that the Alabama State Legislative did pass a cap, a \$250,000 limit on punitive damages. What happened? In the wake of that decision by the Alabama state legislature, elected judges in that State struck it down. No wonder many attorneys want this left as a State issue.

My point is simple, Madam Speaker. If we fail to extend the punitive damage provisions of H.R. 10 to all civil justice cases, then we are fooling ourselves that we have created a far-reaching legal reform within the system.

Madam Speaker, it is simply insufficient to bring reform to one corner of the system while blissfully ignoring the outrages going on in every other aspect of civil law. How many more million dollar awards will have to be handed down before we realize our system is out of kilter with reality, and ultimately, with justice?

We all want to see wrongdoers held accountable but it is worth noting that accountability means restoring a sense of proportion and responsibility to our entire legal system.

I say to my colleagues, Madam Speaker, we are moving in the right direction, but let us not stop before we really get started. Let us work, toward real reform, genuine reform, that will truly touch every American.

Undergirding a variety of these questions, whether they deal with our civil system of law, or, really, any other question that comes before this 104th Congress is this simple notion of the law. I believe my colleagues, the gentleman from Tennessee, Mr. BRYANT, and the gentleman from Nebraska, Mr. CHRISTENSEN, both trained as attorneys, would readily admit this.

It is this simple notion that undergirds, really, the entire legal system, if you will, of Western civilization. That is the question of what is reasonable, the test of what a reasonable persons would apply.

I think it has been shown with stunning clarity, not only in the context of my remarks but, indeed, as we move now into other questions, as we take a look at regulatory reform, as we take a look at so much that has gone on with our Federal Government, we see that

that sense of reasonableness has been, if not completely abandoned, then certainly neglected.

Madam Speaker, I welcome the opportunity to join with you for a revolution that is not radical, but one that is reasonable. I look forward to working together to adopt commonsense legal reform.

Mr. BRYANT of Tennessee. Madam Speaker, will the gentleman yield?

Mr. HAYWORTH. I am glad to yield to the gentleman from Memphis.

Mr. BRYANT of Tennessee. I appreciate the gentleman from Arizona articulating his position so well.

I want to, if we could, Madam Speaker, perhaps digress a minute and talk about exactly what punitive damages are. A lot of times, Madam Speaker, in the legal system people may not understand what drives up our verdicts to these ridiculously high figures, in some cases.

Most of the time, those figures are based on punitive damages. Generally, under the laws of all States, as well as the Federal system in civil cases there are two types of damages that a jury or a judge can award. One type is called compensatory damages, and that simply means that a victim of an accident, of any type of lawsuit, is entitled to be fairly compensated, hence, compensatory damages.

Generally that is the type of damages that involves an injury, hospital bills, the pain and suffering, the loss of income, loss of wages; again, things that you can value, things that you can measure, as a general rule.

The law also recognizes the other type of damages, punitive damages, which arose as a philosophical, as a policy issue to punish, hence the word "punitive damages," to punish the defendant, the wrongdoer, in the sense that you want to teach that person a lesson, teach that company a lesson.

You want to deter that type of conduct, and the way society through the courts has recognized that has been simply to award these punitive damages, which really have no measure.

□ 2330

Often they are a pie in the sky. It is whatever a jury feels like giving that particular day under the emotion of a particular trial. As a former defense attorney who defended cases, I can tell you that these are the most difficult types of damages to measure. Again, there are usually no standards, no guidelines, it is just something that a jury is asked to do that day, in whatever mood they might be in and, of course, sometimes you get some rather large figures. But the punitive damages typically under our systems go to the victims and to the victims' attorneys.

It has been suggested that perhaps if punitive damages are awarded, they ought to go not to the lawyer and not to the victim but to society or to some third party. After all, the victim is not necessarily to be compensated with punitive damages since they have already received their compensatory damages.

The real purpose is not to pay the victim any more but to deter and to punish that wrongdoer. So that has been suggested.

In our bill, which has now been redesignated as H.R. 956, we talk about punitive damages. This bill will apply throughout both the State and the Federal courts in most civil cases, and it limits, it puts a cap on, if you will, the amount of monetary punitive damages that can be awarded. It limits them to \$250,000, or 3 times the compensatory damages given in that particular case, whichever figures is greater.

Mr. CHRISTENSEN. Madam Speaker, will the gentleman yield?

Mr. BRYANT of Tennessee. I yield to the gentleman from Nebraska.

Mr. CHRISTENSEN. So we are not talking in H.R. 956 about taking away that right, or the right to sue or the right to compensatory damages or even the right for punitive damages where there have been examples of egregious conduct on the parts of individuals or corporations. We are just talking about bringing some commonsense legal reform to bear here, three times your economic loss, is that not correct?

Mr. BRYANT of Tennessee. That is right, JON. It is basically heretofore what I have called pie in the sky. Even in criminal law where you actually punish directly a crime, a piece of misconduct, the criminal knows ahead of time or very quickly discovers when he goes to trial what the limitations are. There is a certain sentence, a certain maximum sentence they can receive. But in our civil system with punitive damages, the particular defendant, whether it be an individual or whether it be a company, has no idea other than what the plaintiff's attorney might sue for, which is usually a large amount because, at least in my State, you cannot get any more than you ask for, so they ask for huge sums of money. It really is not fair.

The effect we have seen in our judicial system and in our economy is that when companies are hit with these large punitive damage awards, it acts as a chilling effect. It discourages companies from not only the research and development but primarily the development to new products. Even though they pass certain government standards, they are still in a lot of cases subject to potential liability. So a lot of times the companies had rather not go to that risk and put a new product on the market if they know they are going to be sued and hit with huge sums of money. It has the effect sometimes of stifling growth in not only the new types of products we might get but jobs. Companies all around the country have to deal with ever-increasing insurance premiums which are driven up in large part by again these large verdicts that the insurance companies have to pay out.

It is primarily I think because of that reasoning that we want to see an

economy in America that is growing and going, we want to see our companies creating new jobs in the private sector and developing new products that we have taken this approach.

Again, when you look at it in the scheme of why we have punitive damages, and, that is, again to deter companies from doing bad things, and most of the time that is malicious, intentional type of wrongdoing, to me it no longer has the place in our judicial system that it has had in the past. I think reasonable caps which would be fair to both sides, again a reasonable balance in this, is exactly what we need.

Mr. CHRISTENSEN. At this time, I would like to yield to my colleague the gentleman from Seattle, WA [Mr. WHITE], an attorney.

Mr. WHITE. I thank my friend from Nebraska for yielding, I thank the Speaker, and I thank all the other Members of the House who were kind enough to stay here tonight and listen to my humble remarks.

I would like to confess something tonight that really is not too popular these days. That is, ever since I was in grade school, I have wanted to be a lawyer. I finished grade school, high school and college, went on to law school and for the last 15 years or so, I have been a practicing lawyer in the Seattle area and I have enjoyed my practice a great deal. As a lawyer, I have great respect for the law. But I have also discovered something during these 15 years of law practice that I think is very important for us to consider today. That is, the fact that our legal system is badly out of balance and badly needs to be fixed.

Let me just give a couple of examples. Madam Speaker, if you go to Seattle today, you will find some people working in high-rise office buildings with computers that are tied into the financial markets. Every time a stock goes up or down, these computers register what is happening in the marketplace. You think that is not surprising, because there are stockbrokers in every large city. But the fact is, Madam Speaker, many of these people are not stockbrokers. These people are attorneys and they have their computers programmed so that when a stock falls by a certain amount, immediately a complaint can be filed alleging a securities violation.

There is a company in my district who had its stock drop because of an erroneous report about 9 a.m. one morning last year. By 1 p.m. that very afternoon, two 60-page complaints had been filed in the Federal District Court in Seattle. It turns out the announcement was wrong, the complaints later were quietly withdrawn. But the fact is these lawsuits are driven not by the merits of the case but by lawyers out to make a buck.

There are other examples. We have all heard the story of the woman in Arizona who spilled coffee on herself and received a judgment of some \$2 million

because the restaurant made the coffee too hot.

In the crime area, another example from my own district. A man named Charles Campbell, in 1982, slit the throat of an 8-year-old girl, slit the throat of her mother, slit the throat of the next-door neighbor who just happened to be there at the time. Under very painstaking, elaborate procedures, he was sentenced to death by a Snohomish County jury. Yet for the following 12 years, he evaded his sentence in 3 separate Federal appeals, raising a different issue each time, none of which had any merit. These are problems, my colleagues, that have to be fixed.

I am proud to say that we are starting to make some progress fixing these problems. We have already marked up in one of my committees the securities litigation reform bill. We have passed in this House the crime bill which will solve some of the criminal law problems. This next week we will be seeing some more legislation designed to reform the legal system.

I have been happy to support, as my friend from Nebraska has and others have, even more far-reaching reforms in the legal system. So I think we are making progress.

But as I stand here today, I think back, more than a year ago, probably about a year and a half ago. When I sat down with my wife in our home in Bainbridge Island, Washington, and I explained to her that I was thinking about leaving my law practice and running for Congress. She asked me what I think was a very revealing question. She said, "Why in the world do you want to go from the second most hated profession in the world to the most hated profession in the world?"

I think that is a good question, but I think today we are starting to see the answer. Because if we pass these reforms that we are talking about today, I think we can restore some honor to both professions, to our profession in Congress, and to the profession of the law.

I urge every single one of my colleagues, those that are here and those that are not here tonight, to give careful consideration to each of these legal reform bills as they come before the House and to vote for them to strike a blow for improving our legal system.

Mr. CHRISTENSEN. Madam Speaker, will the gentleman yield?

Mr. WHITE. I yield to the gentleman from Nebraska.

Mr. CHRISTENSEN. The case you brought up earlier about the spilled coffee, and this is a perfect example of how out of control our system is. The hundreds of thousands of dollars and possibly even millions of dollars to try to send a message to the corporation that made that coffee too hot is just an example.

Under our H.R. 956, what we are going to do is bring some reform into that area, to try to bring some common sense into that area. We are not

going to take the right away from that individual to bring that lawsuit, but for a spilled coffee, maybe her car was hurt a little bit, maybe she was burned to a significant amount, but to have a multi-thousand-dollar, and I do not even know what the final judgment was. Does anyone know what the final amount was at this time?

Mr. BRYANT of Tennessee. As I recall it was over \$3 million awarded. It may have been reduced somewhat by a judge, but it was still a million-dollar judgment.

Mr. CHRISTENSEN. A million-dollar judgment for a spilled coffee because it was too hot and burned someone. That is an example of how out of control our system is. That is why the American people are crying out and saying, "You have got to do something. You have got to address this problem."

□ 2340

I appreciate my colleague from Seattle, because one of the things you have been involved in for so many years up there with a lot of software development companies and you have seen firsthand some of the abuses that have gone on.

Mr. WHITE. If the gentleman will yield, my district is home to some of the most innovative new companies in the United States. Microsoft is in our district, McCall Cellular, many other small companies, and these are the companies that are subject in particular to the kind of securities lawsuits that are brought not by honest plaintiffs trying to recover damages, but by law firms. And I might point out to my colleague who did not have the experience of being in our committee hearings in the Committee on Commerce in the last few weeks, we have heard a lot of talk primarily from the other side of the aisle about the innocent plaintiffs and how they had to be taken care of, our colleagues using many colorful metaphors used by our colleagues referring to the people as Widow Murphy and Widow Goodbody or things of that nature. I would like to bring up another metaphor because these bills are not aimed at a plaintiff who has a legitimate cause, but are aimed at law firms that abuse the profession. But instead of talking about Widow Goodbody or Widow Murphy, we should be talking about do we cheat them, how the plaintiffs' law firms abuse the system in hopes of retaining a large fee and really not having much to do with the benefits to the plaintiff.

Mr. CHRISTENSEN. Madam Speaker, I yield to my friend and colleague from Georgia [Mr. BARR], the former U.S. attorney.

Mr. BARR. Madam Speaker, I thank the gentleman for yielding.

Madam Speaker, there is a case I read about recently, called Jarndyce versus Jarndyce, and the case of Jarndyce versus Jarndyce was written about in a book and was set forth as an example of a case, a lawsuit, civil lawsuit which droned on and on and on and

on, for years, as a matter of fact. And the author described how this lawsuit had generations of lawyers born into it and who died out of it. And every member of this particular bar sooner or later became involved in the case of *Jarndyce versus Jarndyce*.

That case was written about by one Charles Dickens well over 100 years ago, and it epitomized at that time as it would today the problems with our legal system.

It cannot be the purview and it is not our aim in this 104th Congress to reform everything that is wrong with our legal system. I daresay if that were a goal we might not have enough time in the 104th Congress. But more importantly, it is not the role of the Federal Government to completely restructure the minutia of our legal system.

It is important, for example, to realize that our legal system is one of the tremendous strengths of our society. The access that we have, that our citizens have to our court system is something that all of us in this body, all of us as attorneys, all of us as citizens of this land know is very special and is indeed one of the strengths of America. And it is not our desire nor our goal nor would we stand by and see that system of justice, based as it is on documents as magnificent as the *Magna Carta*, on documents as magnificent as our Declaration of Independence and our own Constitution, with its amendments, but all of us have a role, all of us have a stake in the credibility of that system, for that system of justice. If it lacks support of the public, if it has no credibility with the public, then we all do indeed suffer.

That is why we in this 104th Congress have undertaken as a very special charge, a charge given to us both explicitly and implicitly by the voters of this country on November 8 to take a look at that system, to do what we can to make sure that it runs more efficiently, that the system is not clogged with frivolous lawsuits, that cases that truly have merit not only find their way into the courts, but are heard on a timely basis by our judges and by our juries.

It is important for us, to the greatest extent possible to streamline that system, and to ensure that the problems that have been written about for ages, such as those written about by Charles Dickens in *Jarndyce versus Jarndyce*, which although a fictional case both back in his day as well as our day could very well be a case taken directly from almost any superior court or almost any U.S. district court across this land.

What we are about in the 104th Congress and what we have been doing and will be doing in the Committee on the Judiciary, recently, and this week, is to take a look at at least some aspects of our civil judicial system to determine how can it be made better, so that cases are heard on a timely basis, so that cases that truly do have merit are heard and are adjudicated on a timely basis. But also to do what we

can to weed out those cases that do not have the merit that brings credibility to our judicial system.

Some claim that this is not within the purview of the 104th Congress or any Congress, and I say to them that flies in the face of our whole system of laws as embodied in our laws, our Constitution, and our rules of procedure and our courts. Clearly there is a role for the Federal Government, for Federal laws to address problems in that legal system as they affect all of our citizens across State boundaries, as so many of our lawsuits necessarily do.

We do not seek and I would not stand here before you, my colleagues, and say we should be in the business of cutting off access to our legal system by citizens who truly have claims that need to be heard, rights or wrongs that need to be made right.

But there are problems, and those problems do need to be addressed and that is why legal reform, rational legal reform, reasonable legal reform, commonsense legal reform, was an important part in the November 8 elections, an explicit part of those elections, and is an important and an explicit and a well-supported and well-documented part of the Contract With America.

I yield to my distinguished colleague from Tennessee.

Mr. BRYANT of Tennessee. Also as a former U.S. attorney and comember of the Committee on the Judiciary I wanted to sort of turn this around a little bit and ask you a question that my good friend from Washington raised, sort of out of the context of what we are talking about tonight, but I think it deserves a further explanation in terms of his talking about a particular set of murders that occurred in Washington State and of the endless death row appeals.

As a part of our Contract With America, and I have already referred to it earlier that we had dealt with some criminal issues, and I would like the gentleman to use his expertise and perhaps explain how we have addressed that situation of these habeas corpus petitions that again have the effect of delaying endlessly death row inmate cases.

Mr. BARR. We could probably look through the annals of any of the appellate books in any of the 50 States or the District of Columbia, certainly; it would not take long to find death penalty cases, not just death penalty cases where we have inmates and defendants who have abused our very cherished habeas corpus system to string out beyond any rational basis, beyond any stretch of the imagination to really tackle the legitimate legal issues involved with a conviction, to the extent that it is not uncommon at all to see 5-, 10-, 12-, 15-, 18-year delays in the time between either the commission of a crime or indeed the imposition of a death sentence and the carrying out of that sentence. That detracts tremendously from the credibility of our criminal justice system.

This is not a new phenomena, this has been going on for years and years and years, yet previous Congresses, as my distinguished colleague from Tennessee full well knows, failed to come to grips, did not have the guts to come to grips with this problem. Whether it was pressure from the ACLU, whether it was fear of prisoner lawsuits or whatever, the problem simply was not addressed by these past Congresses, despite our colleagues on the Republican side raising it over and over again as something that was not only very timely but essential to maintain the credibility or restore the credibility of our criminal system.

So what we have done already as part of the legal reforms, as part of the Contract With America, is to address square on, head first, eye to eye, the problem of habeas corpus reform particularly, but not only as it relates to death penalty cases.

□ 2350

We have set very finite limits within which habeas corpus which, as my colleagues know, are indirect attacks on criminal sentences such as the death sentence, we have set very strict limitations on the number of petitions that can be filed and the time limits within which those petitions can be filed. But I think it is also important for the American public to know that we have not cut off in any way, shape, or form legitimate avenues of appeal to raise legitimate issues on a timely basis that go to the heart of a case.

We have simply said those matters must be raised in a timely fashion. They must have true merit. And if they do, they will be heard. But if they do not, they will not be heard. And I think this will assist greatly to restore the credibility in our criminal justice system that really reflects on the entire judicial system that is so sorely lacking these days.

Mr. BRYANT of Tennessee. I think, as our colleague, the gentleman from Nebraska, JOHN CHRISTENSEN, has been talking about all night, in that area, we have restored credibility, common sense, as we are attempting to do, as we are beginning to attempt to do in this area of civil justice and tort reform. And it is kind of the whole concept I think that we as freshmen brought up here. And one of the most enjoyable things, I guess, that offsets these long hours we work, it is almost midnight here in Washington, is the fact that we are able to do and in fact our leadership is allowing us to do what we said we would do. We are meeting our obligations. We are fulfilling our promises under the Contract With America and that is exciting.

Mr. CHRISTENSEN. And I believe it is refreshing and exciting for the American people to have two former U.S. attorneys involved in the legal reform fight to bring common sense back to America and to have you a part of not just the criminal reform but also of this civil tort reform. That is what I

think the American people can relish, is that Members from our own body are going to try to bring some common sense back to our own, to our own brethren, to try to realign where we have gotten off stray. It is exciting to be part of this and what I hope to see would be a grassroots swell of support from the people in Nebraska and Omaha, in Memphis, TN, and in Georgia to see it happening from the grassroots up. So I am privileged to be part of this.

I thank my colleagues for their colloquy tonight.

Madam Speaker, I have a few comments before we close this evening. I thank you for your indulgence through this evening. In a few weeks we will be taking on this fight, this fight to expand our tort reform to take a look at all civil areas and so that we can expand in to take tort reform not just to product liability but to all areas of civil torts. One of the things that I am most encouraged about is that there is over 75 signatures on a sheet that we circulated today, just 1 day of circulation, that there is a lot of support in grassroots America and in the House of Representatives for what we are talking about.

And if there was ever a time to bring some common sense to legal reform, it is now.

Mr. HEINEMAN. Mr. Speaker, meaningful tort reform is of great importance to all Americans—not just big business as the trial lawyers would have you believe. By limiting runaway punitive damage awards, we have the opportunity to help local groups such as Little League and the Boy Scouts, city and town government, entrepreneurs, small businesses, doctors, and other providers of services.

The great majority of States have no standards or guidelines that juries or the courts can use to determine the maximum possible award in a case. As a result, the frequency, and more importantly, the size of punitive damage awards have increased markedly in the past years.

A Rand Corp. study found that in Cook County IL, there was a 2000 percent increase in punitive damage awards over a 20-year period. Perhaps even more startling was the size of the awards. Over that same period, the average punitive damage award increased from \$7,000 to \$729,000.

Dr. Peter Huber of the Manhattan Institute estimates that our tort liability system, in effect, imposes a direct tax upon us all to the tune of \$80 billion a year.

However, the primary impact is not in the courtroom, but at the settlement table, where more and more defendants settle out of court to bypass arbitrary awards.

Punitive damage awards are not only unfair to corporate defendants, they hurt the consumers of products and services. A recent study of the economic impact of punitive damages in Texas found that huge punitive damage awards penalize everyone across the board as costs are shifted to the consumer in the form of higher prices and fewer innovative goods being produced. Without innovation we cannot compete in the global marketplace.

However, punitive damage reform limited to product liability cases addresses only a small

part of the current abuses in litigation. There is a compelling need for a Federal standard for all cases in which punitive damages are sought.

In last week's Wall Street Journal, Creighton Hale, the CEO of Little League Baseball, chronicled how frivolous litigation seriously threatens Little League. The astronomical cost of litigation and the fear of being sued scares away volunteer coaches, umpires, and even the kids.

Little League has seen its liability insurance skyrocket 1000 percent—from \$75 per league to \$795. So, instead of buying protective equipment to enable more children to bat, throw, run and catch, Little League subsidizes those who take advantage of the current system.

Unbearable litigation, insurance costs, and fear of being sued unnecessarily is a common problem to all nonprofits. That is why expansion of the substantive reforms contained in the Commonsense Legal Reform Act will provide the predictability and proportionality in all civil tort cases.

My 38 years in law enforcement taught me that those accused of a crime have the constitutional protection to have notice of the charges and what punishment they face. Similarly, we should afford businesses, municipalities, and charitable organizations the same protection.

I certainly don't seek to avoid just compensation for those who have suffered legitimate losses as the result of neglect, misconduct, or indifference. Injured parties should be promptly and fairly compensated. The Commonsense Legal Reform Act allows equitable awards and in no way proscribes compensatory damages in any tort action.

Nor am I attempting to eliminate punitive damages. But fairness requires that damages bear a reasonable relationship to the person's actual injury. Unfortunately, in today's litigious society that simply is not the case.

Passage of the Commonsense Legal Reform Act is a vital step forward to provide equity throughout our civil justice system for all Americans. Let's reign in those who are abusing the system and are shutting down small businesses, the YMCA, the United Way, the Boy Scouts and Little League.

GENERAL LEAVE

Mr. CHRISTENSEN. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order.

The SPEAKER pro tempore (Ms. MOLINARI). Is there objection to the request of the gentleman from Nebraska?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CRAPO (at the request of Mr. ARMEY) for today, on account of illness in his family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legis-

lative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. DELAURO) to revise and extend their remarks and include extraneous material:)

Ms. JACKSON-LEE, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. GENE GREEN of Texas, for 5 minutes, today.

Mr. ORTON, for 5 minutes, today.

(The following Members (at the request of Mr. CHRISTENSEN) to revise and extend their remarks and include extraneous material:)

Mr. SAXTON, for 5 minutes, today.

Mr. TORKILDSEN, for 5 minutes, on February 22.

Mr. BRYANT, for 5 minutes, on February 22.

Mr. GRAHAM, for 5 minutes, on February 22.

Mr. HILLEARY, for 5 minutes, on February 22.

Mr. BURTON of Indiana, for 5 minutes, today and on February 22.

Mr. SCARBOROUGH, for 5 minutes, today and on February 22, 23, and 24.

Mr. MICA, for 5 minutes, on February 22 and 23.

Mr. FOX of Pennsylvania, for 5 minutes, today.

Mr. EWING, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(Mr. MOAKLEY, and to include extraneous matter, on House Resolution 88 today.)

(The following Members (at the request of Ms. DELAURO) and to include extraneous matter:)

Mr. BECERRA.

Mrs. MEEK of Florida.

Mr. UNDERWOOD.

Ms. RIVERS.

Mr. KLECZKA.

Mr. COYNE.

(The following Members (at the request of Mr. CHRISTENSEN) and to include extraneous matter:)

Mr. CRANE.

Mr. PACKARD.

Mr. BURTON of Indiana.

Ms. HUNTER.

Mr. TATE.

Mr. DAVIS.

Mr. GOODLING.

Mrs. JOHNSON of Connecticut.

Mr. BUNNING of Kentucky.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 257. An act to amend the charter of the Veterans of Foreign Wars to make eligible for membership those veterans that have served within the territorial limits of South Korea; to the Committee on the Judiciary.