

tilted and some of the players are on one side of the field and some of the players are on the other side of the field, then the field is not level, the game would not be fair. I do not see any reason why we should continue to let Americans say and think that the field is level when, in fact, it actually is not.

Finally, let me say that I wish and I want America to understand that whereas we have been talking about affirmative actions giving incentives and opportunities for us and for other African-Americans, the fact is that most of the people who have profited from affirmative action programs have been white females as well as children, the handicapped, Indians, Hispanics, Asian-Americans, and other minorities in this country. So when you hear affirmative action, you think of something in terms of an objective to be achieved that is set up in a program that would benefit the least of those in our society.

I guess the best ways of closing is for me to say that last night I spoke about a man by the name of Booker T. Washington. I talked about his goals and what he wanted to do in terms of education for America and how he achieved that by establishing Tuskegee University. But I ended with a quote that he made. I wish to make that quote now, because it really fits this conversation.

He stated, "There are two ways of asserting one's strength. One is pushing down and the other is pulling up."

I just wish to say that affirmative action is just pulling up, pulling up everyone.

Mr. Speaker, I thank the gentleman from South Carolina [Mr. CLYBURN]. And I thank the gentleman from Mississippi [Mr. THOMPSON] for his participation.

Mr. CLYBURN. Mr. Speaker, let me just close this special order tonight by thanking the two of you for participating and to say that affirmative action is, in fact, an experiment. We are experimenting with ways to try to level the playing field, ways to try and bring people into the mainstream of our society. But America is an experiment. We are experimenting with something we call democracy. There is no religion that can be called American. There is no culture that can be called American. America is just a place where many cultures, many religions are all here trying to work together, trying to find common ground and in all of that, hopefully, doing so while recognizing and respecting the diversity that exists in all of us.

On March 17, when I get up in the morning, I am going to put on something green, a tie or jacket or something, because I want to join with my Irish American friends in celebrating St. Patrick's Day. It does not take anything away from me to do that. In fact, I feel bigger and better when I do that. And I would hope that the day will soon come when all others can join me

in celebrating those things about my culture that I hold near and dear.

When we can do that, I believe we will have reached that goal that all of us would like to have achieved, that is, a color-blind society.

TORT REFORM

The SPEAKER pro tempore (Mr. LARGENT). Under the Speaker's announced policy of January 4, 1995, the gentleman from Ohio [Mr. HOKE] is recognized for 60 minutes as the designee of the majority leader.

Mr. HOKE. Mr. Speaker, tonight, along with the gentleman from Tennessee [Mr. BRYANT] and the gentleman from Omaha, NE [Mr. CHRISTENSEN], we are going to engage in a special order that is going to focus primarily on tort reform and what the need is for that reform, what the Republican conference is going to do about that, how that fits into the Contract With America, and what the American public can expect to see on the floor of Congress in the next 2 to 6 weeks with respect to that.

But before we start talking about tort reform and the need for it, I want to just take a couple of minutes to review what we have done here in the first 50 days, because we are really at the halfway point. I think it is not improper or incorrect to take some time, take a deep breath. We could call this half time. Normally at half time what we get to do is we get to go into the other room and pop open a beer or a soda and take a little time. Because we are on such a fast track here, we really do not have much time.

Mr. Speaker, I yield to the gentleman from Tennessee [Mr. BRYANT].

Mr. BRYANT of Tennessee. I am not sure what kind of sports you have played where at half time you pop a can of beer open, but—

Mr. HOKE. This would be the sport of couch potato watching football.

Normally you get a little breather. Well, we are not going to get much of a breather here, but we would like to take just a moment to celebrate what has been absolutely the most productive 50 days in the entire history of the U.S. Congress.

□ 2230

What have we done exactly? First of all, America faces a brighter future today than it did 50 days ago. Because we took an important step forward, toward ending the immoral practice of piling up debt for future generations by doing two things.

First of all, we passed the balanced budget amendment and we passed the line-item veto. Right now it is up to the Senate, where I understand we have got two more that are going to be on our team, and we are within one vote, maybe we are at that vote even now as we speak, to pass the balanced budget amendment there.

Once again, we are earning America's trust. We have more than doubled the

approval rating of the Congress. We are no longer down in the dumps with lawyers. I happen to be a lawyer, along with my two colleagues tonight. We are no longer rated below used car salesmen. Actually we have crossed the 50 percent threshold if you can imagine that in terms of an approval rating overall.

Before we can go forward with the reforms that we want to change in America, we have to reform the way this place works, change Congress itself, and that is exactly what we did on our opening day with the opening day reforms. We cut committees, we cut committee staffs by one-third, and we actually cut two standing committees in this House. It had not been done since World War II. In addition, we cut about 20-plus standing subcommittees. Most importantly, Congress is now required to live under the same civil rights and employee protection laws as everyone else is.

We have made Washington a more accountable place than it was 50 days ago. The Federal Government can no longer pass legislation, however worthy it might be, that sticks States and communities with the tab. We have restricted the Federal Government's ability to do that. That is the unfunded mandates reform. We are listening a lot more today than we were 50 days ago.

What we are doing in the way of personal security is that we have said we do not know best in terms of crime control. We believe that the local communities do. We have made a block grant approach to this in the Committee on the Judiciary that has been passed on the floor where we are saying that one-size-fits-all government is not the way to go. We want to give our local communities, the police chiefs, the mayors, and citizens boards the opportunity to make their own decisions about how best to combat crime.

The Federal Government had failed to make families safe and more secure, and these new crime measures are fixing that by giving communities the tools that they need.

Finally, we are restoring common sense to Washington with respect to a more rational national security strategy, making it harder for the President to send U.S. troops off on U.N. missions, and we have created a commission to ensure that America's most important national security resources, the men and women in uniform, are going to be able to do the jobs that we ask of them.

There is a lot more work to be done, welfare reform, regulatory and legal reform, Congress' first-ever vote on term limits, something that I strongly support, family tax relief, economic growth tax measures and the spending restraints that are required to pay for all of this.

While the agenda is very daunting, American families have placed a tremendous amount of trust in the 104th Congress. We met the challenge of the

first 50 days, and we are going to meet the challenge of the second 50 days as well.

One of the areas in which we need to meet that challenge is clearly in the area of becoming more accountable and bringing some common sense and sanity to our legal system.

I wonder if I might ask the gentleman from Nebraska [Mr. CHRISTENSEN] to talk about where we are in terms of the legal system today and what we need to do, what kind of a challenge we face in reforming that.

Mr. CHRISTENSEN. Mr. Speaker, I believe that the debate we will soon have over our legal system is among the most important national discussions we can have. Our laws, after all, are what define us as a society. When there is something awry with our legal system, then we should view it as a threat to our Nation.

I am proud of my colleagues for helping to make legal reform one of the priorities in the Contract With America. As we all know, the impact of frivolous lawsuits is felt far beyond the courtrooms and the law offices. Over the last 25 years or so, we have developed a system in which any American who has been wronged, no matter who he or she is, no matter how much he or she earns, can seek justice in an impartial court. That is a tremendous achievement, rare in the annals of human history. There are other western countries that even today do not have legal systems as open and as accessible as ours. Yet during the same past 25 years, our legal system has gone astray.

The bill in the Contract With America is called the Common Sense Legal Reform Act, because most Americans believe our legal system defies common sense, and they are right. The system is an affront to common sense. Only the organized trial lawyers and their lobbyists do not recognize it.

What has happened to bring us to this condition? Our legal system, once the envy of the world, is now the object of parody on late-night television.

Mr. HOKE. Would the gentleman yield for a comment?

Mr. CHRISTENSEN. Yes.

Mr. HOKE. As I understand it, you are an attorney.

Mr. CHRISTENSEN. Yes, I am.

Mr. HOKE. And you practiced law in Nebraska?

Mr. CHRISTENSEN. I have never practiced, but I am licensed to. I have been in the business world.

Mr. HOKE. Ah. And my colleague from Tennessee is also an attorney?

Mr. BRYANT of Tennessee. That is right.

Mr. HOKE. Do you say that with pride, because it sounds like there is an awful lot of criticism of the legal system going on here.

Mr. BRYANT of Tennessee. I do. I think it is time some people do stand up for the legal profession, as I tried to do on the campaign trail. There are an awful lot of good lawyers out there.

Like again in any job or profession, there are a few that I think stretch the system somewhat and maybe cause us all to have a bad reputation. I have practiced a number of years both as a Federal prosecutor but more often as a defense attorney in civil litigation, and this subject of a reasonable, common-sense tort reform is something that is very near and dear to me.

Mr. HOKE. I think just in the interest of full disclosure, the Speaker probably would be interested in knowing that I am both a businessperson as well as having practiced law for the better part of a decade. The gentleman from Nebraska [Mr. CHRISTENSEN] has a law degree but did not practice, and was in the private sector, and the gentleman from Tennessee [Mr. BRYANT] has the greatest problem on this because he apparently has done only law both as a U.S. attorney in a distinguished capacity and also in the private sector. We are clearly all three lawyers but we see real problems with the legal system.

Mr. CHRISTENSEN. If the gentleman would yield back, please, the real problem with this system, I believe, lies with fault. I think that we have got a system to where everyone thinks it is someone's fault and they ought to have a right to sue. Fault once used to be the bedrock of our legal system. The tort system was designed to find who was at fault and who was wronged. The tort system helped define responsibility and make the proper redress to the injured party.

Today, however, fault rarely enters into the equation. If an individual acts carelessly, he can still use the tort system to get compensation. If an individual intentionally breaks a contract, he can still seek payment through the tort system, and if an individual behaves foolishly, he can still blame others for his injuries and get a handsome reward through the courts.

Tort law was once about right and wrong, blame and responsibility. But today trial lawyers have twisted that original meaning and turned tort law into some form of social insurance. That is where the Contract With America comes into play.

What we are talking about is restoring some common sense back to our legal system. If something goes wrong in today's society regardless of who is at fault, they hire a lawyer. Their message is always the same. You can be compensated.

I have seen so many TV commercials and we have all seen the advertisements.

"If you've got a phone, you've got a lawyer."

"Have you been injured in an accident lately? Call me, because we're on your side."

The trial lawyers make out very well in this no-fault system. They always collect their fee, but the rest of the American people are paying for it. We are paying for it in our cities because, little to the public's knowledge, there have been times where little league has

had to be canceled because of the high insurance cost. We are paying for it when law-abiding companies have to pay tens of thousands of dollars simply to dismiss a nuisance lawsuit. We are paying for it in medical devices which are kept off the market and innocent lives are lost. We are paying for it when legitimate grievances cannot be resolved because our courts are clogged with million-dollar suits, where the defendants have only a distant and indirect relationship to the injury that occurred.

Restoring a sense of fault to the entire system is the only way we can restore the sense of right and wrong. That is exactly what our Contract With America, the Common Sense Legal Reform Act, does. It restores some balance to the system.

For 14 years, they have had it their way. For 14 years, we have been trying to address this issue. Now finally we have started the process forward.

□ 2240

You know, if we can continue to process and continue to expand this tort reform not just to include product liability but all civil tort reform, we will have made a good first step.

I yield.

Mr. BRYANT of Tennessee. The gentleman from Ohio and myself both have the extremely high privilege and honor to serve on the House Committee on the Judiciary, the committee that has been primarily responsible for the taking of testimony and conducting the hearings, marking up the bill and reporting it out to the floor, which we anticipate it will arrive in the House within the next few days for full consideration. Over that period of time, we heard testimony from a number of witnesses and conducted hearings that I understand have been built in the past on past hearings. And I think we have a very good bill. I always am a proponent of balance. I talked so much about this when we talked about the crime bill and how I felt on the crime side the pendulum had swung too far in favor of the criminal, and now I think we see it coming back more into proper balance with society and victims. I think the same can be said about the civil side, the Tort Liability Act we are talking about now, and I think it is important we bring that back into a more common sense environment. I think the bills we will be reporting out to the floor bring that, particularly in the area of product liability and punitive damages. Certainly a former businessman, and the gentleman from Nebraska has alluded already how in many cases the fear of lawsuits and large lawsuits hamper, stifle growth, development of products. We have talked about not-for-profit organizations like Little League Baseball, churches, anytime you have an activity where somebody could possibly be injured and sometimes they are put on by not-for-profit organizations that have to go out and take insurance for fear of somebody

getting hurt and large lawsuits being filed and punitive damages being awarded, and something is out of kilter there.

I am all for, as I think we all are keeping the courthouse doors open for those good lawsuits, those fair lawsuits, the ones where people are indeed injured and deserve a hearing and a consideration for consultation.

Mr. HOKE. Would you yield for a thought? I do not think anybody, I do not hear anybody talking about trying to in any way foreclose a person's right to access to the court, to justice in America. But there is an overwhelming sense, there is a very strong sense, a visceral sense that we have gone too far in a way that does not protect individuals, in a way that they are getting redress for grievances for real damages, but in fact people who are not at fault are being victimized themselves by a legal system run amok. And I have to tell the gentleman I was astounded when the executive director of the Girl Scouts of America for Washington, DC, who was participating in a meeting about a week and one-half ago I was at, and I believe the gentleman was there also, 87,000 boxes of cookies is the answer, 87,000 boxes of Girl Scout cookies is the answer. The question is how many Girl Scout cookies do the girls in the Washington, DC area of the Girl Scouts of America have to sell just to pay their annual liability insurance premium: 87,000 boxes. That is stunning. And she went on to say that they do not allow the Scouts to ride horses anymore, they will not allow the girls to ride in cars that have been rented. They have changed the way that they do business as a result of this liability problem.

So tell me what are we going to do? What is the direction here we are going in to try to get a handle on that?

Mr. BRYANT of Tennessee. I think we started out with the idea of bringing forth a good, fair product liability act, one that would apply across the country. You know so many of our products, probably all of the products travel interstate. Rarely would you find something that stays within one State, and I think we all see a Federal involvement, a need for a Federal role in regulating product liability to that extent, and what we have come forth with is a bill that does set some clear standards for products in terms of what you can do. It limits liability to sellers who often times are brought in along with the manufacturers of the products just because they are in the chain.

Mr. HOKE. What is the distinction there?

Mr. BRYANT of Tennessee. Of course people that have been in small business know that when you go into the stores most of the time you do not buy your product directly from the manufacturer, you go through a retailer. When there is an allegation that a product is defective and a lawsuit filed, it is not uncommon that what I call the shotgun approach is taken and everybody

out there that possibly could be sued is brought into the lawsuit, and that normally not only involves the manufacturer of the alleged defective product but the people in the chain that bring it to the store even. And what we do is we now require there actually be some actual negligence on the part of the seller before they can remain in a lawsuit.

Mr. HOKE. You mean you could buy perhaps a lantern at a hardware store, a lantern that has been manufactured in a defective way, but say that the manufacturer is in another State or hard to find or something like that?

Mr. CHRISTENSEN. Would the gentleman yield? Here is a perfect example I ran into earlier today, and we all heard about McDonalds because of the patron who ordered the cup of coffee and she spilled it, and it caused injury to her and she sued. But there is another McDonalds story that I think people that are watching tonight should be aware of and it is very interesting because it causes very much a concern with where we are headed with this litigious society. There was an individual who pulled up to a McDonalds drive-thru outlet and ordered some chocolate shakes and some fries. He put the chocolate shake between his legs, drove off, reached over to grab something on the other side of his car. The chocolate shake spilled over his legs and caused him to hit the car in front of him. But what did the plaintiff's lawyers do when they got ahold of this little case? Not only did they sue the car in front of him, but they sued McDonalds because they said the McDonalds restaurant should have had a sign that said, "Do not eat and drive."

Now, fortunately for McDonalds, they won this case. But the example here is that they had to pick up the fees for defending themselves from a frivolous lawsuit, and there are a lot of examples out there like this that we all know about that we are trying to get corrected through this common sense legal reform act.

Mr. HOKE. I thank the gentleman.

Mr. BRYANT of Tennessee. That is a great example and of course there are many more. But again we are talking about trying to bring some common sense to this ground. We set forth a reasonable standard also in terms of the length of time that a product manufacturer can be sued, what is called a statute of repose for 15 years. We set out a distinction for removal of what is called joint and several liability.

Mr. HOKE. Maybe we can talk about what that statute of repose means because the first time I heard that I had no idea what it meant.

Mr. BRYANT of Tennessee. In most lawsuits already there is separate from that a statute of limitation in which a person has some years from when they are injured in which to file a lawsuit, but particularly in the area of product liability, since machinery and products have a lifetime of X number of years or

whatever, it has generally grown over the years in a lot of the States that already have these laws this statute of repose, which simply means that at some point in time, and in this case 15 years, I think it is 18 years in the General Aviation Act, that a product manufacturer cannot be sued after that period of time, after 15 years, now this product bill for 18 years, just as a matter of public policy and so forth.

Mr. HOKE. In other words, if something is wrong with this piece of equipment that was manufactured 15 years ago, we would have found out about it in that period of time? It would have become obvious.

Mr. BRYANT of Tennessee. Right, the defect would have become obvious.

Mr. HOKE. The defect would have become obvious and either there would have been a lawsuit over it or corrections made to it, but after a 15-year period, absent an updating or change or some sort of a design change in it, there will not be any lawsuits allowed alleging a defect in the manufacturing of that product; is that correct?

Mr. BRYANT of Tennessee. That is the gist of it. And I think, too, probably the biggest thing we bring in through this commonsense bill is the limitation, so-called cap on punitive damages.

□ 2250

And that is probably the most, I guess, controversial aspect of this. I know we have got an outpouring of information from both sides, I guess, or all sides on whether they are for or against this cap.

In essence, what that simply does is in the area of punitive damages, and we talked about this the other night, and I do not intend to go into great detail, but there are generally two types of damages that are available to an injured plaintiff. One is compensatory damages where they are simply paid, fairly compensated, for their injuries, loss of wages, future earning capacity, medical bills, funeral bills if they are killed, pain and suffering, those types of things. Those are compensatory damages, and what, again in a real injury case, someone is fairly entitled to receive.

The other angle to damages, the second part of it, punitive damages, that is simply the way that society has created to send a message to potential defendants, whether they are product manufacturers or individuals like you or I; we can also be sued for punitive damages if our conduct reaches a certain level of misbehavior, and that message is if you do this, you could get stuck with punitive damages. We are going to punish you. We are going to try to deter you. But there is no limit in the law on these.

It is like committing a crime almost, but not having any limit on what you can be sentenced to.

Mr. CHRISTENSEN. In the past what you are saying is you could have had a judgment against someone, say, for

\$100,000, but then they could get slapped with a \$5 million punitive fine, and one of the things that the jury will always be hearing from the lawyer is, "We are trying to send a message. We are trying to send a message that this will not happen again." But that message has gotten very, very clouded, because that \$5 million, and I am not sure that they could not have received a message for say \$500,000, and that is what this commonsense reform is going to do is going to reform that area.

Mr. BRYANT of Tennessee. That is exactly right. It is a situation where society is trying to tell somebody and deter by this potential for a judgment. What we have done, perhaps the purest view of this would be to take this type of punitive damage and not give it to the plaintiff, the victim, because again they have already been fairly compensated, but, rather, take this money and, you know, we have talked about some things in our Judiciary Committee about sending it to the Federal Government to reduce the national debt or to a third party not-for-profit corporation. Little League, Girl Scouts or something to help them out, a city, or a county, or whatever, society, if you will. But we have taken a more of a middle ground at this point and just simply put a cap on it, set out the maximum punishment, if you will, and in essence what that is is three times the compensatory damages or \$250,000, which ever figure is greater so that money under our bill still goes to the injured plaintiff, but it does begin to set some reasonable limits on that so that you can forecast and make some reasonable valuation.

When I was a trial attorney, we used to get into these kinds of cases. I could usually evaluate, which helps us and helps the judicial system, because we can evaluate the case early. We can make somewhat overtures and perhaps avoid a trial. I could always do that on compensatory damages, because I could look at the amount of money they lost from work, the type of injuries they had, the type of permanent disability and give a reasonable ballpark figure on what I thought the case was worth.

But where I had no clue as to how to evaluate a case was this issue of punitive damages, because that is again there is no measure, there is no standard out there, a lot of times there is no rationality between compensatory damages and the punitive damages. It is an emotional issue. That particular day the jury gets fired up by some good lawyering and gives a huge verdict, a pie in the sky is what I call it, and there is no way I can evaluate that which actually deterred me from settling some cases that probably could have been settled had it not been for that.

Mr. HOKE. Is not this whole notion of the doctrine of punitive damages a relatively modern doctrine, a relatively new doctrine in our legal history, and does not that probably just

on its own cry out for at least relooking at its until we get it right? I would, as you know, because we have worked very late last night and then we came back early this morning to finish marking this bill up in the Judiciary Committee, and there will be a bill or an amendment that I am pretty confident is going to pass that will in fact award 75 percent of the punitive damage award to the State in which the case was heard and 25 percent of it to the plaintiff, but we have to remember that the idea of this is to punish the wrongdoing of a tortfeasor, of a defendant, who is then going to be himself or herself or itself deterred in the future.

But more importantly, it sets an example for society, and the one part of this that I get confused about, and I would particularly like the insight of a U.S. attorney who has prosecuted criminal cases. I know you did not do a lot of criminal work, but who has done criminal cases, you know, normally we think of punishment as being within the realm, within the purview of the criminal code, not the civil code, and yet we have gone, with respect to punitive damages, to a system where we are supplanting and substituting punitive damages for criminal prosecution. And I would be very interested in knowing your insights on this, because it seems to me that you have probably given a lot of thought to that.

Mr. BRYANT of Tennessee. Well, of course, the concept of punitive damages, I am not sure of the historical background on that.

But I think it has become even more important, as I am sure the gentleman can attest to, over the last years because the judgments have, I think, been so numerous and in large amounts.

I say this as a general rule, whenever you are reading your morning newspaper and you see this article about this case over in some other State that has given this huge verdict, multi-million-dollar verdict, you can just about guarantee that most of that is composed of punitive damages. I think the McDonald's coffee case was one. I do not know the exact figures. Another problem there is you get up to that level, I think in the McDonald's case, for example, it was over a \$3 million verdict, even when the judge revisits that and reduces that award, and a judge can come in behind a jury verdict and say that is just outrageous, they still do not reduce it down to a level perhaps it ought to be. I think perhaps in that case it ended up still being in excess of a million dollars for spilled coffee.

Perhaps we overstate the McDonald's case. There are many, many other illustrative cases out there, but I certainly think it is, and I know our committee thought it was. I know a number of people who testified in our hearings thought it was time to come back and look at this issue of punitive dam-

ages and bring some, as the gentleman says, some common sense to this.

Again, we are not eliminating punitive damages. We are not encouraging misconduct by individuals or companies. We are simply trying to bring some reasonableness to this system of justice which we think has gotten out of hand.

Mr. CHRISTENSEN. There are States that are already way ahead of us on this issue. I have to brag on Nebraska for a second, because Nebraska does not have punitive damages. It is a very friendly environment to do business in.

We also capped medical malpractice at \$1,250,000, so when we are looking at what we are doing at the Federal level, it is just a start. I mean, there are already a lot of States out there that are way ahead of us in reform and are a friendly environment for those pro groups, those businesses that want to buy a product.

Mr. HOKE. Could I ask you a question? What is the unemployment rate in Nebraska?

Mr. CHRISTENSEN. Two percent; 2 percent.

Mr. HOKE. What is the bottom line? Who is most served by all of this?

Mr. CHRISTENSEN. It is the taxpayer, the Nebraska taxpayer. We have a great environment, a great quality of life, less than 2 percent unemployment. People are coming to town. We are extracting businesses. It is definitely a very vibrant economy.

Mr. HOKE. It means there are jobs there for people who want to work, and it means that everyone, everyone in the entire society has a shot, has the opportunity to do what we all want to do, which is have a decent job.

Mr. CHRISTENSEN. One of the largest chip makers in the country, Micron Industries, is right now seriously looking at Omaha, NE, because of the things that we offer, quality of life, the threat to the business as far as protection from liability, punitive damages. There are so many things that we have, but we are just starting as a Federal Government to get to where Nebraska is. So it is exciting to see us moving in that direction.

And we have had a lot of grassroots support. There are a lot of people out there that are behind us. The American people want commonsense legal reform.

□ 2300

The want to end the frivolous lawsuits. We need the help of the American people. We need the help of that business owner out there that needs to let his Congressperson know how he feels about reform, to let us know about certain cases that have affected the people personally. Because this is a team atmosphere, just like here tonight. We need to have the American people enjoined in this fight, because it is a fight that the American people can and will win.

Mr. HOKE. You are absolutely right. We do need a team approach, and we

need people to let the folks here in the Congress know what they want. And we need working men and women to phone in and let their Congressperson know that it means their job, that that is what we are talking about, and that we have got to have a reform, so that one of the things that is going to happen is everybody, when we finally get this done and get it right with respect to tort liability reform, common sense legal reform, we are going to find a dramatic reduction in, for example, automobile insurance. We are going to find a dramatic reduction in health insurance. We are going to find that these costs that are so significantly borne right now by working men and women are going to go down, and to everyone's benefit.

I have to say there is one group that might not benefit by this kind of reform, and since we are all members of that profession, I think it is fair to say that this is probably not great for some aspects of the legal profession. But, you know, at the same time we have created a system where we have got more lawyers per capita than any other developed nation on Earth.

I think of the numbers with respect to Japan, and I will probably get this wrong, but I think we have got something like 100 times the number of lawyers per capita here in the United States than in Japan.

Mr. CHRISTENSEN. Here in Washington, DC, I believe there are over 30,000 lawyers, just here in Washington, DC. Over 30,000 lawyers. Goodness knows why we have all the problems in Congress. Sixty percent of the elected Members are lawyers. Finally there has been a reform group that has come, that even though some of us have law degrees, we have not allowed that to be a stumbling block.

Mr. BRYANT of Tennessee. I have to step in here before JON defeats us all here. I was joking, I think I said this last time I was up here, about during the course of the campaign people always wanted to know what you did for a living. I always mumbled that I was a lawyer, but I was looking forward to doing something better and going into politics.

Let me say this much: As good as this tort reform legislation is, it is not the silver bullet by itself. It is a very important piece of a puzzle I think that fits in in solving America's woes, America's problems, as is this Contract with America.

I think if we get this common sense tort reform-legal reform done, combine that with real serious tax reform, capital gains tax cuts that we talk about in our Contract with America, stir up the economy, get more money into the system creating more private sector jobs, and then concurrent with all this, again as part of our Contract with America, reform our welfare system and quit paying people more not to work than we pay them to work, that we create these jobs out there, that the people on welfare can move into and

begin to get that type of self-esteem and the type of lifestyle that they deserve, like everyone else, and they can meet the American dream, and not have a career of drawing welfare.

That is what we are shooting for, and that is why I am so pleased to be able to come in here and talk about how we are performing, how we are honoring our promises, our commitments we made during the campaign. We are fulfilling the Contract With America. Martin, as you said earlier, we are halfway through this. And we have made tremendous progress. We have almost gotten lost, some of our accomplishments have been lost in this shuffle.

The balanced budget amendment, that is incredible in and of itself. But again, unfunded mandates taken away from the counties and cities and states, a line item veto, effective crime legislation. You know, I campaigned on limiting death row inmate appeals. We have done that. I campaigned on modifying the exclusionary rule. We have done that. I campaigned that the real bad guys, the violent criminals, ought to be locked up in jail for at least 85 percent of their sentence. We have done all we can to encourage the states to do that.

They are getting lost. And not that we are up here begging for proper credit. I think the proof will be in the pudding over the next few years as to what we have done. But we have accomplished a lot. We have got a lot of work to do. We have got the tough bills to go, term limits, welfare reform, tax reform, this bill on tort reform. But I am just excited to be up here and share being a part of Congress with folks like you who are just as committed.

Mr. CHRISTENSEN. I was wondering if you would take a moment today, since you came out of the Judiciary, and the last amendment that came through, and explain to everybody that the joint and several liability aspect of H.R. 956.

Mr. BRYANT of Tennessee. That is an aspect of the law that I have always thought was unfair. I know in Tennessee we recently had a change a couple of years ago that was not by the legislature, but rather by the courts. In essence, what this joint and several liability means is that again using the shotgun approach, which is often used in these kinds of cases, you have a number of defendants out there. And over the course of a trial, the jury eventually reaches a verdict that some of these folks are maybe liable more than other folks. Usually there is one defendant that is most liable and others that are less liable. Under the concept of joint and several liability, regardless of the percentage of the liability, regardless of whether it is small or large, if you have the deep pockets, and usually some of these defendants are people that don't have deep pockets, the one that has the deep pockets has to pay the whole judgment. They have a right to go back and collect against

the codefendants, but in reality there is nothing there.

Mr. CHRISTENSEN. What you are saying is someone is 1 percent, 2 percent, 5 percent at fault, he could get stuck or she could get stuck—

Mr. BRYANT of Tennessee. With 100 percent of the judgment. Their only relief is to go back against folks that don't have any money to begin with.

What this does is simply bring back common sense, what the average personal might think about, why not just pay in proportion to what you are liable for. That is what we tried to do here. I think we have done an effective job in that.

Mr. HOKE. You know, I love the Florida case against Disney World, I think you heard it in the committee the other day. This is a great case. The plaintiff is with her husband on dodgin' cars, and something happens and she is injured. She is found by the trier of fact, that means the court, I know you guys know that, but she is found by the trier of fact to be 85 percent responsible for the injuries she received as a result of this dodgin' car accident. Her husband is found to be 14 percent liable, or responsible, and Disney World is found to be 1 percent responsible. She cannot collect from her husband because he is her husband. Under Florida law, she obviously doesn't collect from herself, because she is the injured party, and Disney World, with 1 percent of the liability, was given 100 percent of the damages.

Now, that just flies in the face of anybody's sense of what is fair. And what happens in these cases is them that has got the deep pockets ends up paying the piper many, many times more than what would pass a fairness test.

Mr. CHRISTENSEN. Also, a good example of the frivolousness of lawsuits is all the lawsuits that come right out of our prisons. I mean, you might have had some experience with this in Tennessee, where there are prisoners that have the opportunity to file endless lawsuits and endless appeals and the processes have just become rampant. I had a staff member out of my staff today tell me that he represented a convicted felon because he was asked by the court to represent this convicted felon who is serving time in the Nebraska State Prison. The man sued the State of Nebraska, demanding that the State pay him to have a plastic surgery, to have plastic surgery on his nose. He claimed it was cruel and unusual punishment for him to have to go through life with less than a perfect nose.

Eventually the court dismissed this case, but not until after thousands of dollars in legal fees had been expended, tax dollars, our money going out the window for frivolous lawsuits, and there are thousands of them all across the country through the prison system.

Mr. HOKE. Well, Jon, I want to thank you for bringing us together this evening. Ed, I want to thank you for

participating and look forward to working a lot more with you on the Committee on the Judiciary.

I know we have not used all our time, but I see our good friend from California with a lot of great props. Bob, those are wonderful props, and we are looking forward to seeing them. I know there is not a lot of time left this evening, so I want to give you your opportunity.

Anything else that anybody wants to add?

Mr. CHRISTENSEN. I appreciate the time that the gentleman from Ohio has given us tonight, and look forward to working with you on this legal reform and bringing common sense to the civil justice system.

Mr. HOKE. I yield the balance of the time.

□ 2310

MORE ON IWO JIMA

The SPEAKER pro tempore (Mr. LARGENT). Under the Speaker's announced policy of January 4, 1995, the gentleman from California [Mr. DORNAN] is recognized for 50 minutes.

Mr. DORNAN. Mr. Speaker, it is awfully difficult to capture in a few minutes the essence of the history of the United States through its United States Marine Corps on such a day as this 23d of February 1995. I consider this day a second birthday for me.

Before my colleagues leave the floor, I will show them why.

I will address it directly to you, Mr. Speaker, because I believe you are a role model for young people around this country as are the four gentlemen that spoke a little while ago, African Americans, all proud citizens, South Carolina, Mississippi, Louisiana and Alabama, discussing things from their hearts as they see it. And my second term colleague, the gentleman from Ohio [Mr. HOKE] and the two other freshman Members, the gentleman from Tennessee [Mr. BRYANT] and the gentleman from Nebraska [Mr. CHRISTENSEN], who spoke, also role models.

But the reason today is special for me and why I began on the 15th anniversary of Iwo Jima to begin to research it is on February 23, 1960, I was ferrying, as a National Guard pilot, my 6 years of active duty were behind me, an Air Force F-86 Sabrejet to be retired to the boneyard in Davis-Mothon in Arizona. So I had no water survival equipment. The plane flamed out over the San Fernando Valley. I took it out over the water to try and air-start, got it started and it flamed out again. And then I wanted to punch off these long-range refueling tanks that were to get me to Arizona.

When I punched them off, only one came off so I had a 200-gallon tank at 6½ pounds each gallon. That was a 1300-pound anvil under one wing. I tried to get in Point Magu. And in those days, you were supposed to punch off your

canopy. Now you keep it on for a helicopter to foam you in case of fire. I punched off the canopy. I had not flown in 73 days. The plane had not flown in 5 months. It was the hangar queen, last one off the field.

I was available, because I was what was called a "Guard bum" going from job to job, dreaming about going to Congress, dreaming about doing lots of things in life and doing lots of different jobs with 4 kids and hopefully more to come.

And I saw that field. And as the dirt and dust came up off the floor of the aircraft when the canopy went off and a pop stickle went flying by. Both my eyes were closed from grit. I got one open and I could see the headline: "Pilot on Last Flight Dies with Last Jet out of San Francisco-Van Nuys." So I turned out toward the water. I was going to punch out along the beach. I decided the plane would jerk from the ejection and of course go inland and hit an orphanage and kill children and nuns. So I turned it out to sea. I intended still to come down in the surf, and I landed 6 miles out in the ocean. No Mae West, no raft, no survival equipment, and began to instantly drown.

I did not get this helmet off. I had scratches on my face trying to unsnap a simple snap that comes off that easily tonight. But I could not get the helmet off. Got my gloves, jacket off. That was it. Could not get my boots off and began to roll under the water every time I tried to get my knotted laces off. And I had called on Guard emergency channel communication with no Navy or Air Force at Oxnard Air Force Base. And the helicopter was scrambled that had been assigned to duty that very morning for the first time in history, 1 hour before my ejection. It is still there today, 35 years later on the 23rd of February. And the helicopter came out, coldest day of the year, wind, high waves, whitecaps everywhere. And he saw this 2-inch white stripe on this red helmet, a whitecap that would not go away. And he told the one enlisted man in the back, keep your eye on it. Circling down, this little 2-man helicopter, and this ensign saw the whitecap disappear. That was me drowning.

I slipped below the water. And all of my colleagues here tonight are Christian gentlemen and they will understand that I am not being corny. This is true.

I said goodbye to my wife and four kids. I prepared to meet God. I was so nervous and embarrassed that I was flippant, because I literally said in my mind, Jesus, here I come, ready or not, and slipped beneath the water. I remembered a story I had read on drowning on someone that had been plunked out of the bottom of a pool. I said, the water is warmer than I am. I am taking in gulps. It is painless, and I thought about my wife hanging up the laundry. Again, corny but true, that is just what she was doing because that is

what she did that time in the morning in the backyard. I pictured her being alone with four kids, and I said, I cannot give up. I have to try one more time.

It seemed hopeless, but I kicked to the surface and I came up. Here was this Navy helicopter, and he dropped a harness.

I was begging the guy, yelling, I could taste blood from scratching my throat to jump in. I put my arm in the harness, and he jerked me about 10 feet up in the air, and I fell back under the water down, 5, 6, 8 feet. I figured I was gone again.

I came up and I said, well, this is ridiculous. I grabbed the harness, pushed it away from me and told him to level off, waited a few moments. And then I put my two arms into it and he, never having rescued anybody, immediately took off for the base and went up to 1,500 feet, traffic pattern altitude. Of course, that is the World Trade Tower, the Empire State Building is only 1250. And I cannot even feel my muscles. I am in early hyperthermia holding it just against me like this.

I did not want to go under the water and come up and hang on the harness.

Slowly he brings me up inside. And when this enlisted man grabbed my arm, I begged him not to touch me until he closed this little trap door in the belly of the helicopter. When we got back to the base, he said, corny but true, that I was being circled by two or three huge sharks. They had lost four men to sharks in a Navy boat the week before.

That is one of the reasons they put the helicopter on rescue duty. "I didn't think we would beat the sharks to you."

February 23 became my birthday. It was the 15th anniversary of Iwo Jima, and I went to the history book to see what happened on that day. It is interesting how God lets history be attracted to some days.

And this is the day the siege began at the Alamo. I like that. It was the day that Zachary Taylor, to be President someday, although very briefly, died in office at the beginning of his second year, defeated General Santa Ana at the battle of Buena Vista in Mexico. That was 11 years after Santa Ana had tortured and killed every survivor at the Alamo, including men who served in this Chamber like Davy Crockett.

And then I saw that it was the day that President-elect Lincoln snuck into town because he had secretly avoided an assassination plot that had been foiled in Baltimore by Pinkerton Guards. He was getting ready to be sworn in. It was March 5 in those days, right up till Roosevelt's third term.

Then I saw that it was the date that the Japanese shelled the oil refineries in Santa Barbara, 1942, three years before Iwo Jima. And how my mother had panicked in Manhattan and called her sister and my uncle, the Tinman on the Wizard of Oz, because all L.A. was