

percent of men have a pension. So when they do receive pensions, the benefit to women is only about half what a man will receive.

So what that boils down to is that when a woman received her Social Security retirement benefits in 2003, the average monthly benefit for a woman was only \$798, which is about \$241 less than the average man's monthly retirement.

What will happen to women, because we have got 20 percent of single women who are widowed, who are Social Security beneficiaries who are collecting Social Security today, about 20 percent of those women, the only source of their retirement income is Social Security?

We are just yanking out the security and the safety that we have guaranteed where we are going from a guaranteed benefit to a guaranteed gamble. And that is what the gentlewoman from California (Ms. PELOSI) has been saying and leading us at the rally today and all the way leading up to today. We cannot shift the whole nature of Social Security from a guaranteed benefit to a guaranteed gamble. We have to keep the security in Social Security. That is the bottom line.

Mr. RYAN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. MEEK of Florida. I yield to the gentleman from Ohio.

Mr. RYAN of Ohio. Mr. Speaker, no doubt about it. The gentlewoman from California (Ms. PELOSI), in fact, today was at Columbia University, New York City, 300 young people at 8:30 in the morning. College students, when that alarm goes off at 7 o'clock, 7:30 when they are in college, they hit that snooze button and they hope they make their 10 o'clock class. But there is so much concern here for this, and we know it is resonating.

And I think this group especially, since the gentlewoman from Florida joined us specifically, we have had more of an impact here, but I think we have seen the polls and the decline in support by young people for this kind of risky scheme, this risky proposal. And I think we will continue to see it because they recognize the fact that long term this is bad for them.

And one thing I would mention to the people that are watching at home, ask themselves is this legislative body, is this President addressing issues that face them day to day, affect their day-to-day life? Are we dealing with issues that will help them? And I think the answer is no. We are not dealing with oil, gas prices. We are not doing anything to try to find alternative energy sources. We are not doing anything to increase funding for Pell grants or No Child Left Behind. We are actually cutting benefits for veterans. If a veteran is sitting at home right now, their copay is going to go from \$7 to \$15, and there are going to be user fees assessed to them. All these things are happening. So if people are sitting at home and they are not involved or engaged in

the political process at all, they have to ask themselves, "What are they doing in Washington, D.C. that is going to help my life?" And really nothing. We are talking about a manufactured crisis that is going to happen in 2042.

I want to read one quick e-mail. I know we have gotten hundreds of these, but I want to read one. This is from last week. "My name is Susan Parker." Susan lives in Severna Park, Maryland. She is 33, becoming ever more involved in politics. A few weeks ago she watched the dynamic trio up here on C-SPAN discussing why the Bush administration's plan was not good for the citizens of the country.

"I was glued to the TV. I started taking notes, and from those notes I e-mailed letters to my Representative, Senators, and several letters to the editor. Thank you, thank you, thank you for the inspiration and for speaking out so consistently."

□ 2145

So these young people are starting to get involved, engaged, writing.

Before I part ways, I am going to have this hanging in my office. This is "Rock the Boat," the little coffee stand on it. "I Love Social Security." You can go to rocktheboat.com and get some information, or e-mail us at 30-something Democrats at mail.house.gov, or go to the Web site, democraticleader.house.gov/ 30something. So this is it right here.

Mr. MEEK of Florida. Mr. Speaker, I am sure glad the gentleman from Ohio (Mr. RYAN) shared his closing there, and also showed us his sign.

This is something I picked up today: "Stop Privatization. Americans for Social Security." They have a Web site, dot com. It is actually good water.

Also, this sign here: "Keep Your Hands Off of My Social Security." I think it is important. We know whose hands they are talking about, those who want to privatize, not our hands.

I also want to say thank you, because it is important. The reason why the polling numbers are what they are and Americans feel the way they are now, we want to thank the American Baptist Churches, USA, AFL-CIO, ACORN, Campaign For America's Future, Center For Budget Policy and Priorities, the Center For Economic Policy and Research, Children's Defense Fund, the Coalition of Human Needs, the Congressional Black Caucus Foundation, the Economic Policy Institute, the Labor Council of Latin American Advancement, the Consortium of Citizens With Disabilities, the League of Rural Voters, the League of United Latin American Citizens, Links, Inc., the NAACP, the National Committee To Preserve Social Security and Medicare, the National Congress of American Indians, the National Council of Churches, and I can go on and on and on.

They are the individuals out there, individual Americans, that have taken upon themselves to carry the fight on.

Ms. WASSERMAN SCHULTZ. Mr. Speaker, I thank both of these gentle-

men. I am losing the prop board here, but I wanted to close by quoting the President. He said, "Leadership means not passing problems on to future generations and future Presidents."

This plan passes trillions of dollars of debt on to our children and our grandchildren, and it is time that we all exercise some leadership, come together and think about the direction that this country is going in, bring it back to the center, restore some balance, come to the table and compromise, and take privatizing Social Security off the table and not yank the safety net from under our constituents.

Mr. RYAN of Ohio. Mr. Speaker, if the gentleman will yield further, that is what this is about. When the country goes in the wrong direction, the population, the population can shift it and move it in the right direction. That is what is happening here.

Mr. MEEK of Florida. Well, Mr. Speaker, it is wonderful to be with the gentleman from Ohio (Mr. RYAN) and the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ) again. It is wonderful being with you all once again. We would like to thank the Democratic leadership, mainly the Democratic leader, the gentlewoman from California (Ms. PELOSI), for allowing us to be here.

GENERAL LEAVE

Mr. CARTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the subject of my Special Order.

The SPEAKER pro tempore (Mr. KUHL of New York). Is there objection to the request of the gentleman from Texas?

There was no objection.

INSTITUTING TORT REFORM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentleman from Texas (Mr. CARTER) is recognized for 60 minutes as the designee of the majority leader.

Mr. CARTER. Mr. Speaker, I am honored to rise in this Chamber and discuss here tonight what has been a part of my life for my entire adult years, and that is the legal system of the United States, the attitudes of the American people about the legal system of the United States and where we are going in justice for America.

Mr. Speaker, I have had the privilege and the honor to serve as a member of the judiciary for over 20 years of my life. I had the honor to appear before good judges and good juries for an additional about 12 years of my life. I am and have been a part of the legal system of the United States of America. I am a lawyer, I am proud to be a lawyer, and I feel I come from an honorable profession.

But it is also the duty of those of us who practice in a profession, whatever

that profession may be, when you see a problem that changes the direction of fairness and justice in America, you need to step up and say it is there. You should not let it hide under a box because you might make a little more honey. You need to step up and say, folks, in a certain area, we are starting to see the system be broke, and, if it is broke, we got to fix it.

Now, we are going to hear the term “tort reform” thrown around. I have a son that coaches back in Round Rock, and he said, You know, the first time I heard tort reform, I thought they were talking about bacon, because the average people need to know what we are talking about when we talk about tort reform.

We are talking about a part of the law which basically deals with personal injuries to people. It is a system of justice we have developed in this country to try to find out a way to try to compensate people who are injured by the negligence of others. It was the purpose to solve a problem.

Mr. Speaker, a courthouse, the courtroom, a battery of lawyers, is nothing more than a massive problem-solving area for America, and tort reform solves the problem of someone being injured through the actions of another or their negligence. To look to reform the system, we need to say, what is broken?

Many people in this Congress on both sides of the aisle, and many of my colleagues that I work with daily, would start by blaming the lawyers. I am not going to start by blaming the lawyers, although they certainly have a great amount of blame.

I start with blaming the American people, because we have become soft and decided, many of us think we should have a free ride. The great, huge, gigantic verdicts that are being supported by some juries in this country are another way of winning the lottery in the eyes of many of the American people, and they are just as responsible for administering justice when they sit on a jury as a judge is or a lawyer who sits in that courtroom.

So as we look at our system, we have to say, why do we see a \$100 million verdict in a medical malpractice case when it is way beyond the imagination of anyone that that is what it takes to make that defendant whole from whatever injury that plaintiff has, that is what it takes from the defendant to make the plaintiff whole in that case? It is way beyond it.

Why did they award that \$100 million verdict? It is my personal opinion they awarded that verdict because we have become a country that would like to get something for nothing, and they are willing to give a fellow citizen something for nothing.

As a juror takes his oath of office to serve as a trier of fact in a case, he should realize that his job there is to do justice. If the judge refuses to reform a verdict, it is his job to do justice.

So as we start seeing these things in our system, we start saying to ourselves, those of us in the legislative branch of government start saying, well, wait a minute. We see these problems. Are there ways we can look to make it better so really justice is done, so really the purpose for the courtroom is well displayed by the verdict of the jury and the rulings of the court? And that is why this has now become a point in time where this society sues more people than the entire rest of the world put together by about 15 times. We are out of control in our lawsuits. The average jury award is now about \$3.5 million, up more than 70 percent since 1995.

So let us look and see who has come up with an idea that might help us address tort reform, help us work on this.

The first area we have already once passed through this House is medical malpractice. I am happy to see that my colleague, the gentleman from Texas (Mr. BURGESS), one of the practicing doctors who is now a Member of this august body, has joined me in the House. I am honored to have him here; and if he has the time, I would love for him to join me and talk a little bit about medical malpractice.

One of the things you have got to think about is that young doctor that just graduated from school, and I will use Texas because I happen to know Texas, maybe UT or Baylor or Texas Tech or A&M medical school, SMU, someplace they are putting out good doctors. This young man wants to go back to a small town and practice medicine, and he wants to do it because he wants to make a decent living and help people stay healthy. So he may want to go into the family practice of medicine.

He may want to deliver babies as part of that family practice of medicine because he loves children; and it is one of the things he loves, bringing life into this world.

Today we have to tell that young doctor that, first off, you paid for all your medical school, probably with money he had to borrow from student loans, you are going to have to pay that back, but you are also going to have to get ready to kick in about \$70,000 to \$100,000. I would say your first \$70,000 to \$100,000 you make in the practice of medicine you are going to have to go to pay for liability insurance to make sure that you are protected.

That may be a low number. I am sure that the gentleman from Texas (Mr. BURGESS) could tell us numbers that far exceed that in some specialties where people have to go out and get that insurance. That means when you open the door, you could be \$100,000 in the hole for the first year of practice, and the first time something does not go the way somebody would like it, there you are facing a lawsuit.

Now, seven out of 10 medical malpractice lawsuits filed in the United States have been proven to be frivo-

lous; and many of these lawsuits, unfortunately, because of the nature and the fear of the large verdicts in our system, get settled even though they are frivolous, which causes what? The cost of the insurance to go up, not only for the individual, but for the body and for the specialty.

There are places in this country right now where you are not going to find a neurosurgeon on staff because the cost of being a neurosurgeon is just prohibitive. People in the Valley of the Rio Grande of Texas, one of the poorest regions in the entire Nation, it is difficult to find a doctor who will deliver a baby. There are stories upon stories of women arriving at their doctor's office to learn that the cost of their medical malpractice insurance has put them out of the baby-delivering business. That woman is about to have a baby. She is faced with driving 80 or 90 miles to San Antonio just to find a doctor to make sure that baby is going to be delivered by a doctor, if she can get one.

Mr. Speaker, this is a crisis, and it is a crisis that calls upon us who are in the legislative body to start coming up with solutions. I think that the vision that we have for following the California plan, which has shown that setting certain limits on awards, will assist us, and driving down the cost is important. So that is one area.

We talked a lot about this over the last year, and I wanted to touch on it, because that is where we start and that is where we are starting. There is a book, I believe it is Mr. Grisham wrote this book, called “The King of Torts.” It is a novel, but it certainly is based upon some historical facts in this country about these class-action lawsuits.

This session of Congress we did something about class-action lawsuits, this House did and the Senate did; and I am very hopeful we have got class-action lawsuits put where they ought to be. Because what was happening is these lawyers were putting together these large classes of people.

Mr. Speaker, I told you, I highly respect the legal profession. I am not here to blast lawyers. But just because I respect the profession does not mean there are not people that in my opinion that I do not hold in high esteem. Some of these are those who would gather a class from thousands to hundreds of thousands of people in a class, and their victory is they get a certificate for a 20 percent discount and the lawyer gets \$100 million.

Mr. Speaker, that is not the right system; and I think, quite frankly, the lawyers that do that ought to be ashamed of themselves, because the system is designed to make whole those who are injured. Yet they forumshop the Nation looking for these areas where clearly there were some courts who favored these types of actions.

Now, we have put together a system which we feel is very good to put it in the right place, because these things cross State lines. They span the entire

Nation and territories of the United States.

□ 2200

Yet, they could go forum shopping in one individual jurisdiction to get better results.

So, in order to stop this forum shopping, we have put together the Class Action Fairness Act which was signed into public law February 18 of this year. It will help unclog overclogged courts, it ends the harassment of local business by forum shopping, and it protects the consumers with the Consumers Action Bill of Rights that requires judges to carefully review the settlements and limits of the attorneys fees when the value of the settlement received by a class member is minor in comparison with the net loss of the settlement claim and the resulting attorneys fees therefrom. It bans settlements that award some class members a larger recovery than others. It allows the Federal courts to maximize the benefit of class action settlements by requiring that unclaimed settlement funds be donated to charitable organizations.

Now, this is a good start, and we are going to have, hopefully, before this session of Congress is over, before the 109th Congress goes to bed, we are going to have more good starts.

Mr. Speaker, I would say that my goal, and I think the goal of all of my colleagues on both sides of the aisle, is to make sure that our legal system, the system that we are so proud of, the fact that we stand in this Chamber day in and day out and talk about the rule of law, because we are proud that we are a nation ruled by the rule of law, that what we are trying to do is make the rule of law work better. The rule of law is not a Las Vegas slot machine. The rule of law is getting justice to every individual that breathes air in this great Nation of the United States of America, and justice means fairness to all.

Mr. Speaker, we are seeing in our court system today a trend that, quite frankly, frightens me. It frightens me because people do not go to court to address grievances; they go to court to punish somebody. They go to court to hurt somebody or to make somebody bow down to their will. Mr. Speaker, that is the climate we have, and we have to start working on it.

I would like at this time to yield to the gentleman from north Texas (Mr. BURGESS), my colleague who is very knowledgeable on the subject of what this is doing to our doctors and our medical profession and our cost of medicine. I am honored that the gentleman is here to join me in this conversation.

Mr. BURGESS. Mr. Speaker, I thank the gentleman from Texas for yielding. I heard the gentleman speaking and I felt compelled to come down here and talk on this subject a little bit. I am so grateful that the gentleman has talked about one of the successes that we have had in this Congress, which is the Class

Action Fairness bill, a bill that was signed into law by the President last month.

There is no question we can talk about the injuries and the grievance situation, we can talk about it all day and all night, but that does not do the American people any good. The American people need to see results, and I believe with that bill, we have done a great deal towards reestablishing our country, the greatest work force in the world, as being competitive with other people in other countries. We heard a lot about outsourcing during the last election, how we are going to stop outsourcing. Well, one of the things we can do to stop it is to stop making a climate that is prohibitive for business in this country, and I believe our Class Action Fairness bill was a big step in the right direction to do that.

We have also had some other successes as far as the fairness of the medical liability system in this country. My colleague already alluded to the Medical Compensation Reform Act of 1975 from California, but our own State, Texas, passed a very sweeping medical liability reform law in the last legislative session, 2 years ago. It required a constitutional amendment in the State of Texas to become law, which passed September 12 of 2003, and really what I would like to talk about is the success that we have seen in Texas since the passage of that constitutional amendment.

Now, 10 years ago, when I was just a simple country doctor, if someone had asked me, gee, doctor, what do you think we should do about the medical liability problem, the medical liability crisis; and, mind you, the medical liability crisis, it goes back a number of years. When I was in medical school in 1975, it was a crisis. And we thought we had solved the problem then, but, in reality we had only postponed it for a little while, and it reemerged in the 1980s. We thought we solved it for a little while then, but we did not, and it reemerged in the late 1990s to be the true crisis situation that occurred in the State of Texas in 2002.

But if someone had asked me back in the years right out of medical school what I would prefer to see as something that would restore fairness to the medical justice system, I would have said a system of an alternative dispute resolution-type of program where you would have a medical panel that someone would have to go through before they could go to court. I would have a very idealized no-fault system. The reality is, we cannot get there.

So do I love caps? No, not necessarily, but they work. And since they work and since the crisis is present in this country; and if you do not believe me, if you live in Maryland, ask your doctor the next time you go in to see him or her. If you live in Pennsylvania, ask your doctor the next time you go in to see him or her. If you live in New Jersey, good luck, because you probably will not be able to go in and see

your doctor, because they have come to Texas, because we have done such a good job of fixing the liability problem in our State.

The central piece of that was, of course, a cap of noneconomic damages, a \$250,000 cap of noneconomic damages against the physician, and a \$250,000 cap against the hospital, and then another \$250,000 cap against a second hospital or a nursing home, if there is one involved, for a total cap of \$750,000.

Now, I did not know if that would work. That seemed almost a little too generous. The California law that was passed in 1975 worked, but they set a single cap of \$250,000.

What has happened in Texas since 2003 when that constitutional amendment was passed? Well, one of the unintended consequences was hospitals have really enjoyed a significant benefit from the passage of that law. Texas hospitals are reporting a 17 percent decrease in professional liability premiums for 2004-2005. This is from a Texas Hospital Association survey with responses from 172 acute care hospitals. In 2003, before the law passed, the premiums had risen more than 50 percent.

This is one of the big things. This is one of the big wins of this law. New carriers are seeking entry into the Texas market. The Texas Department of Insurance report from August 5, 2004 and the largest carrier, Texas Medical Liability Trust, has reduced physician rates 12 percent. In the years prior to medical liability reform, 13 carriers left the State and 6,000 physicians had to scramble for coverage. Now, 6,000 physicians, that is a big number. You run across one doctor who has had that happen to them, and that is a significant blow to their livelihood and their career plans.

When I was campaigning in 2002, I met a young woman who was a radiologist. She was probably in her early forties, and she came up to me at an event and said, boy, I hope you get something done with medical liability reform next year because my carrier left the State and I cannot buy insurance. And I thought, well, you must have had some trouble along the way. And she offered, before I even had the chance to speculate about it, I have never been sued, but my carrier left the State. She cannot get insurance. She is not going to practice as a radiologist without insurance and put all of her personal assets at risk.

So, as a consequence, here this young woman, 42 years of age, at the peak of her power as a physician, if you will, trained at the University of Texas at San Antonio, so trained with a State-subsidized education, the people of Texas had paid for her training; the people of Texas are now denied her abilities, her capabilities as a professional because she cannot get insurance and, as a consequence, cannot practice radiology, because the profession of radiology is just too fraught with peril to practice without insurance.

Well, another insurance writer, Texas Health Care Indemnity, reduced their rates by 20 percent in Texas. Again, these are hospital insurance rates that have been reduced because the doctors in Texas did something to try to get ahold of medical liability reform.

The filings themselves, the actual lawsuits filed have decreased. Medical liability lawsuits in several counties considered high-risk for physicians have decreased since the new law took effect in 2003. For Harris County, 105 lawsuits were filed from September of 2003 to July of 2004, compared with 746 lawsuits filed in the 3 months prior to the passage of the constitutional amendment. In Bandera County, the county where San Antonio is, 81 lawsuits were filed between September 1, 2003 and April of 2004, compared with 304 lawsuits filed in the 3 months before the constitutional amendment was passed. Nueces County, 32 compared with 108. Cameron County, 17 compared with 28; Hidalgo County, 17 lawsuits in the year after reform, 96 lawsuits in the 3 months prior to reform.

Well, Mr. Speaker, there is no question that caps have been the good-news story in Texas, and that is why I embrace the legislation that we will do in this House this year that will have as its central feature a cap on non-economic damages.

Does this keep someone out of the courthouse? Absolutely not. If someone is harmed by the system, they are able to recover all of the economic damages to which they are entitled. And the reality is in Texas, we are going to limit damages for pain and suffering to \$750,000, which still is a significant amount of money when you consider it in the total amount of filed litigation.

So with that, Mr. Speaker, and with the gentleman from Texas's permission, I will yield back, but I will remain around if the gentleman has any other questions that he would like to ask of me.

Mr. CARTER. Mr. Speaker, I would like to have a little conversation with the gentleman. The gentleman is right. It is very important to make the point that those people that should be at the courthouse addressing genuine harm are still getting to the courthouse and having that harm addressed. It is not cutting off the need of people to recover in the courthouse; it is cutting off these frivolous attacks to try to reach the pot of gold at the end of the rainbow by limiting the pot of gold, and we clearly can see what happened: Get them all in before the deadline so that we can win the lottery. After that, we are just going to get paid for our work.

Mr. BURGESS. Apparently so.

Mr. CARTER. It is a whole lot more fun to dream about winning the lottery. I mean, obviously, the whole country dreams almost every third night in this country about winning the lottery someplace; not very many of them that win it, but they are out there dreaming it. But the real crime

of winning the lottery when we are talking about lawsuits is the fear of that big judgment that causes people to settle lawsuits that should not be settled to prevent the danger of that unlimited liability that is out there before caps were placed in the law. The gentleman knows there is nothing that irritates doctors more, and I have talked to doctors about this; they say, they made me settle the lawsuit but, by golly, I did not do anything wrong.

Mr. BURGESS. The gentleman is absolutely correct. If the gentleman will yield, the cost of continuing the lawsuit in both dollar terms and emotional terms is sometimes just simply too high, and the better part of valor is to settle. Fortunately, I lived in a county where juries were a little more favorable to physicians, but we all know of other counties within the State of Texas where that was not the case. There is no question that cases were settled simply because it was easier than continuing the pain and agony of continuing the lawsuit.

Mr. CARTER. And I too lived in such a county and presided over such a court. Our Williamson County jurors, they, when you start talking about \$1 million, there is not that much money in the world as far as they are concerned, so they were very tight with their money and, therefore, you saw very few people; if you could file that lawsuit someplace else, they were not filing it in Williamson County, because they were seeking that pot of gold.

Mr. BURGESS. But again, the biggest problem is access. If we drive our good physicians out of practice, if we prevent our best and brightest from entering the practice of medicine, and there is evidence that that is happening, I fail to see how we are furthering the cause of patient safety by keeping the best and brightest out of medicine. I fail to see how we are furthering the cause of patient safety by preventing smaller towns from having access to perhaps an anesthesiologist or perhaps a cardiologist simply because they cannot afford the liability premiums to have them there.

□ 2215

Now, the gentleman knows I have been around a while. I have had four children. When my first couple of children were born, a lot of the procedures that you OB-GYNs do on a regular basis. And I am glad to see we are joined by another one of our doctors here in Congress, the gentleman from Georgia (Mr. GINGREY). So we will just have this conversation be three-way.

When my first two kids were born, I do not even know the terminology, but when they scanned the baby on your tummy, that was brand new. The piercing to check the fluid was brand new. They did not do that as a regular course. They did not run those tests as a regular course with my first two children. With my last two children they did, and it was a blessing for our family because we had a crisis pregnancy at one time.

But my point now is that a doctor, because of the potential of the liability, is afraid not to do those procedures. Is there some truth to that? Does the gentleman agree that there is some truth to that?

Mr. GINGREY. If the gentleman will yield, I do. And the gentleman from Texas (Mr. CARTER), the good judge, is kind to yield to me. I actually came to the well for another purpose, but since you asked me my opinion on this, I will be glad to opine.

By the way, that piercing of the abdomen to get the fluid, that is called amniocentesis.

Mr. CARTER. That is it. That is why I went to law school and not medical school.

Mr. GINGREY. Now, do not ask me to spell that for you.

But, Mr. Speaker, absolutely. What the gentleman from Texas, both the gentlemen from Texas, I should say, are absolutely right. The gentleman from Texas (Mr. BURGESS) earlier was talking about the number of physicians, that before this good legislation was passed by the great State of Texas, it was 600 or so. And it is really, as I have said this many times, it is not just that the physician loses his or her livelihood that they have worked most of their adult life to establish. But it is a jobs situation, because every time a medical office closes because of the burdensome expense of malpractice insurance, you are talking about putting maybe 15, 25, possibly as many as 50 employees of that medical practice, Mr. Speaker. That is how many were employed in my practice as an OB-GYN in Georgia.

And I really commend Texas in regard to their legislation. I think it was a model, Mr. Speaker, for my State of Georgia in the general assembly, and the State of Georgia this year did pass reform legislation very similar to the Texas bill. And I think that they have now got a couple of years' experience, so hopefully that same thing will occur in the State of Georgia.

So I really appreciate the gentleman yielding and giving me an opportunity to weigh in on this.

Mr. CARTER. Mr. Speaker, reclaiming my time. And I once again thank my colleague from Texas (Mr. BURGESS) for being here with me tonight. I rose when I first started talking to tell you that there is, in my opinion, an attitude crisis for the justice system in America. We have talked about medical malpractice, and we have gone forward on the crusade. And I think we are getting some results. And the gentleman from Texas (Mr. BURGESS) has very clearly described how we are seeing those results in the State of Texas today. Hopefully, with the work this Congress will do, we will be able to find that same success in the area of dealing with medical issues in the courthouse, to put more fairness back in the system; and that our class action reform, I think, is putting fairness back in the system.

But it is a bigger picture than that, Mr. Speaker. There are a lot of issues we really need to talk about as we talk about lawsuit reform in America. One of the real tragedies that you see in the courthouse today is people using our courts, not to redress grievances, but as a battering ram of costs to destroy competition with those that they are in business in competition against, or using it to try to change, make somebody do something they do not want to do by costing them enough medical costs, I mean, lawyer costs they cannot afford to go to court.

So you just continue to file lawsuit after lawsuit after lawsuit, many of which could be frivolous; but you must defend yourself. And you must be insured to defend yourself. It is getting epidemic. And if you do not think it is epidemic, let us think about the world we are in today, the world of politics in America. Do you think our Founding Fathers ever anticipated that at the end of an election cycle parties would have 50 lawyers on retainer ready to go to court on both sides with both parties?

Do you think that that is the system that we thought that we wanted to have in this country, America? And yet we seem to be there today. I am not taking the sides of whether you like or do not like how elections come out. But when did it become everybody goes to court? When did this have to happen?

I mean, our Founding Fathers trusted the American people to elect their representatives. Did they design a system where judges rule the country? I do not think so. If they had had that system, they would have kept the King, and old George would still be around here. No, the purpose of the American justice system is justice. It is fairness, it is a place to seek recourse when there is no other place for recourse and to get a fair judgment.

Now it has become a weapon of politics. It has become a weapon of business; it has become a weapon to make school boards change policies. It has become a weapon to make city counsels shut down parks or take down symbols. We have gotten to a point where we are letting the courthouse drive everything.

Mr. Speaker, we love our rights in this country. We love to be a Nation that stands up for its rights. My problem is, with rights come responsibilities. And there are times in this life when you are responsible and you have to stand up and recognize I am responsible here. I do not need to sue somebody. If I do not like the way my neighbor cuts his yard, why in the world do I have to drag him into court and make him spend \$100,000 on lawyers to make him cross-cut his yard instead of parallel cut it? And yet there are people who do that.

I tried a lawsuit between whose cat and whose dog was doing their business in whose yard. And those people spent \$60,000 a piece on lawyers. Mr. Speaker,

that is unreasonable. That is ridiculous.

But we have reached a point in America today where we have become so lawsuit crazy and we think we can get something for nothing, they are willing to force somebody to do something that they do not want to do by forcing them to spend their money on lawyers.

It is not the lawyers' fault. They are just getting paid for their hourly wage. It is our attitude in this country. And as we start to show people how we can redirect and make things better, the gentleman from Georgia hit right on it. Not only as these judgments come down in the courtroom does it affect the individuals in the courtroom. The periphery around those individuals, it affects jobs, it affects businesses, it affects the availability of services, the availability of goods, our ability to compete worldwide, to be part of this great ever-growing world community. It affects everything that affects every American citizen by the fact that we are driving up legal costs and using our courts as a weapon.

Mr. Speaker, we have got to do something to change this attitude. I am very blessed right now in Congress to have a multiple of my colleagues from Texas now Members of Congress, the gentleman from Texas (Mr. GOHMERT), who is here with us today. The gentleman from Texas (Mr. POE) is also a new Member of Congress, and I am very honored to have both of these fine judges with me.

We have talked. We talk about what happens in our courtroom, what happens in our courthouse. And we see that there is an attitude in America that has got to be changed. And we do this by, I think, by doing what we are doing right now. Let us start taking the real problem areas, let us start analyzing them. Let us start coming up with a commonsense approach of how we are going to make sure that we are not in the business of making people rich. We are in the business of making people whole. We are in the business of making people right for the injury that occurred. And common sense will hopefully cause us to start to see that what our American court system is about is justice. And if it is not about justice, then it is going about things all wrong.

Mr. Speaker, every day now in the newspaper we see somebody using the courts or somebody using accusations without convictions to harm and punish people in this country, and in this body. Mr. Speaker, that is wrong. That is not what our Founding Fathers intended.

Our Founding Fathers told us that people are innocent until proven guilty. They told us we have a series of courts that are to provide justice and a resolution of disputes, not a battering ram to pound your opponent into submission. And this is the kind of thing that, as we look at the future of the American justice system, we have to do this.

Now, when I get the chance to come up here and talk about lawsuit reform,

there is one more thing we ought to talk about. And I may change the subject just so I can get my good friend, the gentleman from Texas (Mr. GOHMERT), to step up to the podium. I am going to yield to him right now, and then I am going to come back and talk to you a little bit about what is going on over in the Senate and checks and balances on the judiciary. But first, I thank the gentleman from Texas for coming up here this late hour and joining me. I am proud to have him here, as I said before.

Mr. GOHMERT. Mr. Speaker, I thank the gentleman. I am very honored to be here in the same body with him. He is a well-respected and well-thought-of jurist sitting in Georgetown, Texas, from Round Rock, Texas, home of the yellow doughnut. But it is an honor to serve with you and with somebody that understands the tripartite system of government and the checks and balances. I know when I was at Texas A&M in undergrad, and it looked like I would not be going to Vietnam, it was ending before I graduated, I was looking at going to law school and my dad was concerned about that. And I used to get clippings every weekend, talked about there are too many lawyers in the country, and what is wrong with America are the lawyers, and lawyers are crooks and that kind of thing. And I really had to do a lot of soul searching about whether law school was something I wanted to do.

And what I came to the conclusion of was that, really, the law is a tool. It is like a hammer. You can use it constructively to build great things, or you can use it to tear down the greatest things. And that was all in whose hand that tool resided. And I ended up endeavoring to do just that, to use the tool and try to use it constructively.

But then, as the gentleman has pointed out, we have seen around the country so many abuses. I was just in Spokane, Washington, and talking to people in eastern Washington Friday and Saturday and was hearing how desperate they were for some certain physicians and specialists in the eastern part of Washington, that many of them were having to travel over to Idaho, some parts of Texas that has become a real problem.

And it is a shame it arises out of some of the abuses that have occurred. You and I know that there are excellent defense lawyers. There are excellent plaintiffs' attorneys and the courts are a very necessary part of our tripartite system where we can come, no matter what is going on outside the courthouse, we can come sit down and each side gets a turn, each side puts on their case, puts on evidence, each side has a chance for mutual arguments and then have a determination in a fair civil manner from objective people, and that is a great system. It is not a perfect system, because unfortunately it deals with people. But it is the best system that has ever been generated for resolving disputes.

But because of some of the abuses, I have been looking for solutions. We know, I have seen for example, many doctors brought in to a lawsuit and maybe there was one person at fault, but then all these other people got brought in, and then person after person who is a defendant gets dropped from the lawsuit.

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I had one doctor standing in my courtroom when I announced that the plaintiffs had dismissed her and she said, That is it? I am dismissed? What about my pain and suffering? What about a year's loss I have had? What about my attorneys fees? What about my liability insurance going through the roof? All of these things have happened and there is no recourse.

So one of the things that I thought that would help level the playing field, and I am open to any ideas, and we hear talk about caps, this, that and the other, but it seems like a system where there was a provision for a loser to pay, if there is no finding of fault or no agreement among the parties, that that could go a long way toward leveling the playing field.

Now, I have heard people from the other side who said, but you do not understand the games that get played on the defense side. I have seen the games that get played on the defense side. I had one lawsuit that involved thousands of plaintiffs, and originally there were hundreds of defendants in it. After I had come into the suit, within a matter of months I dismissed a whole slew of defendants. A couple of defense attorneys told me, wow, Judge, this has been going on 11 years. You just came in here and all of the sudden dismissed a bunch of defendants. We are proud of you. It is good for our clients but we do not know what we will do. One of them said, I put my kids through college and law school on this case as a defense attorney. I kind of hate to see it go away for my clients because I was making money.

There are abuses on both sides. One of the thoughts I had was to answer the cry if you had a strict loser-pay situation that it would make people reluctant to bring all the parties in to a suit initially. And if they did not do that, then you get past the statute of limitations period and then all the defendants turn and point to somebody who is outside the lawsuit, saying he is responsible, and it is too late to go get him.

We know also there have been abuses where parties are brought in just so discovery can be done, depositions be taken free of charge and then drop them. That is a form of abuse as well. My thought was perhaps have a loser-pay type situation, and if it gets beyond the limitations and parties in the lawsuit, point to somebody outside the lawsuit, then extend the limitations for 30 days to bring in a party that they are now all pointing to so that that would take care of that situation.

I am looking for solutions because there are a lot of people that are getting hurt, a lot of people that have been abused; but at the same time we need to protect the system so that real legitimate claims can have a resolution.

If the gentleman would allow me to mention one other aspect of this that he has been talking on so eloquently, of course I love the way a fellow Texan talks such as the gentleman, but I have noticed an effect in the schools.

My mother passed away in 1991 but she was a teacher, eighth grade English teacher most of her adult life, and my sister had been a school teacher for nearly 30 years. My wife had been a school teacher until we got to needing her so desperately full time in our campaign in Congress. But what I was seeing more and more of was this fear of being abused by a lawsuit by educators, by teachers and sometimes teachers have enough. They have a problem student. They take him to an administrator and an administrator says, I realize this person is completely disrupting your class but their parents keep threatening a lawsuit and we cannot afford that. So if you just get by and do the best we can and we will get past the lawsuit and probably somebody else's. And it seems like it has been a complete disruption to orderly discipline in our schools.

One of the thoughts, here again, I am trying to think outside of the box and think creatively, but as judges we had something called judicial immunity. You may not like the way a judge rules, but if he is not committing a crime and he is acting within the purview of his job, trying to do what is right, trying to make the right decision, you are not going to file a lawsuit against him. And if you do, it will be thrown out and probably sanctioned because the judge has judicial immunity.

I thought it might be fair to help education by extending that doctrine to the area of education. You may be making a decision that is not very wise as an administrator and an educational facility, you may be a teacher that does not make wise decisions, and that is the basis for going to the school board and getting you fired. That is a reason to go to the school board and have a principal or someone else fired, but it is not a basis to run and file a lawsuit and go to court. So that educators can feel more comfortable in doing a job.

Yes, they are accountable through the legislative branch, but let us do not make it a habit to run down and file lawsuits. I think we could set the schools back on track and a long way toward proper discipline if we extended that type of educational immunity to teachers and administrators. As long as you are not committing a crime, you are acting within the purview of your job, let us give you a break.

The gentleman has discussed so eloquently this mindset, this America, ev-

erything is someone else's fault. And once we can help people get beyond that notion and force them to try to resolve things among themselves, mediation, arbitration, these type of things have been very helpful in the alternative dispute resolution, trying to avoid the lengthy attorney fees and court costs.

We were in Spokane hearing testimony about environmental laws. We had boxes stacked up over my head. As I understood it, it was over a little more than 2-mile stretch of road, and the appeals and things that have just gone on and on have been crazy, the trees that have been cut down just to allow that kind of abuse of the system. By the same token, I was shown a graph that showed that since 1970, the bar graph year by year, that lawsuits have continued to escalate, and with each year as the lawsuits escalated the board-feet of lumber we had produced had gone the other way, directly proportional the other way.

So we see the destructive tendency. That is a renewable resource. We ought to be able to do better than that. But the courts have been used, as the gentleman said, to batter others. As Shakespeare said, The problem may not be in our stars but in ourselves.

Some people blame the lawyers but the fact is no lawyer can file a lawsuit without a client. No lawyer can defend a lawsuit without a client. The problem may be bigger than just lawyers. It may be not in our stars, not in our lawyers, but all part of the same problem.

I appreciate the gentleman addressing this so well tonight.

Mr. CARTER. Madam Speaker, I thank the gentleman. I want to say a statement the gentleman made, I want to emphasize how important it is to me and I think it is important to every Member of this House. That is, men of good will always look for solutions.

We do not always have the right ideas, but if you do not lay proposed solutions on the table for a free debate among men of good will and women of good will in this august Chamber, we will not come up with a solution.

I believe the American people are ready, willing, and able to listen to a debate from the United States Congress about the things that we are talking about here today; and that is what is wrong, how do we change our attitude towards the law, towards our rights and towards our responsibilities? What little things can we do to adjust, to help guide us down the path that I think our forefathers clearly intended for us when we designed the system, which, for all its fault, as the gentleman pointed out, is still the best system ever devised by man?

I am not ashamed of it, and I am not ashamed of lawyers, and I am not ashamed of our system. But I think we must be men of good will and women of good will who seek solutions.

Finally, I am going to just briefly pause. This will be the subject of a whole other talk, but we have got the

issue that the press has decided to address as "the nuclear option" which is going on over in the Senate by dealing with the Senate rules and how we are going to get an up-or-down vote on judges.

We love to address, and rightfully so, the Constitution of the United States as we discuss things on this floor. And we love to talk about the checks and balances in our government. And in a judiciary appointed for life as we designed in our system, you have to look into the Constitution and see where the checks and balances are. And I think clearly our framers designed the number one check and balance on the judiciary to be the fact that there will be a new process at least every 8 years now, but certainly 4 to 8 years, who will appoint different types of people to serve in our judiciary which will give a good cross-section of a blend of attitudes, views of the law to our judicial system, to give a system that spreads fairness for all citizens.

To use procedural rules to prevent that appointment power which calls for the advice and consent of Senate, to prevent that using procedural rules, I think it is not a nuclear option, as we are discussing, it is a constitutional option.

If we are not going to allow that check and balance to operate, then where will the checks and balances be? So this will be a subject of another discussion another time. But at this time, I just want to remind the American people as the rhetoric in the papers and on the TV and the radio, remember it is the best justice system in the world. But it is the best because we had some people who sweated blood, sweat, and tears in Philadelphia to come up with a plan that set balance to our system. And the number one balance to a judicial system appointed for life is the opportunity for the executive branch, through the President, to nominate new blood to our judiciary through every Presidential term.

Some of that new blood will be just exactly what they think it will be with their views, and some of it will not. And we are always surprised to hear from our commentators: Well, it is true, but that judge was appointed by Reagan.

That's right, that is how the system works. You put the new blood out there, that blood develops into a justice system, that spreads it out for everybody. And some of them, some people go the way everybody expects them to be and some people do not.

When Eisenhower appointed Earl Warren, nobody anticipated the activist court that would come from the Warren court. And yet historically it is one of the most activist courts in America. So that system works. Why be afraid of it?

I would urge everyone to look at this issue and let the Senate think just for a second, get the politics out of this for a minute and say, What did our Founding Fathers see here? That we had a

system that works if we just let it work.

Let us have a vote, up or down, on every nomination that the President has proposed; and when their President gets in there, if he ever does, we should do the same thing for them. That is what our Founding Fathers proposed.

Madam Speaker, I have enjoyed being with you this evening and I am very honored that my colleagues were able to see me ranting and raving and come over here and help me out. Of course, you know one thing you can count on from Texans and Georgians is when there is a call to arms they always show up. So I am proud to see my colleagues from Texas come out and join me in this discussion, and I am very proud to have my colleague from Georgia join me. I thank them all for being here with me tonight.

Madam Speaker, I thank you for your patience in listening to me tonight and for joining us and coming up with those solutions that men and women of good will can submit to this body and hopefully make America better.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H. RES. 22, EXPRESSING THE SENSE OF THE HOUSE OF REPRESENTATIVES THAT AMERICAN SMALL BUSINESSES ARE ENTITLED TO A SMALL BUSINESS BILL OF RIGHTS.

Mr. GINGREY (during the Special Order of Mr. CARTER), from the Committee on Rules, submitted a privileged report (Rept. No. 109-55) on the resolution (H. Res. 235) providing for consideration of the resolution (H. Res. 22) expressing the sense of the House of Representatives that American small businesses are entitled to a Small Business Bill of Rights, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 748, CHILD INTERSTATE ABORTION NOTIFICATION ACT

Mr. GINGREY (during the Special Order of Mr. CARTER), from the Committee on Rules, submitted a privileged report (Rept. No. 109-56) on the resolution (H. Res. 236) providing for consideration of the bill (H.R. 748) to amend title 18, United States Code, to prevent the transportation of minors in circumvention of certain laws relating to abortion, and for other purposes, which was referred to the House Calendar and ordered to be printed.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. HOOLEY (at the request of Ms. PELOSI) for today on account of a family issue.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

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

Mr. PALLONE, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. GEORGE MILLER of California, for 5 minutes, today.

Mr. KIND, for 5 minutes, today.

Mrs. DAVIS of California, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. McDERMOTT, for 5 minutes, today.

Mr. CUMMINGS, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

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

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

Mr. HENSARLING, for 5 minutes, today and April 27.

Mr. JONES of North Carolina, for 5 minutes, today and April 27.

Mr. BURTON of Indiana, for 5 minutes, today and April 27 and 28.

Mr. OSBORNE, for 5 minutes, today.

Mr. PORTMAN, for 5 minutes, April 27 and 28.

Mr. GUTKNECHT, for 5 minutes, April 27, 28, and May 3.

Mr. ROHRABACHER, for 5 minutes, today.

Mr. NORWOOD, for 5 minutes, April 28.

Ms. ROS-LEHTINEN, for 5 minutes, May 3 and 4.

Mr. MCHENRY, for 5 minutes, April 27 and 28.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Mr. GINGREY, for 5 minutes, today.

Mr. MOLLOHAN, for 5 minutes, today.

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. 893. An act to make technical corrections in the Anabolic Steroid Control Act of 2004, to the Committee on Energy and Commerce; in addition to the Committee on the Judiciary for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

ADJOURNMENT

Mr. CARTER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 44 minutes p.m.), the House adjourned until tomorrow, Wednesday, April 27, 2005, at 10 a.m.