Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Evans
Ewing
Farr
Fattah
Fawell
Fields (TX)
Flake
Flanagan
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Ganske
Gejdenson
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Herger
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Johnson (CT)
Johnson (SD)
Johnson, Sam
Johnston
Jones
Kanjorski
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Metcalf
Meyers
Mica
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Nadler
Nethercutt
Neumann
Norwood
Nussle
Obey
Olver
Ortiz
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (VA)
Pelosi
Peterson (MN)
Petri
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roukema
Roybal-Allard
Royce
Salmon
Sanders
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schumer
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (NC)
Tejeda
Thomas
Thornberry
Tiahrt
Torres
Torricelli
Towns
Traficant
Upton
Vucanovich
Walker
Walsh
Wamp
Ward
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weller
White
Whitfield
Wicker
Williams
Wolf
Wyden
Wynn
Young (FL)
Zeliff

NAYS—66

Abercrombie
Becerra
Borski
Brown (CA)
Brown (FL)
Cardin
Clay
Clyburn
Coburn
Coleman
Collins (IL)
Davis
Durbin
Ensign
Everett
Fazio
Filner
Foglietta
Furse
Gephardt
Gibbons
Gutierrez
Gutknecht
Hastings (FL)
Hefley
Heineman
Hilleary
Hilliard
Hinchey
Jacobs
Jefferson
Johnson, E.B.
LaFalce
Lantos
Latham
Levin
Lewis (GA)
Longley
Martinez
McDermott
Menendez
Miller (CA)
Neal
Ney
Oberstar
Orton
Payne (NJ)
Pickett
Pombo
Rush
Sabo
Sanford
Schroeder
Scott
Skaggs
Taylor (MS)
Thompson
Torkildsen
Velazquez
Vento
Visclosky
Waters
Wise
Woolsey
Yates
Zimmer

ANSWERED ''PRESENT''—1

Harman

NOT VOTING—27

Armey
Bateman
Boehner
Burr
Chapman
Crane
Dornan
Fields (LA)
Hefner
Hunter
Kaptur
Linder
Mfume
Moran
Owens
Peterson (FL)
Rangel
Roth
Stockman
Thornton
Thurman
Tucker
Volkmer
Waldholtz
Weldon (PA)
Wilson
Young (AK)

□ 1102

Mr. PAYNE of New Jersey changed his vote from ''yea'' to ''nay.''

So the Journal was approved.

The result of the vote was announced as above recorded.

MOTION TO GO TO CONFERENCE ON H.R. 956, COMMON SENSE PRODUCT LIABILITY AND LEGAL REFORM ACT OF 1995

Mr. HYDE. Mr. Speaker, by direction of the Committee on the Judiciary, pursuant to House rule XX, I move to take from the Speaker's table the bill H.R. 956, to establish legal standards and procedures for product liability litigation, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate thereon.

The SPEAKER pro tempore (Mr. GILLMOR). The question is on the motion offered by the gentleman from Illinois [Mr. HYDE].

The motion was agreed to.

MOTION TO INSTRUCT CONFEREES OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. CONYERS moves that the managers on the part of the House, at the conference on the disagreeing votes of the two Houses on the bill H.R. 956, be instructed not to agree to any provision, within the scope of conference, that would limit the total damages recoverable for injuries by aged individuals, women, or children to an amount less than that recoverable by other plaintiffs with substantially similar injuries.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. CONYERS] will be recognized for 30 minutes, and the gentleman from Illinois [Mr. HYDE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

(Mr. CONYERS asked and was given permission to revise and extend his remarks.)

Mr. CONYERS. Mr. Speaker, the motion I am offering would instruct the conferees to not agree to those provisions which limit the total amount of damages recoverable by seniors, women, and children to an amount less than that recoverable by other plaintiffs with substantially similar injuries.

The Republican legal liability bills passed by both Houses of Congress are replete with provisions which will have a disproportionate impact on the most vulnerable members of our society. The House bill caps noneconomic damages in health care liability cases at $250,000, both bills limit punitive damages depending on the amount of economic damages, and both bills eliminate joint and several liability relating to noneconomic damages.

The cumulative effect of these provisions on the elderly, women, and children is devastating. Since these groups generally earn less wages, a greater proportion of their losses is likely to be noneconomic. A middle-aged adult who loses his job could seek full compensation, while a child or a senior who loses a limb or is forced to bear excruciating pain for the remainder of his or her life would face arbitrary new damage limitations. A corporate CEO with a seven figure salary is entitled to collect millions of dollars in damages in lost wages resulting from medical misconduct, but a homemaker who loses her reproductive capacity as a result of medical malpractice would face a $250,000 limitation on her damages.

The House bill also immunizes manufacturers of FDA-approved products from any possible award of punitive damages. This so-called FDA defense completely forecloses the possibility of punitive damages for defective products—even if the manufacturer has clear evidence of the dangers of a product. This will undoubtedly have a disproportionate impact on the ability of women to recover damages, since so many cases involving large punitive damage awards pertain to defective medical products placed inside women's bodies. We need look no further than the Dalkon Shield, Cooper 7–IUD, high-estrogen birth control pills, and high absorbency tampons linked to toxic shock syndrome to find recent examples of FDA–approved products which caused widespread injuries to female consumers.

What is it about the elderly, women, and children that the Republican Party is so opposed to? The legal reform bills before us are blatantly unfair and discriminatory, and I would hope the conferees would have the good sense to remove these provisions from whatever final legislation may emerge from the conference.

Mr. Speaker, I reserve the balance of my time.

Mr. DINGELL. Mr. Speaker, I urge my colleagues to support the motion to instruct. I have long supported product liability reform legislation. However, I was compelled to vote against the so-called common sense product liability and legal reform bill passed by the House early this year because it had little to do with either product liability reform or common sense. Due in great part to extreme amendments added during floor debate, the bill passed by the House became a Christmas

tree for special interest groups that makes radical changes to the Nation's legal system that go far beyond fair and balanced product liability reform.

For example, the bill creates numerous and varying standards for preemption of State laws that would create confusion rather than uniformity. It abolishes joint liability for noneconomic damages in all civil cases—not just product liability actions—and limits noneconomic damages in medical malpractice cases to only $250,000. These provisions fail to recognize that pain and suffering, disfigurement, loss of limb, sight, or reproductive capacity are very real harms and that they have the effect of treating low-income workers, retirees, women, children, and disabled persons less favorably than corporate executives and others who have large economic losses. And floor amendments to the bill deleted important provisions that would ensure that foreign corporations who sell defective products here will not be treated more favorably than our own companies.

The motion to instruct is one that all Members should support. It simply says the conferees should not agree to provisions in either bill that tend to limit recovery for damages by seniors, women, and children compared to others who suffer substantially similar injuries.

In recent days, we have fought legislation our Republican colleagues have rammed through the House that will disproportionately hurt seniors, women, and children, while wealthier persons are enriched even more. The most glaring example of this treachery is the Speaker's plan to cut Medicare by $270 billion while giving tax breaks of $245 billion to the rich. It seems the other side will stop at nothing in their attempts to carry out their extreme agenda that will have the effect of hurting the most vulnerable of Americans.

Treating seniors, women, and children the same as other persons is truly a commonsense proposal. I urge my colleagues to support this simple and straightforward motion.

Mr. HYDE. Mr. Speaker, I yield myself such time as I may consume.

(Mr. HYDE asked and was given permission to revise and extend his remarks.)

Mr. HYDE. Mr. Speaker, one of the principal goals of civil justice reform legislation is to restore fairness, rationality and predictability to our Nation's legal system. We want our legal system to be even-handed. The notion that these reforms will adversely affect particular groups, women, the elderly and children, is just not accurate. Mr. Speaker, it is an emotional device used by opponents of legal reform to confuse the issues and to divide supporters.

The much-needed reforms contained in the Common Sense Legal Reform Act treat all plaintiffs the same. The motion fails to recognize the distinction between economic damages, that is reimbursement for actual out-of-pocket losses on the one hand, and noneconomic damages, which are damages for intangible items such as emotional distress or pain and suffering on the other.

Because noneconomic damages are not based on tangible economic losses, such as medical expenses or lost wages, there are no objective criteria for determining the amount of such an award.

As a result of their subjective nature, noneconomic damages vary widely, the awards vary widely, even for similar or identical injuries. This introduces an issue of unpredictability and caprice into the civil justice system.

Mr. Speaker, because there are no objective standards for assessing noneconomic damages, jurors often pick figures out of the air. It depends on how well the plaintiff's lawyer can play the violin. For the same reason, judicial review of noneconomic damage awards is virtually nonexistent.

Noneconomic damage awards may well be disproportionately high. Jurors in many jurisdictions routinely make excessive awards for intangible losses. Similarly, the motion to instruct fails to distinguish between compensatory damages and punitive damages.

Mr. Speaker, under our legal system, punitive damages are not intended to compensate injured parties. Instead, they are intended to be a punishment and a deterrent. Punishment for particularly reckless or egregious acts and deterrence against similar reckless acts in the future. Using economic damages rather than noneconomic damages as a measurement for appropriate punitive damages to me makes sense.

Like criminal fines, civil punishment in the form of punitive damages should bear a reasonable relationship to the conduct for which the defendant is punished. Economic damages are susceptible to fairly accurate determination and, therefore, provide an appropriate basis from which to calculate punitive damage awards, ensuring that similar cases are treated alike.

□ 1115

By contrast, using inherently subjective noneconomic damages as a basis for calculating punitive damages could ensure that defendants in similar cases will be subject to widely varying punitive damage awards. Because noneconomic damages may be exceedingly high, they provide no meaningful limit on the size of punitive damage awards. Basing punitive damages on noneconomic damages would enhance the windfall nature of punitive damages and increase plaintiffs attorneys' contingency fees and unduly inflate punitive damage awards.

It is important to note there is no right to punitive damages. Again, punitive damages are not about compensating the injured party. Those who would use noneconomic damages as a basis for calculating them seek only to increase punitive damage awards at the expense of rationality and predictability.

A number of States that permit punitive damages have enacted statutes using economic damages as the basis for such awards. For these reasons, I strongly urge this House to reject the gentleman's motion to instruct conferees on H.R. 956.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Michigan [Mr. BONIOR], minority whip.

Mr. BONIOR. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, here we go again, waging class warfare on middle-income working families.

Mr. Speaker, let us be clear what this bill does.

If you are a corporate CEO making $1 million a year and God forbid you should get in a car accident because a faulty gas tank explodes, this bill say you can receive up to $3 million in damages.

But if you are a working mom or a senior citizen making $15,000 a year, and you should get in a car accident because of the same faulty gas tank, you can only receive up to $250,000 a year.

That is what this bill does.

This bill says that the lives of corporate CEO's and corporate bankers and the economic elite are more important and more valuable than the lives of working men and women. And that is shameful.

Mr. Speaker, we live in a country where 98 percent of the growth in income since 1979 has gone to the top 20 percent.

Yet in the past 3 weeks, this House has voted to cut Medicare, Medicaid, and student loans to give tax breaks to the wealthy.

Two weeks ago today, it voted to take $648 out of the pockets of families who earn less than $50,000 a year, just so we can give a $14,000 tax break to a few lucky families who earn over $350,000 a year.

And today, we are trying to write special rules for the wealthy one more time.

Mr. Speaker, enough is enough. It is a tragedy when anybody is injured by a faulty product. Let us not make women, children, and seniors pay a special price.

I urge my colleagues: Support the motion to instruct and stand up for fairness for a change.

Mr. HYDE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the class struggle goes on. Every time some of the outstanding spokesmen for the other side take the well on almost any issue, we find ourselves in some nuanced version of dialectical materialism. Does the minority really want to help the elderly? Then let them join us in helping to reform a confusing and irrational liability lottery that is almost totally unpredictable. It makes many injured victims wait years, years before they receive any compensation for their injuries. Does the minority really want to help women? They sure say they do. Then let them join us now in overthrowing the system that is discouraging the development of new beneficial and lifesaving treatments for breast

cancer, ovarian cancer and other deadly diseases that afflict women.

A recent report by the American Medical Association contained the following quote:

> Innovative new products are not being developed or are being withheld from the market because of liability concerns or inability to obtain adequate insurance.

That is pretty clear, who is standing in the way of protecting women.

How many more Americans, men and women, will lose their lives because our current system discourages new and lifesaving products from ever being developed? Well, does the minority really want to help our children? To hear them, they sure do. They are the only ones that do. Then let them help us pass legislation and cut the lawyers tax on childhood vaccines. Ninety-five percent of the price of a vaccine today goes solely for liability costs.

The current liability system adds cost to virtually every product purchased by every American. Children suffer from the current system in many other ways. One only has to visit the many recreational parks that have been closed, little leagues that have been disbanded, swimming pools that have been altered or shut down, charitable groups such as the Boy Scouts and Girl Scouts where parents are afraid to risk volunteering, all because of liability fears.

We should be working together to pass this bill to help American children.

Mr. Speaker, it is not the elderly, women, and children who are threatened by these reforms. It is the wealthy personal injury lawyers who are threatened by reform. It is they who are pushing a small minority of our colleagues to derail these reforms in any way possible.

I urge my colleagues to defeat this motion and let us at long last get onto long overdue reform of the tort system.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. BRYANT].

(Mr. BRYANT of Texas asked and was given permission to revise and extend his remarks.)

Mr. BRYANT of Texas. Mr. Speaker, there have only been 355 punitive damage verdicts in 25 years, 355 in the whole United States. Yet the minority comes forward and presents this to us as though it is a crisis. There is not a single study, not a single study, not one study that confirms this assertion that there is a lawsuit explosion or that there is an explosion in size of verdicts or an explosion in the number of punitive damage verdicts.

What is a fact, though, is that there is only one place, one place in the United States where the humblest citizen is equal to the most powerful person, the most powerful corporation or the most powerful institution, one place where they are equal. That is the American courtroom.

And this new Republican majority is doing everything it can for its corporate supporters and its rich and powerful supporters to see to it that that is no longer the case. And that is the only thing this whole debate is about.

Has anybody on the other side, I wonder, read the Conyers proposal for instructing the conferees? What it says is that the conferees should not agree to any provision that would limit the total damages recoverable for injuries by aged individuals, women, or children with an amount less than that recoverable by other plaintiffs with substantially similar injuries.

Now, if the gentleman from Illinois [Mr. HYDE] and the Republicans truly believe that their bill is not unfair, that their bill does not disadvantage aged individuals, women or children, they should have no objection whatsoever to this instruction. But they do. Why? Because their bill plainly does.

A bill which limits punitive damages, which by the way are for intentional conduct that hurts somebody else virtually on purpose, for taking a baseball bat and pounding somebody, for stealing from somebody, depending on the type of lawsuit that it is, if punitive damages are only three times economic damages, then the little guy or women who does not make very much money and loses their livelihood can only get three times that. But the rich guy, represented by the folks on this side of the aisle, he could get three times of whatever he makes. That is what this debate is all about right here.

The fact of the matter is, these guys represent the corporate interests and the rich folks that do not want the American who is a little guy or a little woman to be equal in the American courtroom to them. That is all this whole debate is about.

For goodness sakes, read this instruction. It just says that aged individuals, women or children should not be restricted to an amount less than that recoverable by other plaintiffs when they have substantially similar injuries. Surely their damages should be the same. I think every American would agree. Vote for the instruction offered by the gentleman from Michigan [Mr. CONYERS].

Mr. HYDE. Mr. Speaker, I yield myself such time as I may consume.

I just want to respond to one sentence from my dear friend from Texas. He said ''these guys.'' I think he was referring to us. What a contrast to the old days when we used to say ''my learned friends.'' Claude Pepper, where are you when we need you?

''These guys represent the malefactors of great wealth, the bloated bondholders, the economic royalists, the big corporations.'' If I may, in a humble way say, these other guys represent the plaintiffs trial lawyers.

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the gentlewoman from California [Ms. LOFGREN] who is a distinguished member of the Committee on the Judiciary.

Ms. LOFGREN. Mr. Speaker, I am a brandnew Member of Congress; I have been here just about 11 months and was not here to hear the flowery rhetoric of last year. These gals think there is a problem with the bill before us.

I want to raise an issue that I raised in the committee and it has to do with the law of unintended consequences. At least, I believe they are unintended.

Several States of our union have passed laws that allow victims of child molestation to sue the person who harmed the child and collect under punitive damage statutes. I think that is terrific. As a matter of fact, I offered, earlier this year, an amendment in committee to impose life imprisonment on child molesters, but that was ruled nongermane. I think the tougher we are against those who abuse children, the better off society is.

I note that, unless the Conyers motion to instruct is approved, those statutes would in essence be repealed because we are federalizing the laws of the 50 States. I know that the chairman, who I truly admire and respect, does not intend this result. But the facts are that a child has no economic damages that are easily quantifiable. If an individual rapes a woman, she maybe able to quantify damages and lost wages from the trauma inflicted upon her. That case is very difficult to make if the victim of the molestation and rape is an 8-year-old. Under this bill, that child would be limited in recovery.

However, because of the money that potentially maybe needed for counseling for that child, I personally believe that if we can go after the wrongdoer in that case and make them pay as much money as possible, that is a good thing to do. We should punish that person criminally. We should punish that person civilly. Without the motion to instruct, the laws of the States that are moving in that direction, and I would say in an orderly fashion and with a lot of justification, will be preempted by the Federal Government. I think it is a mistake.

I would like to raise one other additional caution. In the Committee on Science we are going to be working on reform of the FDA, which Lord knows needs it. I am concerned that if the FDA exception in this bill is enacted at this time, it may have an unintended consequence on that serious work. In the end, it may be something we want to do, but I think the jury is still out. I think it is a mistake to do that without tying it into the overall FDA reform effort.

With that, I thank the gentleman from Michigan, [Mr. CONYERS], my esteemed ranking member.

□ 1130

Mr. HYDE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wonder if I might respond to the gentlewoman from California [Ms. LOFGREN], who is one of the very serious and pro-active members of

our committee. I want to agree with her that the matters she mentioned, it seems to me, are not adequately dealt with in our bill, and it is my intention in conference to carve out of the exceptions in this bill crimes of violence, drunk driving, criminal activity that she mentioned as being inadequately compensated, child molestation, and I do agree with her.

Mr. Speaker, it is my intention, and I am sure, with the help of the conferees, that we will make that a better situation in conference.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am delighted to hear the chairman of the Committee on the Judiciary agreeing with us on something. I am glad he thought of it now. This bill was in our committee. We tried to get a rule to this effect without any luck. Of course the gentleman does not control the Committee on Rules. But now that I find out that I am involved in dialectical materialism, I just thought I ought to find out what the heck it was, and it is the Marxian interpretation of reality that views matters as the sole subject of change and all change as the product of a constant conflict between the contradictions inherent in all events, ideas, and movements.

I appreciate that because I have also learned that now the Republicans are also supporting women. The ladies, they do not understand; we are just raising this as a political issue to embarrass the Republicans' Contract With America. But the people in the Congress that are really out to help them and the seniors are these fellas that are on the other side that correct us when we say ''these fellas.''

This distinguished group of Members of the Republican persuasion keep saying, ''Here we go again with a class war, class warfare. We only rip you off in the legislation.'' But then when we bring it to their attention on the floor, we are dialectical materialists, we are using the language unfairly. ''Women, seniors, children, this is for your benefit, don't believe these guys on the other side, the Democrats that are just trying to score political points. For goodness' sakes, we are going to limit your damages, and so why all this confusion?''

This is one of the most revealing positions of the Republican contract. This is part of the contract, limit punitive damages, because the limit will take away one of the most effective means of protecting Americans from the products that kill, maim, and do sterility and otherwise injure, and what do we get accused of? We are protecting lawyers. That is what we are doing, and they are protecting the women.

I ask, don't you understand, ladies and gentlemen of America? It is the Republicans and the contract that are helping you out. It's us that are really protecting the plaintiffs' lawyers.

So between our dialectical materialism and our protecting the lawyers the real guys get accused of trying to use class warfare as a basis of further confusing this wonderful Contract With America.

Of course the most profound mistruth being told about punitive damages is that they are awarded too often.

Now we said there are 355 punitive-damages awards in product liability. But it we take out asbestos for the 30 years' period, it only amounts to 11 awards each year, many of which were reduced on appeal.

Now is this new to the Committee on the Judiciary? I think not. We went over it a hundred times, and then we come to this floor when productive rights of women, of seniors, are now in issue, and it is a big gag; as my colleagues know, it is real funny. It is just another joke because they have got the votes, and they will probably roll us over anyway; right?

Well, it is a terrible way to legislate, and I have got a number of stories about this. But the bottom line is that the bill discriminates against seniors, women, and children, and no amount of dialog on this floor is going to change it.

Mr. Speaker, I reserve the balance of my time.

Mr. HYDE. Mr. Speaker, I yield myself such time as I may consume.

In our ongoing classes on Marxian philosophy, Mr. Speaker, the gentleman from Missouri has proposed the thesis. I propose the antithesis and in conference we will get the synthesis, and if that needs any further explanation, we can do it after the debate.

Nobody has ever said there are too many punitive-damage awards. I certainly have not. I do not know if there are or not. That does not enter into my calculus.

But what does bother me is the possibility of wild, runaway punitive damages which are not to compensate the plaintiff, the injured party, and the case immediately comes to mind in Alabama where a doctor bought a BMW, and had to take it in for some servicing, and learned that it had been repainted, and so an award of $2 million punitive damages was awarded against the automobile company. Now I suppose automobile companies, especially if they are foreign companies, are not entitled to much justice over here, but that is the sort of capricious action that we are trying to straighten out in this legislation.

So I hope the gentleman's motion to instruct is defeated.

Mr. CONYERS. Mr. Speaker, I yield myself 1 minute.

The thesis, the antithesis, and the synthesis, and I will get more lessons after this. We see it is really just a big joke, my colleagues. I mean this is just a back and forth. It is not really too serious. We do not even know if there are a lot of product liability cases or not, but what difference does it make? Let us limit them because it is in the contract. That is why we have got to limit them. We do not know how many they are, and we do not really even care.

Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I thank the gentleman from Michigan [Mr. CONYERS] for yielding this time to me, and I hope that his motion carries.

As my colleagues know, we cannot make light of what happens to people in this country and what has happened in the past to people in this country when corporations and corporate officers unfortunately and almost unbelievably from time to time have made decisions to systematically injure people and hide the cause of injury from those individuals.

I have thousands of constituents who are caught up in the asbestos scandal of the past decades, and we have gone through the corporate minutes and the memorandums between medical committees, and the chief executive officers, and the board of directors and others about how to strategically retire people before they would find out that they had mesothelioma. We would find out how people were given bonuses to be retired, and gold watches, so that they would be off the rolls when they discovered they had the cancer and they were dying. I have people in my district who drag behind them breathing machines everywhere they go. They come to see me, or they go to the show, or they go to dinner. The husband is usually dragging a breathing machine behind him.

Why? Because the Johns Manville Corp. systematically made a decision that they were going to hide from these people the damage that the company and the product was doing to them for decades while they knew it. They did the research, very analogous to what we see going on in the tobacco industry. That company that mispainted that car and sold it as new, it was not a single-shot item. They systematically were doing it in States all over the country. They were representing that people were buying a luxury automobile that was new. It was not new. It had been damaged, and dinged, and what have you, and unfortunately a lot of people buy these for the pride of ownership and everything else. They were defrauded, and they were defrauded on a systematic basis.

Mr. Speaker, that is why we need the plaintiffs' attorneys, because without the plaintiffs' attorneys who is it that is going to bring his case to the bar of justice? Who is going to take this case and bring it to the bar of justice? Who is going to get these people who worked all their lives in that asbestos company in my district the kind of recovery they need based upon their wages? Their wages were spit compared to the injury to them, and their families, and their premature death. Yes, you can calculate it out. They worked for not very good wages at all, and that

is the reward we are going to give them.

These cases have faces on them. They have faces of people who calculate that they can get away with allowing X number of people to die in a Pinto automobile and still make it profitable. They can absorb the lawsuits. What they cannot absorb is when a jury gets fed up with these people, understands that they are harming their neighbors or they are harming their community, and they put down punitive damages. Then the company says, ''We better redesign the car, we better recalculate.'' How many low-income people, how many wives, have to drive a pickup truck with the gas tank that explodes and get minimal recovery, but if an executive is driving it on his ranch, his summer home in Montana, and it explodes, what is his recovery? Why are they treated differently?

This is about equity, this is about fairness, this is about an average person not able, unfortunately, to unravel some of the conspiracies of silence, the withholding of information, that have gone on in the board rooms of the largest, most reputable corporations in this Nation, and without the plaintiff's bar those people would have never known what happened to them. They would have never been able to discuss it. They would never be able to discover it.

Mr. Speaker, that access to that bar is what this motion is about, and we ought to support the gentleman's motion.

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from Texas [Ms. JACKSON-LEE], a member of the Committee on the Judiciary.

Ms. JACKSON-LEE. Mr. Speaker, I thank the distinguished ranking member for his insight on a very important issue, and I respect my very able chairman for his leadership of the Judiciary committee, and would acknowledge to him that we should engage in this discussion quite vigorously because there is a willingness in a bipartisan manner, frankly, to look at this tort litigation system in this country and address it from a forthright perspective that would address all the concerns of people who appeared and expressed their interest on this issue, and I think frankly that we would have been able to resolve this had we looked at this issue as plainly as we are looking at it now through the motion of the gentleman from Michigan [Mr. CONYERS].

Mr. Speaker, the motion deals specifically with instructing the conferees not to agree to any provision within the scope of conference that would limit the total damages recoverable for injuries by individuals that are elderly, women, or children to an amount less than that recoverable by other plaintiffs with substantially similar injuries.

Now I ask the House, I ask my colleagues, why is that not a realistic, commonsense provision? Particularly is it common sense when we recognize that those three categories of individuals would fall in an economic level that is substantially less than many Americans.

□ 1145

It is documented that women today still earn less than men. It is documented, obviously, that children are mostly unemployed. Certainly it is documented that elderly citizens are retirees and are on fixed income.

It seems to me if we talk about a system that we want to have work for all Americans, we can clearly document that the tort litigation system, unfortunately and tragically as it may be for some, has brought about safer cars, better medical procedures, safer drugs and, certainly, better constructed homes that we can live in.

I come from a community that now is suffering from two very explosive, toxic situations in residential areas, not in commercial areas, but in residential areas where women, children, and the elderly live. We do not know what it will take to compensate them for the long-term damages of having been impacted by a toxic situation close to their homes.

I would simply ask the question: If they go into a court of law seeking justice under the Constitution, are we going to tell them that this was just a frivolous incident, it did not matter, and we do not need to address their grievances in a fair manners? That we will cap the amount they can recover even if case is found totally meritorious. But to the contrary higher income level litigants would be able to receive higher recovery for their damages even though their injuries might be no greater than the elderly person, woman, or child.

Specifically as it relates to children, children encounter severe burns, bicycle accidents, pedestrian car accidents, playground accidents. Many of them become quadriplegics. They tragically must depend upon that parent or guardian to take care of them for the rest of their life. They have no economic damages. Therefore under this legislation without this motion to instruct, these persons are penalized.

So, in combination with our States, who have done a good job in tort reform, we need to, as well, address those cases of individuals who are least served. This is a worthy motion, and it simply gives to the conferees the responsibility to take care of the elderly, the women, and children in this massive Federal tort reform legislation. We should have done it in committee.

Mr. Speaker, I ask that we support the motion to instruct by the ranking member. This is important for real tort reform that in fair to many.

Mr. HYDE. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Texas, Mr. PETE GEREN.

Mr. PETE GEREN of Texas. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, this is a very appealing motion. On the face of it, it is impossible to imagine how anyone could be against it. I commend those who drafted it for the wording of it, the appealing wording of it. But what this will do is totally gut the effort to try to bring any rationality to the award of punitive damages. As appealing as this language seems, that is really what its goal is. That is what its objective is.

To respond to the concerns expressed by some of my colleagues earlier, this concern about punitive damages is not a province of the right wing or the left wing in this country. Legal scholars across the political spectrum, liberal, moderate, and conservative, have expressed concerns not about the number of punitive damage awards perhaps, but the arbitrariness, the capriciousness of it in their award. We have seen those issues raised time and time again, recently, to the point where the constitutionality of this punitive damage process is in question again by people across the political spectrum.

I raise one very practical problem with the application of this motion to commit. How would it be applied? Would we have the plaintiff conduct the trial? They award the damages, and then do we have to have a separate trial to have a substantially similarly injured plaintiff and have a second trial, and then take what would have happened in this hypothetical plaintiff's case and apply it to this other plaintiff's case?

As appealing as this language sounds on the surface of it, it presents the litigation system in this country with an absolutely impossible task: two trials in the case, the actual plaintiff, and then this hypothetical similarly situated plaintiff. It is unworkable. It is a very clever effort to undo the sincere efforts to bring some rationality to the award of punitive damages.

As appealing as the language sounds, Mr. Speaker, I urge my colleagues to reject the motion.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentlewoman from Illinois [Mrs. COLLINS], whose announcement has left us speechless.

(Mrs. COLLINS of Illinois asked and was given permission to revise and extend her remarks.)

Mrs. COLLINS of Illinois. Mr. Speaker, I rise in support of the motion to instruct. This motion is about fairness, plain and simple. All it asks is that any limits in this bill that place total damages recoverable for injuries not be less for women, children, and seniors than it is for others receiving substantially similar injuries.

Is this common sense, that the greatest leniency in H.R. 956 will be reserved for manufacturers of products that hurt children? That is what this bill will do.

Is it common sense to say that a pharmaceutical company could face lower penalties if its product kills a senior citizen rather than a middle-aged man? That is what this bill will do.

Is it common sense to make a law that says that victims of hazardous and unsafe products such as the IUD, cigarettes, silicone breast implants, and thalidomide will have less of a chance to recover damages if they are women? That is right. That is what this bill will do without this motion to instruct.

One of the most troubling aspects of this bill is a rule for calculating punitive damages, three times the amount of economic loss or $250,000, whichever is greatest. That establishes an appalling unequal penalty based not on the severity of the harm caused by the thing, or the extent of negligence, or even malice, but on the income of the victim.

There is not common sense, this is absolute nonsense. By tying the amount of punitive damages to monetary loss alone, it is not noneconomic damages like pain and suffering, but this bill takes away the threat of heavy punitive damages for products that severely hurt people with low incomes or no incomes, like children. Think about it.

Under this bill, if a product kills a child, punitive damages, regardless of the situation, will be capped at a mere $250,000.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 1½ minutes to the gentleman from Massachusetts [Mr. MARKEY], the distinguished ranking member of the Subcommittee on Telecommunications and Finance of the Committee on Commerce.

Mr. MARKEY. Mr. Speaker, I thank the gentleman for yielding time to me, and I thank the gentleman from Virginia [Mr. SCOTT], my classmate from Boston College Law School, for his courtesy.

Mr. Speaker, I rise in support of the Conyers motion to instruct the conferees on the product liabilities legislation. The motion is very simple, but it cuts to the core of the issue of how we are going to treat the aged, women, and children who have suffered injuries due to a defective or malfunctioning product or medical malpractice. The motion very simply states that the conferees be instructed not to agree to any provision that would limit the total damages recoverable for injuries by aged individuals, women, or children to an amount less than that recoverable by other plaintiffs with substantially similar injuries.

Why is this necessary? The reason is that the House bill abolishes joint liability for noneconomic damages in all civil cases, not just product liability cases, and limits noneconomic damages in medical malpractice cases to only $250,000. These provisions have the effect of treating low-income workers, retirees, women and children, and the disabled less favorably than those who earn large salaries. Wealthy corporate executives who suffer injuries will be able to recover substantial sums of money due to their economic losses, but seniors on Social Security, women who work at home, they will be punished under this bill. Support the Conyers motion.

Mr. HYDE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it has always been my understanding of the purpose of a lawsuit to restore the plaintiff to the status that they enjoyed before the injury. It is not an effort to lump all plaintiffs in the country together, so that everyone comes out even. It is to restore the plaintiff to the situation before the injury.

Now, under present law, and it will always be thus, plaintiffs are different from each other. If Greg Maddox has an accident and has a sore arm, he is a multi-million-dollar pitcher in the big leagues, his sore arm prevents him from throwing the ball or throwing it as effectively as he could, and that is a tremendous loss.

But if I get a sore arm, it is discomfort. I just grit my teeth and live with it. But the differences are enormous in terms of litigation to recover for a sore arm or a sore ankle from an athlete or a musician whose hands are damaged than somebody whose work does not involve that high degree of skill, or that member of the human body.

All of this talk is not very logical, and it does not really make a lot of sense.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I am delighted to yield 2 minutes to the gentleman from North Carolina [Mr. WATT] to close the debate from our side, who is also a member of the Committee on the Judiciary.

Mr. WATT of North Carolina. Mr. Speaker, I thank the gentleman for yielding time to me and giving me the honor of closing this debate.

Mr. Speaker, this debate is really not unlike everything else that is going on in this House, because without the instruction to the conferees and compliance with this instruction, basically what we are saying to the conferees and to our Nation is that money is the only thing of value in this country, and we have been saying it ever since this session of Congress began. If you do not make a lot of money, if you are not rich, then you have no value. We have said it over and over and over again.

This bill simply fits right into that pattern. If you, as the chairman of our committee has indicated, make a lot of money for throwing a baseball, then you are a lot more valuable than a person who sits at home and nurtures her children and provides the sustenance of life for our community, but you do not have any economic value, and that is what this underlying bill says, and that is what this Congress has been saying to America ever since this session of Congress convened.

Mr. Speaker, that is basically what we are here arguing about. So if Members believe, Mr. Speaker, I would say to my colleagues, that the underlying value of a human being is based on the wealth that they have, the amount of money that they have, then they ought to vote against this motion to instruct the conferees. But if Members think my mother's love, sitting at home and nurturing me and serving our community and having compassion for me has some value, then they ought to vote for this motion to instruct. Please join me, and say to America that there is something of value in this country other than money.

□ 1200

Mr. HYDE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GILLMOR). Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Michigan [Mr. CONYERS].

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. CONYERS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 190, nays 231, not voting 11, as follows:

[Roll No. 777]

YEAS—190

Abercrombie	Dooley	Kleczka
Ackerman	Doyle	Klink
Andrews	Durbin	LaFalce
Baesler	Engel	Lantos
Baldacci	English	Levin
Barcia	Eshoo	Lewis (GA)
Barrett (WI)	Evans	Lincoln
Becerra	Farr	Lipinski
Beilenson	Fattah	LoBiondo
Bentsen	Fazio	Lofgren
Berman	Filner	Lowey
Bevill	Flake	Luther
Bishop	Foglietta	Maloney
Bonior	Ford	Manton
Borski	Frank (MA)	Markey
Boucher	Frost	Martinez
Browder	Furse	Martini
Brown (CA)	Gejdenson	Mascara
Brown (FL)	Gephardt	Matsui
Brown (OH)	Gibbons	McCarthy
Bryant (TX)	Gonzalez	McDermott
Cardin	Gordon	McHale
Clay	Green	McKinney
Clayton	Gutierrez	McNulty
Clement	Hall (OH)	Meehan
Clyburn	Hamilton	Meek
Coble	Hastings (FL)	Menendez
Coleman	Hayes	Mfume
Collins (IL)	Hefner	Miller (CA)
Collins (MI)	Hilliard	Minge
Condit	Hinchey	Mink
Conyers	Holden	Moakley
Costello	Hoyer	Mollohan
Coyne	Istook	Moran
Cramer	Jackson-Lee	Murtha
Danner	Jacobs	Nadler
de la Garza	Jefferson	Neal
DeFazio	Johnson (SD)	Oberstar
DeLauro	Johnson, E. B.	Obey
Dellums	Johnston	Olver
Deutsch	Kanjorski	Ortiz
Diaz-Balart	Kaptur	Orton
Dicks	Kennedy (MA)	Owens
Dingell	Kennedy (RI)	Pallone
Dixon	Kennelly	Pastor
Doggett	Kildee	Payne (NJ)

Pelosi
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Saxton
Schiff
Schroeder
Schumer
Scott
Serrano
Skaggs
Skelton
Slaughter
Smith (NJ)
Spratt
Stark
Stokes
Studds
Stupak
Tanner
Tejeda
Thompson
Torkildsen
Torres
Torricelli
Towns
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Whitfield
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NAYS—231

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Hall (TX)
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
Longley
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Scarborough
Schaefer
Seastrand
Sensenbrenner
Shaw
Shays
Shuster
Sisisky
Skeen
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—11

Chapman
Fields (LA)
Gutknecht
Montgomery
Peterson (FL)
Sawyer
Shadegg
Thornton
Thurman
Tucker
Weldon (PA)

□ 1220

Messrs. METCALF, LIGHTFOOT, FRISA, KING, KOLBE, HOEKSTRA, and BOEHNER changed their vote from ''yea'' to ''nay.''

Mr. GORDON changed his vote from ''nay'' to ''yea.''

So the motion to instruct was not agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees on H.R. 956:

From the Committee on the Judiciary, for consideration of the House Bill, and the Senate amendment, and modifications committed to conference: Messrs. HYDE, SENSENBRENNER, GEKAS, INGLIS of South Carolina, BRYANT of Tennessee, Mr. CONYERS, Mrs. SCHROEDER, and Mr. BERMAN.

As additional conferees from the Committee on Commerce, for consideration of the House bill, and the Senate amendment, and modifications committed to conference: Messrs. BLILEY, OXLEY, COX of California, DINGELL, and WYDEN.

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 2586, TEMPORARY INCREASE IN THE STATUTORY DEBT LIMIT

Mr. SOLOMON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 258 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 258

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 2586) to provide for a temporary increase in the public debt limit, and for other purposes. The following amendments shall be considered as adopted: (1) the amendment recommended by the Committee on Ways and Means now printed in the bill; and (2) the amendments specified in the report of the Committee on Rules accompanying this resolution. The previous question shall be considered as ordered on the bill, as amended, and any amendments thereto to final passage without intervening motion except: (1) one hour of debate on the bill, as amended, which shall be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means; (2) one motion to amend by the chairman of the Committee on Ways and Means or his designee, which shall be considered as read and shall be debatable for twenty minutes equally divided and controlled by the proponent and an opponent; (3) one motion to amend by Representative Walker of Pennsylvania or his designee, which shall be in order without intervention of any point of order, shall be considered as read, and shall be debatable for forty minutes equally divided and controlled by the proponent and an opponent; and (4) one motion to recommit, which may include instructions only if offered by the minority leader or his designee. During consideration of the bill, no question shall be subject to a demand for division of the question.

The SPEAKER pro tempore (Mr. GOODLATTE). The gentleman from New York [Mr. SOLOMON] is recognized for 1 hour.

Mr. SOLOMON. Mr. Speaker, for the purposes of debate only, I yield 30 minutes to the distinguished gentleman from Ohio [Mr. HALL], pending which I yield myself such time as I may consume.

During consideration of this resolution, all time yielded is for the purpose of debate only.

(Mr. SOLOMON asked and was given permission to revise and extend his remarks and to include extraneous material.)

Mr. SOLOMON. Mr. Speaker, House Resolution 258 is a modified closed rule providing for the consideration in the House without intervening point of order of the bill, H.R. 2586, providing for a temporary increase in the public debt limit.

Mr. Speaker, the rule provides for 1 hour of debate equally divided and controlled by the chairman and ranking minority members of the Committee on Ways and Means. The rule provides for the adoption of the amendment reported by the Committee on Ways and Means now printed in the bill together with four other amendments specified in the Committee on Rules report.

Those amendments include—and Members ought to listen up, if they are back in their offices—the amendments include, one that I authored that commits the President of the United States and this Congress to enact legislation this year that will achieve a balanced budget no later than fiscal year 2002. Moreover, my amendment affirms that the Congress will not, and this is important, will not enact another increase in the public debt limit until the President has signed that balanced budget legislation into law.

The second amendment is one nearly identical to the one that was contained in the short-term continuing appropriations resolution. It will permit Medicare coverage of certain anti-cancer oral drug treatments for prostate and breast cancer.

The third amendment adopted by this rule is a habeas corpus or death penalty reform provision, taken from the Senate-passed anti-terrorism bill, a long overdue change in the now endless appeals system that is preventing the execution of those who are convicted murderers.

The fourth amendment, authored by the gentleman from Michigan [Mr. CHRYSLER] and developed by many committees of this House, is legislation to eliminate a major Cabinet department, the Department of Commerce, the first time that has happened in 40 years.

Mr. Speaker, in addition to those four amendments, the rule makes in order consideration of a regulatory reform amendment to be offered by the