

that was an abuse of authority. And, of course, there are many others.

Mr. President, the Olympic games include the high jump. The gold medal is awarded to the person who jumps the highest, not to the person who sets the bar the highest but fails to scale it. President Clinton may honestly believe that his administration has set the ethics bar the highest of any of his predecessors. But that is irrelevant because so many people he has appointed are not clearing that bar.

With ethics, it is not the standard that is set but the standard that is met that counts. The fact is that this administration is not practicing what it preaches in the area of ethics. And that fact is unfortunately reducing public trust in Government. When President Clinton is questioned about the ethical performances of his administration, as he was in a news conference, he should make amends, not excuses. He should make sure that his appointees live up to the standards he believes are so high. Until then, the questions will continue.

Mr. LOTT addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Mississippi.

SCHEDULE

Mr. LOTT. Mr. President, as has already been announced, following the leader time, morning business will go until 11 o'clock with Senators allowed to speak not to exceed 5 minutes. In addition to the exception of 10 minutes for Senator GRASSLEY just being used, we also have 10 minutes for Senator ABRAHAM, 10 for Senator KOHL, and 15 minutes for Senator GRAHAM.

At 11 o'clock, we will resume consideration of H.R. 889, the supplemental appropriations bill. Cloture was filed last night on the Kassebaum striker replacement amendment. We hope to set that aside and set aside the pending Kassebaum amendment so we can consider other amendments. I urge my colleagues on the other side to allow that to happen, because this is an important supplemental appropriation.

We have already agreed that we will have a vote on Monday on the cloture motion, and we have other business that we can do on this bill. We should go forward with that this afternoon.

If consent is not given, the leader has indicated that he would expect full debate on the Kassebaum amendment throughout the day, and votes, therefore, would be possible throughout the day.

I yield the floor.

Mr. ABRAHAM addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. ABRAHAM. Thank you, Mr. President.

Mr. ABRAHAM. Mr. President, I would like to congratulate.

TORT REFORM

Mr. ABRAHAM. Mr. President, I would like to congratulate our colleagues in the House for acting this week to bring our tort system under control. The bill passed by the House earlier this week imposes all attorneys fees on a party who turns down a settlement offer if the final judgment is not more favorable to the offeree than that which he turned down. It also would eliminate junk science from the courtroom and require courts to sanction attorneys who file frivolous claims.

The House action constitutes an important first step toward reforming our civil justice system.

I also would like to take a few moments to respond to the criticism recently leveled at attempts to reform our tort system.

President Clinton and his Attorney General have called the House reform bill "too extreme." His counsel Abner Mikva went even further, claiming that the bill would "tilt the legal playing field dramatically to the disadvantage of consumers and middle-class Americans."

Some of our colleagues and the American Trial Lawyer's Association, one of President Clinton's most generous and loyal contributors, would like this characterization to take hold.

Opponents of tort reform would like it if the American people were to see changes in our civil justice system as a boon to big corporations and the rich rather than a broad-based set of reforms that will help consumers, victims, and the general public at the expense only of a handful of individuals and lawyers who bring frivolous lawsuits.

To hear much of the public debate you would think that tort reform is a struggle between corporate fat cats who want to injure the public with impunity and legal barracudas who seek only to feed on small business and the tort victims who must entrust lawyers with their claims. But this heated rhetoric in my judgment, helps no one, in fact it keeps us from focusing on the issue at hand—making our tort system more just and fair.

I come to this debate, not to attack lawyers, but to help victims and consumers. I take exception to the charge that tort reform is anti-consumer, particularly given the faults in the system as it stands.

Is it really pro-consumer to have a system like the current one in which those who are injured—consumers of legal services—receive only 43 cents of every dollar in damages awarded?

Is it really pro-consumer to have a system in which, as reported in a recent Conference Board survey, 47 percent of firms withdraw products from the marketplace, 25 percent discontinue some form of research, and 8 percent lay off employees, all out of fear of lawsuits?

Does it really help consumers and the middle class to have a system in which,

according to a recent Gallup survey, one out of every five small businesses decides not to introduce a new product, or not to improve an existing one, out of fear of lawsuits?

Are we and our children better off when pharmaceutical companies stop producing helpful drugs like the DPT vaccine out of fear of lawsuits?

In this last case, that of DPT, two of the three companies making the vaccine stopped production in 1985 because they could not afford to deal with all the suits arising from the always highly suspect and now clearly disproved theory that it might in very rare instances cause brain damage. To conserve the limited supply remaining the Centers for Disease Control recommended that doctors no longer vaccinate children over age 1, leading to who knows how many illnesses in small children.

Is it really pro-consumer to have a system in which poor, unsophisticated clients in particular must hire lawyers, without fully knowing how much they will pay or what their options for legal services are?

Are our communities better off when the parents of Little Leaguers are afraid to have their kids play or organize games for fear of being sued?

Legal reform is in everyone's interest. The tort reform bill Senator MCCONNELL and I have introduced would lower prices, establish a legal consumer's right to know what he or she is purchasing and at what cost, promote early settlements, and reduce time and cost to injured parties, as well as often innocent defendants.

Our bill would curb windfall profits in lawsuits—thus reducing the price ultimately paid for goods by the consumer—by capping punitive damages and eliminating joint and several liability.

The bill would empower clients in their dealings with lawyers by requiring that attorneys disclose in writing, to any client with whom they have entered a contingency fee agreement, both the actual services performed and the precise number of hours expended on performing them. The bill also would require lawyers to tell clients that they may pay a percentage of their award or, alternatively, pay an hourly fee.

Thus we would protect consumers' right to know how much they are paying and for what services. We recognize this right to know in all other markets and should do so in the legal services market as well.

Our bill also would reform contingency fees by providing that, if a plaintiff receives a settlement offer and still wants to go to trial, the lawyer would receive the usual contingency percentage only on the portion of the award that is above the original offer.

Besides preventing lawyer overreaching, this last contingency fee reform also will encourage early settlements, thus saving transaction costs