

for plaintiffs and defendants, and ultimately consumers.

Our bill also would allow defendants, by making an early offer, to limit their exposure to certain damages and legal fees.

If a potential defendant agrees to pay in full for economic losses and the plaintiff accepts the offer there obviously would be no lawsuit. Under our bill, should the plaintiff not accept the offer, he or she still can sue, but can only recover noneconomic damages if they prove beyond a reasonable doubt that the defendant intentionally acted against the plaintiff's rights.

Besides discouraging lawyers and litigants from unreasonably holding out for more money and higher fees unless it clearly is warranted, this reform also would discourage defendants and their insurance companies from dragging out litigation in hopes of making plaintiffs give up their suits and go away.

Promoting early settlements, reducing insurance and legal transaction costs and thus reducing prices and stimulating production and innovation, and protecting the legal consumer's right to know. Those are the reforms we seek to institute for the good of all members of the American community.

Which brings me to my final point. Community is one of President Clinton's favorite terms. The President even wants a new covenant to bind us together as a people. Well I too am a proponent of community. I think it is important for Americans to join together in their homes, in their churches, and on their neighborhood baseball fields to learn one another's needs, form common habits, and see one another more as brothers and sisters than as strangers.

But Americans join together less and less, out of fear that an accident on the Little League baseball field will land them in court. Accidents happen, we all know that. But in my judgment, if we all spend all of our time trying to avoid them, or at any rate avoid paying for them in court, we will not have much time or energy left over to form the bonds of community that hold our society together.

Without the bonds formed on our ballfields and in our local civic halls we will lose that sense of our duty to be decent and civil to one another that maintains our civilization.

Our current tort system, by turning neighbors into potential defendants and/or plaintiffs, discourages us from coming together, and that is a major reason why I believe it must be changed. We must reform the system to reward the neighborly, who seek to settle disputes quickly and so reduce the fear of being sued that hangs over too many relationships in our society today.

As we proceed with legal reform in the Senate, I would urge that we consider everyone's needs and interests—victims who should receive quick and fair settlements, consumers who should not have to pay higher prices or have

their product choices and economic opportunity stifled by high legal costs, and members of our own communities, whom we should not be tearing apart through explosive rhetoric but rather bringing together in a spirit of trust and cooperation.

Mr. President, I yield the floor.

Mr. GRAHAM addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Florida.

Mr. GRAHAM. Mr. President, I believe under the order Senator KOHL was to speak at this time. I was to speak after Senator KOHL. I request the opportunity to speak at this time.

The PRESIDING OFFICER (Mr. GORTON). Without objection, it is so ordered.

#### EXTENSION OF MORNING BUSINESS

Mr. GRAHAM. Mr. President, I have a unanimous-consent request which has been cleared on both sides. I ask unanimous consent that morning business be extended for up to 30 minutes so that I and Senator KOHL may have time provided under the previous order, and that up to 15 minutes be allocated to the Senator from North Dakota [Mr. DORGAN].

The PRESIDING OFFICER. Without objection, it is so ordered.

#### TRIBUTE TO REVEREND HALVERSON

Mr. GRAHAM. Mr. President, I would like to extend my very warm feelings for the service that Reverend Halverson has extended to me and to my colleagues.

One of the challenges in life is to be able to approach it holistically. We tend to focus on that thing for which we have a particular responsibility. In our case, our responsibility to represent our constituents in the Nation in the U.S. Senate.

What Reverend Halverson has so appropriately reminded Members is we also have broader reins of responsibility—responsibilities of a spiritual nature, responsibilities of a human nature, particularly our responsibilities within our own families. That constant reminder of our broad range of responsibilities has been one of his gifts to me. It will be a gift that I will continue to draw strength from.

I wish the reverend well in his own next stage of life. As I told him personally a few moments ago, I hope that he will be able to include some of the warmth of our State—not only its climate—in our appreciation of his service.

(The remarks of Mr. GRAHAM pertaining to the introduction of S. 529 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the Senator from North Dakota is recognized for not to exceed 15 minutes.

#### CONGRATULATIONS TO REVEREND HALVERSON FOR DEDICATED SERVICE

Mr. DORGAN. Mr. President, I would like today to congratulate Reverend Halverson for his dedicated service to the Senate of the United States and to our country, and say that I take a special pride in the fact that Chaplain Halverson comes from my home State of North Dakota. He is from Valley City, ND. He has performed a wonderful service for our Nation.

I would like to add my comments to the comments of so many of my colleagues about what he has done for all of us for all of these years.

#### TAX CUT—WHAT IS POPULAR IS NOT ALWAYS RIGHT

Mr. DORGAN. Mr. President, a week ago, we finished a debate about a constitutional amendment to balance the budget. In that debate, there was a great deal of discussion about the desire of Members of Congress to see the Government balance its books and produce a balanced budget.

It is interesting to me today, on Friday, that we find a week later some of those who boasted the loudest about wanting to balance the Federal budget are now deciding that what we really need to do is to cut taxes. In fact, they are just marking up in the other body a \$188 billion tax cut bill, which I assume is popular and I assume that in their polling has shown to be something that the American people would favor. So they decide that the road to fiscal policy health, at least from their perspective, is to offer the American people a tax cut.

Often what is popular is not always right, and that is the case with a proposed tax cut at this point in our country's history. All of us would like to be able to say to our constituents, we would like lower taxes for you. In fact, if we are signing up, let me sign up for a zero tax rate for my constituents.

I am sure that most of them would like to not pay any taxes if they can avoid doing so, but they understand the responsibility to do so. They understand the need to keep our streets safe and have a police department, to have a Defense Department to keep our country secure, to pay for education, to pay for the things that make life worthwhile in this country. They understand the need to pay some taxes. They do not want those payments wasted. They want them invested in the future of our country.

But at a time when we have a significant debt and a very significant budget deficit, for those who bellowed the loudest about changing the Constitution to require a balanced budget to 7

days later now tell us that their plan really includes reducing Federal revenues by \$188 billion reminds me a little of watching ponies at the circus, all gussied up, prancing around in a circle, never going anyplace, just showing off.

The question is, Are you going to balance the budget or not? You do not balance the budget by cutting this Nation's revenues and increasing one of the largest accounts, defense spending. That is not an arithmetic that I learned in a high school class of nine. There might be a new math out there someplace that comes with these new Republicans who have arrived in Washington, but if it is a new math, I do not think it adds up.

At least from my standpoint, I say to the Contract With America and those who wrote it, I say to the President, I say to others who believe there ought to be a tax cut, you are wrong. Our job is simple. Our job is to cut Federal spending and use the savings to cut the Federal budget deficit. That is our job. It is not our job to be weather vanes, spinning to the latest moment of public passion and deciding it is popular now to be talking about tax cuts. It is our job now to be talking about spending cuts and reducing the budget deficit and putting us on a path towards balancing this Federal budget.

So again I say the proof is not in what people say, but it is in what people do. Those who now come trudging along with a proposal for a massive tax cut, much of which will go to the wealthiest of Americans, do no service to this country in the search for a balanced budget. I, for one, believe our job is clear. It is not to cut taxes, it is to cut spending and use the savings to cut the budget deficit. The sooner we do that in a serious way, the better this country's future will be.

#### SOCIAL SECURITY TRUST FUND

Mr. DORGAN. Mr. President, I would like to speak this morning about one other issue. In this morning's newspaper, a columnist named Krauthammer wrote a column. It was entitled "Social Security 'Trust Fund' Whopper." His column was one of the most Byzantine pieces of journalism that I have seen in some long while, and I have seen a few in my public career.

It demonstrates to me that you can be an awfully good writer without knowing anything about math or accounting. In fact, when I read this column this morning by Mr. Krauthammer, it occurred to me this is a candidate for O.J. Simpson's defense team. Facts and evidence seem irrelevant.

Let me go through just a bit of this column and talk about some of the conclusions.

Mr. Krauthammer's contention is that the Social Security trust fund is a "fiction." He says, it is a pay-as-you-go system and he says there, incorrectly, by the way, we are accumulating surpluses in the trust fund today so that

"with so many boomers working today" that "produces a cash surplus."

Mr. Krauthammer, I think, pulled away from the research table a little too soon; at least his research comes up a little short. The surplus this year in the Social Security trust fund is not because we have so many boomers working and they produce a cash surplus, it is for a very specific reason. Mr. Krauthammer would know it had he researched it or remembered it.

In 1983, we passed a Social Security reform bill and in that bill made a specific, conscious decision to increase the FICA tax, in order to produce revenues that exceeded expenditures during this period and leading up through about the year 2019. We did that deliberately because we knew we were going to need those revenues later.

This is not a surplus that is an accident as a result of more people working. That is not what it is about. This is a deliberate strategy, and he could determine that by simply going back and reading the 1983 Social Security Reform Act. I, incidentally, helped write that. I was on the Ways and Means Committee at the time, so I would know something about that.

I would tell him, in future columns, he might want to remember, it is not an accident. It is not how many people are working versus how many retired. This was a deliberate strategy embarked on in 1983 to accumulate a deliberate pool of national savings in order to meet a need after the baby boomers retire.

Mr. Krauthammer says the Social Security trust fund is a fiction. Well, the money that is collected from the paychecks of workers and from those who employ them in this country is deposited in a trust fund that invests them in Government securities. The trust fund is in the same position as a young boy who just received as a birthday gift a \$100 U.S. savings bond. Both possess assets, redeemable by the Federal Government. So the proposition that the trust fund is a "fiction," as Mr. Krauthammer suggests, demonstrates, in my judgment, a profound lack of knowledge.

Perhaps the best way to demonstrate the bankruptcy of this argument by Mr. Krauthammer would be to use the year 2002, just focus on one year, 2002, when my friends who proposed the balanced budget amendment say the budget would be in balance.

Let us take a look at that year only. According to the Congressional Budget Office, in the year 2002, we will in that one year alone raise \$111 billion more in Social Security receipts than we need in spending. That surplus, as I have said before, is part of a long-term plan to save for the period when we are going to need the extra money.

Now, under the constitutional amendment that was offered, in the year 2002, the operating budget of the United States would show a zero balance. But, of course, in order to show the zero balance the \$111 billion surplus

in the Social Security trust fund account would have to be used to get there. Without using the Social Security surplus for that year, the operating budget deficit would not be zero, would not be in balance, but would in fact show a deficit of \$111 billion.

The legislative promise that was made in 1983 was that that \$111 billion would be saved in a trust fund to be used later. But, of course, if it is used to reduce the operating budget deficit, there is then no forced pool of national savings with which to fund the baby boomers' retirement later.

Now, I would say if Mr. Krauthammer's view, and for other proponents I would say, if their view of double-entry bookkeeping is that you can use the same money twice, then I understand the rationale for his column this morning, and I understand the rationale for their argument. It is, of course, a fraud, but it is still a column or it is still an argument. If, however, he, like most people, understands you can only use money once, it is either here or it is there. It is not both here and there. Then the balanced budget achieved by the constitutional amendment in the year 2002 was not in balance at all. It was \$111 billion in deficit.

To me at least that looks like Washington as usual. It looks like Washington the way it always works, I guess an environment which Mr. Krauthammer is part of and comfortable with. But it is still, nonetheless, not honest budgeting.

Let me use an example probably closer to home. Let us assume a columnist makes speeches and gets speaking fees, big speaking fees, and uses a portion of those speaking fees to put them in a 401(k) to save for later in life.

Now, let us assume that after putting money away in a 401(k) from speaking fees, that person goes on a spending binge and spends more than their current income, and simply takes the money out of the 401(k) to cover the extra spending that occurred. And I suppose that person could say, well, I spent no more than I had; I spent all my income plus all my savings.

It is true they spent no more than they had, but it is also true they depleted their savings; they have no 401(k); it is gone. And that is the point.

That is the point about the year 2002. And that demonstrates it is not honest budgeting if you promise to save in a trust fund and use it to balance the rest of the budget. That is the point Mr. Krauthammer misses, and it is the point others miss.

I feel a bit strongly about this, as my colleagues understand, because I helped write the 1983 Social Security Reform Act when I was a member of the Ways and Means Committee. I would not have ever supported or cast a vote for that kind of proposition if someone had said to me, "let us increase payroll taxes, let us tell the American workers that those moneys will go into a trust fund, let us use that