have denied the attorneys their windfall, their lottery award. They are going to get plenty up to the $250,000, but what they will not get is that big bonanza, the jackpot, where they convince the jury that there is such an egregious situation here that the claimant gets, let us say $1 million, and the lawyer then is going to get at least a half a million. No. The claimant in this case would get the bulk of that $1 million, if that is the amount that is awarded.

So what we are saying here is that the lawyer is going to be limited but guaranteed, in effect, a percentage of both the economic damages and noneconomic damages, if they are otherwise awardable. They just cannot exceed either 33 percent or 25 percent.

In the case of the noneconomic damages, the pain and suffering damages, they cannot exceed 25 percent of the first $250,000, or in other words, $62,500.

Now in some cases, Mr. President, there is a third kind of award and it is punitive damages. There have been several statements made about punitive damages and ways to limit punitive damages. These are the damages not intended to compensate the victim but rather to punish the defendant for wrong conduct, conduct that is very wrong, that is willful or malicious, is in great disregard of the rights of the public and intended to cause a defendant never to do it again or, in the case of a defective product, for example, to fix that product and never allow a defective product again to hit the market.

In those cases, there are limits in the underlying bill on the amount of punitive damages that can be collected. Under the McConnell amendment, the total award for punitive damages in the medical malpractice kind of case is either $250,000 or three times the economic damages, whichever is greater. The Snowe amendment, which has been presented just before my comments, would limit the total award for punitive damages in these cases to two times compensatory damages, which is the sum of the economic and noneconomic damages. In either case, there is some limit on the amount of punitive damages.

The question is, should attorneys receive any percentage of that as well? And what my amendment says is that if the attorney believes that he or she is entitled to a percentage of the punitive damages awards in addition to the other two kinds of awards, that attorney may petition the court and the court may grant reasonable and ethical attorneys' fees based upon the amount of time that the attorney has put into the case.

There is a presumption that 25 percent is reasonable. So, here again, the attorney can petition the court, can get at least 25 percent. A court may even deem that a larger amount would be warranted. But, in any event, it has to be reasonable and ethical and based upon the amount of work that the attorney put in.

So, as I say, Mr. President, some people will say, ''Well, this is not much of a limitation. You haven't whacked the attorneys. You haven't cut them out of all of their awards,'' and so on. And we have not.

The reason we are offering the amendment this way is to guarantee that people who have a good case can get a lawyer to take their case, and with these limitations they can clearly get the lawyers to take their case.

But what it prevents is the situation where the lawyer gets the bulk of the recovery and, in the case of the very large award, hits the jackpot, gets the big bonanza, in effect.

The objectives of the overall legislation, Mr. President, are, first of all, to ensure that people can be compensated in our tort system. This bill helps to guarantee that result.

We need incentives for lawyers to take these kinds of cases which frequently the plaintiff cannot pay for by the hourly rate or money up front to the lawyer, so there has to be a contingency fee. We provide for that.

We need to ensure that in the case of the economic damages, the lawyer is limited in how much of those economic damages can be recovered as attorney's fees. That is limited in the underlying bill.

We are saying that with respect to the pain and suffering damages, most of that ought to go to the victim. Seventy-five percent of it ought to go to the victim, the claimant, the plaintiff. But, again, we allow up to $250,000 of noneconomic damages, the recovery of 25 percent of that amount by the attorney and, as I said, in punitive damages, the opportunity to collect fees there, as well.

So the real question is whether lawyers should be getting 50 percent, or somewhere between 25 and 33 percent. And I think, Mr. President, that this body will agree that placing some cap, some limit, is desirable and that it will help us to avoid the situation that causes a great deal of public anger, frankly, with our litigation process.

Ironically, I think we might even help the legal profession, which is being greatly criticized by the public in public opinion surveys these days primarily because of their fees. There is a Hudson Institute study which notes that there has been a doubling of negative attitudes toward lawyers since 1986 and that exorbitant attorney's fees are a major factor in this increase in the public's ill will for lawyers.

Ironically, we may even be helping the legal profession, and that is not all bad, either. We will be debating this amendment, and others, on Monday next, and I hope very much that all of the Members of the Senate will reflect on how this amendment, narrow that it is, will improve the bill, will improve the McConnell amendment, and will improve the pending amendment before the body and, as I said, allow the victims to recover more of what the juries award to them.

Mr. President, I will debate and present further arguments with respect to this matter on Monday. At this time, I would like to make a closing statement on behalf of the leader.

ORDERS FOR MONDAY, MAY 1, 1995

Mr. KYL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 11 a.m. on Monday, May 1, 1995; that following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be waived, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and there then be a period for the transaction of morning business not to extend beyond the hour of 12 noon, with Senators permitted to speak for up to 5 minutes each, with the following exceptions: Senator GREGG, 30 minutes; Senator GRAMS, 15 minutes.

Further, that at 12 noon, the Senate immediately resume consideration of H.R. 956, the product liability bill.

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

ORDER OF PROCEDURE

Mr. KYL. Mr. President, for the information of all of our colleagues, the leader has asked me to announce that the Senate will return to session on Monday. However, there will be no rollcall votes during Monday's session. Under the order, any Member who wishes to offer a medical malpractice amendment must offer and debate that amendment on Monday. Any votes ordered on any of those amendments will be stacked to occur at 11 a.m. on Tuesday.

ADJOURNMENT UNTIL MONDAY, MAY 1, 1995, AT 11 A.M.

Mr. KYL. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:14 p.m., adjourned until Monday, May 1, 1995, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate April 27, 1995:

THE JUDICIARY

GEORGE H. KING, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA, VICE A NEW POSITION CREATED BY PUBLIC LAW 101–650, APPROVED DECEMBER 1, 1990.

DONALD C. NUGENT, OF OHIO, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF OHIO, VICE THOMAS D. LAMBROS, RETIRED.