

vice chairman of the Texas Department of Criminal Justice, came under criticism for bringing along his buddies to watch convicts try to elude prison dogs on the hunt. Mr. Hodge dubbed the event the "ultimate hunt" and gave his pals jackets inscribed classily, "Ultimate Hunt," but now the American

Civil Liberties Union is protesting and Mr. Hodge's pals may have to return their jackets. In Sacramento, California, Superior Court Judge David Stirling ruled that a mother who was given custody over her five-year-old boy will have to refrain from smoking in his presence until the child

turns eighteen. Then anything goes. • On September 1 the state of Michigan ended its program of allowing Medicaid clients twenty-four free condoms a day, owing to abuse of the program. Pickets appeared in front of Manhattan's left-wing *Village Voice* protesting near sweat-shop conditions

at that celebrated organ of progressive sensibility. The Kinsey Report's Dr. June Reinisch flailed at Americans for failing to pass her test of sexual intelligence. Fifty-five percent flunked the report, according to Dr. Reinisch, who has two nicely turned ankles but remains fastidiously nulliparous.—RET

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## C O R R E S P O N D E N C E

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### Trial Lawyers' Entrails

Congratulations on Robert Stowe England's account of how organized plaintiff's lawyers have succeeded in manipulating Congress and the press ("Congress, Nader, and the Ambulance Chasers," *TAS*, September 1990). The most aggressive contingency-fee operators have made a fortune inflaming public sentiment against every other industry and profession; yet curiously (or not so curiously) they have thus far escaped critical scrutiny of their own dubious conduct. Mr. England's piece, together with the pioneering work of Peter Brimelow and Leslie Spencer in *Forbes*, should help rectify that.

In the deadline crush, unfortunately, the author inadvertently got a quote from me a bit wrong, leaving the impression that the plaintiffs' bar had managed to monopolize Democratic fund-raising completely in some states. The crucial point remains that their funding is extraordinarily influential in making and breaking politicians, and comes with at least as many strings as funding from other sources.

—Walter Olson  
*Manhattan Institute for Policy Research*  
*New York, New York*

Mr. England's article was read with great interest and approval. The term "America Held Hostage" takes on profound new meaning so long as these jackals are permitted to use the judicial system as a form of national lottery.

The first paragraph of Mr. England's article had a few errors that, while slight, will probably cause undue pain and suffering. The bus carried eighty-three souls, not seventy. It was struck by a Dr. Pepper delivery truck, not Coca Cola; and it was near Alton not Alston, Texas. The driver of the bus survived, as did the driver of the truck.

The frothing of the bloody water by the legal sharks was an amazing, disgusting spectacle. Some were even convicted later of misdemeanor business solicitation. Many people in the area were amazed at the level of the settlements and the trial lawyers' share for doing less work than most secretaries do in three days.

In one case, a biological father of

one of the children came forward with his lawyer in order to receive his fair share, \$900,000. The fact that he was a fugitive from justice, had abandoned his wife and child long before, and had never paid any child support made no difference. For this magnificent contribution to the system of American jurisprudence the trial lawyer received \$300,000.

The social impact of the settlements has been predictably troubling. The grieving survivors now cannot be discerned from the ranks of the drug traffickers because of their gold and diamond ornamentation, their flashy expensive automobiles, and consumptive lifestyle. The lawyers live the same way, but some would think with less right to tread upon the graves of the dead children. —David Christian Newton  
*Mission, Texas*

Thank you for Robert Stowe England's well-researched look into the hypocritical posturing of Ralph Nader. The only consumer Nader represents is himself. His kow-towing to the trial lawyers serves to promote his Byzantine network of organizations representing Nader's left-wing ideology.

Please note the error on p. 21. Nebraska Senator James Exon is a Democrat, not a Republican.

—Stephen E. Slattery  
*Falls Church, Virginia*

*The American Spectator's* September article on the plaintiffs' trial bar did not even make a cursory attempt to be even-handed. Surely your readers deserve more than inaccuracies, unreliable anecdotes, and blatant bias.

To cite just one example, the article states that "thousands of American trial lawyers . . . descended on Bhopal . . ." This statement is ludicrous. There aren't thousands of American trial lawyers who would be interested in such despicable conduct. The obvious inference that the trial bar in general condones such activity totally overlooks the resolution by ATLA's Board of Governors strongly condemning solicitation of disaster victims and their families. Why did your publication choose to completely overlook this

easily accessible and already well-publicized resolution?

Further, the article includes no mention of ATLA's extensive educational activities, or of our contributions to the health and safety field. We have a program designed to prevent harm to citizens—and we provide support to injury prevention and rehabilitation organizations. We sponsor conferences on toy safety, injury prevention for senior citizens, and farm safety. ATLA is a large, diverse association with numerous interests and many good works. Any image of ATLA as a "single issue" organization is a result of the article's own lack of balance.

Your readers surely deserve reporting that is fair and factual. It's unfortunate that they didn't receive it in this article.

—Thomas H. Henderson, Jr.  
*Executive Director*  
*The Association of Trial*  
*Lawyers of America*  
*Washington, D.C.*

### Robert Stowe England replies:

Now, now, Mr. Henderson, look who's calling the kettle black. The incidents are not merely single-source anecdotes, as you suggest, but have been corroborated. Both identified sources and those not identified are either leading members of Congress, attorneys on prominent congressional committees, tort reformers and their lobbyists, consumer advocates, and a few of the more forthcoming members of the trial bar. They cut across the political spectrum. They are responsible and credible eyewitnesses. You fail to attack any single major allegation of the story, which appears to suggest you have no major challenge to any of the facts or events as reported. Furthermore, no other party to any of these stories has questioned the facts contained in them. You make no effort to disagree with the conclusion that the trial bar has systematically reduced Congress to a lapdog, and that nothing ever passes Congress that threatens the interests of the trial bar. Far from being unbalanced, the story omits dozens of additional examples of influence-peddling and manipulation of Congress.

As for Bhopal, while no one made

a head-count of the hordes of lawyers that flew half-way around the world when a gas leak killed two thousand and injured thousands more, it was commonly observed at the time and has been since that the trial-bar lawyers there numbered in the thousands. Your claim that there are not thousands interested in "such despicable conduct" could not withstand a single cross-examination. Everyone knows that thousands of American trial lawyers chase ambulances and feed off the tragic mishaps of the world every day with relish and gusto. Only one of the many thousands of victims and relatives of the Indian dead would have been a windfall for any of these colorful entrepreneurs. As for your association's so-called educational activities, they are surely a distinctly minor part of this story. They are remarkable only because they appear to be publicity gimmicks to soften the rather unflattering image trial lawyers have earned. If you were really interested in the public, you would encourage trial lawyers to work by the hour at a reasonable fee, payable only after the case is settled, or give tort reform a chance to work. Needless to say, the day after you do either of these will be the day hell freezes over.

I must thank Mr. Newton for the corrections. Unfortunately, I relied on media reports for most of the facts in the case. The *New York Times* erroneously reported that it was a Coca-Cola truck that hit the school bus, and omitted the location of the accident. A tortured sentence in *Time* magazine left the impression that both drivers were killed. News accounts still differ on the number of people on the bus. From now on, I'll have to recheck even the facts and assume that the reporters on the scene may not be reliable.

Mr. Olson, since I did not tape-record the interview with you, I cannot state categorically that you made the statement as quoted, but, according to my notes, the quote is exactly as I heard it. In any case, I'm happy to see the record set straight, and I'm sorry for any trouble it may have caused.

And, Mr. Slattery, the damage Nader does goes beyond that caused by left-  
*(continued on page 49)*

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# EDITORIALS

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## THE UNFINISHED CONGRESS

by R. Emmett Tyrrell, Jr.

The House of Representatives and the Senate are back in session after their month-long holiday. This unfortunate occurrence could not be prevented, as it is mandated by joint resolution of the Congress. On the other hand, were the lawmakers of the 101st Congress never to return, history could confer on it a memorable and significant title. Just as Franz Schubert's B Minor Symphony has been known to generations of music lovers as the "Unfinished Symphony," the 101st Congress could be known to students of American politics as the "Unfinished Congress"—and for good reason. Whether the lawmakers adjourn on time or not, you can be sure that they will leave with their business unfinished.

After all, it has been years since a Congress finished its business. The main business of Congress is to pass a budget that funds the government. Since the 1974 Budget Act, the Congress has not passed a budget on time and usually managed to keep the government going only through a series of blowsy continuing resolutions. In fact, since 1969 it has not even balanced a budget. Now, as the distinguished public servants fly back into Washington, they all are vowing to slay that irksome budget deficit. They will not finish this business and they will not accomplish much else.

*Adapted from RET's weekly Washington Post column syndicated by King Features.*

The fact is that the kind of people we elect to Congress all essentially see government from the same perspective. That is to say, they see government as a giant milch cow for feeding their hungry constituents. They do not see it as a potential danger to civil liberties, as did the Founding Fathers. In fact, as the political scientist James Q. Wilson has written, the modern congressman is a breed apart from the pre-New Deal congressman. The older variety arrived in Washington believing that there were things he could not do. The Constitution and good sense barred him from certain undertakings.

Today's lawmaker feels bound by no such restrictions. President George Bush, ever the good guy, has relaxed his strictures against raising taxes in the hope that the congressional Democrats will help him balance the budget by cutting spending. But the congressional Democrat is biologically incapable of cutting spending. Perhaps someday researchers scrutinizing the DNA structure of the common House Democrat will isolate a gene that inclines him toward spending public monies, much as researchers have found genes that incline individuals toward other forms of anti-social behavior. As for now, we can be sure that this Congress is not going to come up with the necessary budget cuts to achieve balance or make headway in cutting the deficit.

Whether we recognize it or not, this is going to be another Unfinished Congress. That is not wholly to be sniffed

at. Some of the bills that await the lawmakers' wizardry are best left unfinished. The so-called Civil Rights Bill might better be called the 1990 Lawyers' Employment Act. It will be a boon for ambulance-chasers, who will be able to drag even very small businesses into court to defend hiring practices. The Clean Air Bill will impose a cost on the economy ranging from \$35 billion to \$45 billion, with no proven benefit whatsoever to the environment.

As the lawmakers of the 101st Congress settle down to work, I find it very heartening to see that a growing number of my fellow Americans share my low opinion of our elected solons and numas. According to a *New York Times*/CBS poll, fully 42 percent believe that half or more of the mem-

bers of Congress are crooks. Sixteen percent even believe their own congressman is corrupt. Forty-four percent disapprove of how Congress works, and 46 percent believe that the standards of ethics have declined over the past decade. The best news is that 40 percent of us want to see a new person represent our district.

According to the *Economist* magazine, as many as a hundred senior members of the House are contemplating retirement in 1992 so that they can take off with their accumulated campaign contributions in the bank. Now that will be a spectacle of public-spiritedness worthy of Congress. I, for one, am willing to wait two years for it, assuming—in fact, hoping—that no significant business is transacted in the meantime. □

## JESSE WHO?

It must give the Rev. Jesse Jackson a very creepy feeling to read the abundant speculation in the press that his days at center stage are ending. After all, it is the press that has made Jesse Jackson the figure that he is. Without headlines, who would know what he has done? And what has he done but attract headlines? That the headlines were few when he took off for the Middle East the other day cannot have allayed his creepy feelings. Without headlines Jesse Jackson does not exist.

He has never written any laws or contributed any memorable ideas to the public discourse. He has never written any books or even a speech that one can recall. For that matter he has not even written an enduring line, aside from some dithyramb about going from an outhouse to a courthouse, thence to . . . I think it was the White House; but by then the words did not matter. I was swaying madly and clapping my hands, and enjoying his show. He has been a swell entertainer, but what else? He has led no historic protests, fought no very well-defined battles, played no unique role. Absent

Jesse Jackson, another charlatan would pop up. P. T. Barnum recognized that decades ago, and my guess is that the Rev. Jackson recognizes precisely how fungible he is—hence that creepy feeling.

He is a showman with a splendid knack for attracting attention to himself. Yet until Saddam Hussein's aggression was met by American decisiveness, the Rev. Jackson's capacity to draw attention seemed to be fading. Black political leaders were multiplying, and they were real political leaders, with political offices, constitutional responsibilities, and supporters from all races. The Rev. Jackson's national campaign to drop the term black (adopted but a few years ago as a replacement for Negro) in favor of the hyphenated term African-American (a term very similar to one used several decades ago as a replacement for colored) certainly got him little attention. In fact, the only significant news stories on the Rev. Jackson have all contained bad news.

There was a *Wall Street Journal* story reporting that only the *Journal's* reporter bothered to attend a Jackson

