

The House passed this settlement encouragement legislation last Congress, and I am convinced it will prove to be a valuable resource to both parties to Federal litigation and to the courts in promoting quick and fair settlement.

This legislation would also amend rule 702 of the Federal Rules of Evidence, which allows expert witnesses to testify as to their expert opinions with respect to scientific, technical, or other specialized knowledge. Such evidence may have an enormous impact on a jury's decision because of its nature. Accordingly, assuring that such evidence is valid and reliable is of utmost importance. With that in mind, the amendment would make a scientific opinion inadmissible unless it is:

First, scientifically valid and reliable; second, has a valid scientific connection to the fact it is offered to prove; and third, sufficiently reliable so that the probative value of such evidence outweighs the dangers specified in Federal rule of Evidence 403.

The standard for admissibility of scientific expert testimony was most recently addressed by the Supreme Court in *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 113 S.Ct. 2786 (1993), on remand, No. 90-55397 (9th Cir., Jan. 4, 1995, Kozinski, J.). In that case, the Supreme Court held that rule 702 does not require that scientific evidence have general acceptance in the relevant scientific community to be admissible. Rather, the Court held that the rule requires that expert testimony rest on a reliable foundation; that is, the methodology from which the evidence is derived must be based on scientific knowledge and be relevant to the task at hand; that is, it must assist the trier of fact and have a logical scientific nexus to the subject matter of the suit or other admitted evidence.

This legislation would serve to codify and is meant to complement the standards established in *Daubert* by the Supreme Court. It requires that the methodology from which scientific evidence is derived be based on scientific knowledge and that it have a logical, scientific nexus to the subject matter of the suit or other admitted evidence.

Finally, this bill would make expert testimony inadmissible if the witness is entitled to receive any compensation contingent on the legal disposition of any claim with respect to which such testimony is offered. The reason for this provision is that an expert witness who receives a contingency fee is less likely to furnish reliable testimony than one who receives a flat or hourly fee since he or she has a vested interest in the outcome of the litigation. The provision would exclude evidence if the witness receives any contingency fee, even if such fee is not a percentage of the judgment or settlement, but rather is a flat fee or hourly fee the payment of which is contingent upon the legal disposition of the claim.

This bill will prevent trial lawyers from taking advantage of the court system. If there is a consensus in the scientific community that a hazard or risk—usually of a product—is real or substantial, the trial lawyers will implore that consensus to support complaints for compensatory and punitive damages. If the consensus in the scientific community is that a hazard or risk is trivial or imaginary, however, the same lawyers should not be able to brush that fact aside and find fringe experts to testify otherwise. Even in cases where real hazards exist, trial lawyers will attempt to stretch claims be-

yond validity in order to collect punitive damages. By creating a presumption of inadmissibility, rebutted by the standards created by the Supreme Court in *Daubert*, along with a lower standard of prejudice, an amended rule 702 will be effective in weeding out junk science as evidence in our Federal courtrooms.

These amendments to rule 702 would apply only to civil and not criminal cases. They would most frequently be used in product liability cases. This will prevent frustration in the important use of scientific evidence such as blood-type analysis and DNA testing in criminal proceedings.

Mr. Speaker, the importance of this legislation to our Federal courts cannot be underestimated. Congress must play a key role in affording Federal litigants efficient, quick, and fair adjudication of their claims. This bill will move us firmly in the right direction.

#### TRIBUTE TO THE BLACK BEAUTICIANS HEALTH PROMOTION PROGRAM

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, March 3, 1997

Mr. PAYNE. Mr. Speaker, I would like my colleagues here in the U.S. House of Representatives to join me in applauding a new preventive health program. The University of California at San Diego's [UCSD] Cancer Center has been awarded a \$300,000 grant for the Black Beauticians Health Promotion Program. The program, sponsored by the Bristol-Myers Squibb Foundation, recruits and trains beauticians working in neighborhood beauty salons to educate their clients on the importance of breast cancer screening and other health lifestyles.

In the pilot study conducted by the UCSD Cancer Center, eight African-American beauticians attempted to determine whether beauticians can serve as educators for health information of special concern to their black clients. The study also questioned whether these beauticians would be able to motivate their clients to adopt health promotion behaviors, such as weight control and smoking cessation. The study was a great success.

Many may ask why beauticians were selected as the messenger in an effort to reach this high-risk population. In many cases, beauticians are well integrated members of the community, and a personal relationship has already been established with each client. Furthermore, the beauty salon is an establishment which many women frequent, and is an environment where personal discussions are quite common. In short, many women and men of all races visit their barber or beautician more frequently than they do their own doctor.

Mr. Speaker, as it now stands, African-American women are at high risk for breast cancer and other serious illnesses. In addition, their mortality rates are disproportionately high as compared to other races. The Bristol-Myers Squibb Foundation grant will be used to permit a statistical evaluation of this educational intervention program's potential impact over a longer period of time.

Mr. Speaker, I am happy to bring this grant to the attention to the House, and I am sure

that my colleagues join me in honoring the accomplishments of the University of California at San Diego's Cancer Center, in conjunction with the Bristol-Myers Squibb Foundation.

#### LEGISLATION INCLUDING SAMOA IN THE FEDERAL HOME LOAN BANK ACT

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 3, 1997

Mr. FALEOMAVAEGA. Mr. Speaker, I rise today to introduce legislation to include American Samoa in the Federal Home Loan Bank Act.

For decades there has been inadequate capital available to provide home loans to the qualified residents of American Samoa wishing to make loans to build homes or additions. As Samoa moved toward a credit economy, the mainland financial community had many questions which needed to be answered before they were willing to lend money in Samoa: Would the Samoans pay back their loans? Would the local courts enter judgments against locals in favor of banks? would the chiefs of communal lands permit purchasers of leasehold interests to reside on communal properties?

Each question seemed insurmountable, but over the years we have overcome these hurdles, and today there is only one impediment left—a lack of funding at reasonable rates for home loans. Other rural areas have solved this problem by membership in a Federal home loan bank. In fact, the Federal Home Loan Bank Act makes membership available to banks in all 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, and Guam. In enacting the original legislation, remote American Samoa, one of the areas most in need, was again left in the woods.

The legislation I am introducing today makes a technical change to the definitions section to include American Samoa within the definition of a State. This small change will enable the FDIC-insured local banks to join a Federal home loan bank and gain access to a new source of funding to make loans to the residents in American Samoa. I hope my colleagues will join me in making this small change in the law which will have a significant, beneficial impact on American Samoa.

H.R.—

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. AMENDMENT TO DEFINITION OF "STATE".

Section 2(3) of the Federal Home Loan Bank Act (12 U.S.C. 1422(3)) is amended by inserting "American Samoa," after "Puerto Rico,".

#### CONGRATULATIONS TO SHANNON BYRDSOONG, MISS BLACK ALASKA

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 3, 1997

Mr. YOUNG of Alaska. Mr. Speaker, I would like to congratulate Miss Black Alaska for her

success at the national Miss Black USA Pageant. Shannon Byrdsong represented Alaska well last Sunday February 23, 1997. Shannon is from Fairbanks, AK and is currently a student at the University of Oklahoma. Her parents, George and Vallie Byrdsong, made the trip from Alaska to proudly watch as their daughter advanced through the pageant held here locally at Howard University. After two nights of competition, Shannon ended as one of the top 15 finalists.

While in the finals, Shannon was awarded both the Presidential Award and the Fundraiser Award. The Presidential Award was to honor Shannon for her strong leadership abilities. It was to award her for contributions to the community, while maintaining strong academic achievement. The Fundraiser Award was for accomplishing the most community support. It is significant to acknowledge this award, as young women competed from large States like California, Florida, and Texas. This support speaks a great deal about Shannon Byrdsong, as well as, the community she calls home.

### WARD CONNERLY'S CAUSE

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, March 3, 1997*

Mr. GINGRICH. Mr. Speaker, I would like to commend to my colleagues the following article by syndicated columnist Ben Wattenberg. Wattenberg is a life-long Democrat, but recognizes that our Nation cannot thrive in the 21st century if we continue to count ourselves by race and gender. Wattenberg identifies the heroic work of California's Ward Connerly in spreading this message across the Nation. I submit Ben Wattenberg's column into the CONGRESSIONAL RECORD and urge my colleagues to read it.

[From the Washington Times, Feb. 20, 1997]

WARD CONNERLY'S CAUSE

(By Ben Wattenberg)

In California during the election season last year, Ward Connerly led the California Civil Rights Initiative (Proposition 209) to victory. The attacks on Mr. Connerly were ferocious and personal.

Watching Mr. Connerly elicit war whoops from a mostly conservative audience in Washington, it is apparent why the attacks on him during the election were so nasty. Mr. Connerly is a black man who is a serious threat to establishment civil-rights activists. He fights back. He reminds us there is more than one high-minded side to the race question in America.

He is a strong speaker with conservative Reaganite views on more issues than affirmative action, or if you prefer, preference. He has a biting sense of humor and speaks to a theme supported by a large majority of Americans. By the time he ended his remarks, the testimonial dinner audience organized by the Independent Women's Forum (IWF) buzzed with the question that counts in Washington: "What will he run for?"

Mr. Connerly is not happy with Jesse Jackson, the leading sound bite on the pro-preference side—for both substantive and personal reasons. Mr. Connerly is a member of the California Board of Regents. He recalled that when he was pushing to do away with preference in college admissions, Mr. Jackson had come to a board meeting, asked for

a prayer to begin the session, and then called Mr. Connerly a "house slave" and "a puppet of the white man."

Newt Gingrich was in the audience at the IWF event, along with Rep. Henry Hyde, Sen. Phil Gramm and other GOP political figures. Mr. Connerly said he approved of Mr. Gingrich's invitation to Mr. Jackson to sit with Mrs. Gingrich during the State of the Union address—long pause—if Mrs. Gingrich could endure being with Mr. Jackson for the duration of a Clinton speech. He thought that if Mr. Gingrich had invited Mr. Jackson in the spirit of bipartisanship, then President Clinton should invite Mr. Connerly to spend the night in the Lincoln Bedroom—pause—and waive the \$100,000 fee.

He took note of the firestorm caused by the remark of Rep. J.C. Watts, Jr., a fellow black conservative, who had characterized some putatively unnamed black leaders as "race-hustling poverty pimps." He observed that Mr. Watts prays with Mr. Jackson, and offered some advice: "J.C., when you pray with Jesse, don't close your eyes."

Political Washington loves this raw meat, particularly after a few drinks. But Mr. Connerly spoke substance as well. He recalled his childhood in segregated, Louisiana and the signs in roadside restaurants: "We do not serve colored." But Mr. Connerly also remembers the people who helped him get ahead as a teen-ager in Bremerton, Wash., working downtown in a fabric store after school. He blesses the country that let him rise to affluence as a California businessman.

He says there are times to look forward, not backward to go beyond the poison of racism, slavery and segregation, and to get on with life. He rejects membership in the "victims club of America" and says a better America cannot be built when "our government allocates opportunities on the basis of skin color, genitalia and the spelling of last names."

This is the race-neutral side of the civil-rights argument. As, and if it gains further currency, it can shatter the monopoly of the racial political now seen in the Democratic Party.

Although invited, no Democratic members of Congress showed up at the IWF dinner. Not coincidentally, the flexible Mr. Clinton has shown no flexibility on affirmative action (neither ending, nor mending). Mr. Clinton has even taken the bizarre stance that Proposition 209 is unconstitutional, putting the government in the incredible position of saying that antidiscrimination is against the law.

Mr. Connerly was scalded by opponents during the epic fight to overturn preferences. He also has sharp comments for some expected allies who jumped ship when the seas got rough, saying, well, 209 wasn't really nuanced enough (this, of language that essentially replicates the words of the Civil Rights Act of 1964). Mr. Connerly says, "Our political system has more cowards per capita than at any time in our history." Maybe. But Mr. Connerly is a refutation of his own analysis.

Let it be granted that it is a complicated and exasperating issue. The tough language will probably continue on both sides. Mr. Gingrich spoke, enthusiastically endorsing the language of a previous speaker who described the current situation as "affirmative racism." Mr. Gingrich pledged to pursue an end to it.

Until now the colorblind point of view did not have a credible high-profile national spokesman. That hurt their cause and the national dialogue. Mr. Connerly, uniquely, has the talent, passion, history and guts to become the champion of the second side.

TRIBUTE TO REV. ROBERT L.A.  
REAVES

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, March 3, 1997*

Mr. TOWNS. Mr. Speaker, I rise today to salute Pastor Robert Lee Adams Reaves, born on December 29, 1964, in Bennettsville, SC. He received his calling to the ministry at the age of 14. For 18 years, he has been preaching and teaching the word of God.

Prior to God's assigning Pastor Reaves to the Cedar Church, he served as pastor of the Pleasant Hill Baptist Church, Bennettsville, SC. In 1993, the Holy Spirit directed him to the Elim International Fellowship where he submitted to the leadership and tutelage of Archbishop Wilbert S. McKinley, and served as associate pastor.

Pastor Reaves is a graduate of Morris College, with a degree in sociology, which he received in 1987. He also received pastoral counseling training. While at Elim, he attended the Elim Institute.

Reverend Reaves is the father of one son, Robert, Jr. He is also blessed with a lovely wife, Lady Sheryl Reaves.

The Reverend is a visionary who is continuously developing; he is not a traditional leader. His message through preaching and teaching the word of God, challenges the old traditions, and ushers the church into both the presence of, and the order of God. As a man of faith, Reverend Reaves is giving birth to a vision whose time has come. I am pleased to introduce my House colleagues to a truly inspirational spiritual leader.

THE LONG-TERM CAPITAL GAINS  
SAVINGS ACT

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Monday, March 3, 1997*

Mr. BENTSEN. Mr. Speaker, I rise to introduce legislation, the Long-term Capital Gains Savings Act, that takes an innovative and I believe economically correct approach to capital gains tax policy. This legislation seeks to reward long-term, economically productive investments and encourage Americans to save for the future.

This legislation is identical to S. 306, introduced by Senator WENDELL FORD, and would provide for the maximum capital gains tax rate to be adjusted downward the longer an investment is held by the taxpayer. For every year an asset has been held, the tax rate would be reduced by 2 percentage points down to a rate of 14 percent after 8 years or more. The top rate would remain at 28 percent for investments held less than 2 years.

I also want to point out that this legislation as drafted would apply only to individual taxpayers, and not to corporate taxpayers. I believe this is good fiscal and tax policy because it limits the cost of this legislation and targets tax relief to help middle-income families most in need of this assistance.

For many years we have heard many in business, agriculture, economics, and politics argue that a high capital gain tax rate locks-