

cases. DuPont won every case. However, the litigation cost was almost \$50 million over 8 years. Result: DuPont left the medical device market after it decided, without too much difficulty, that its sales for 5 cents of teflon resulted in millions of dollars in legal expenses.

Do we hold steel mills responsible for the criminal use of a gun? Do we hold makers of car paint liable for every auto accident? The law does not, Juries do not. This Congress should not. As the chairman of the Health Subcommittee on Ways and Means, I fear this trend. In a time of rising health care costs, we can ill afford to lose the technologies that have helped patients live their lives with better quality and care. A shortage of raw materials for medical devices and implants will only raise health costs and limit access to the few. In the ongoing process of trying to provide more accessible health care at costs sustainable to our Nation's future, present product liability laws has the potential of running a lot of biomedical suppliers out of the medical device market, even though many of them are completely without fault with regards to the design and manufacture of defective implants.

It would be wise to look at recent health care history for a perspective. Just 40 years ago, children who were afflicted with hydrocephalus—water in the brain—died of brain damage in early childhood. With a device called an implantable shunt, doctors are now able to save these children by relieving the fluid pressure. Before pacemakers were created, heart attack victims would not have survived without something pacing the beat of their heart. Technology has now allowed us to achieve this. We can manufacture knee implants that allow crippled people to walk again. We now have hip and jaw implants. Our technology has been pushed forward with ambitious thinkers, courageous entrepreneurs, and a public with increasing demand for quality in their lives. In the end, every American benefits from these advances in medical technology. More than 75 percent of biomaterial suppliers have already left the medical device implant market. In responding to the influence that made them leave the market, 100 percent of the suppliers cited the fear of litigation costs.

The medical device industry has almost \$50 billion in annual domestic sales, with almost an additional 120 billion dollars' worth of sales in the foreign market. Because nearly a third of all medical device companies reside in California, a loss of this revenue to the California and U.S. economy would be significant. With the current rate of biomaterial suppliers leaving the market, the medical device companies may be left without the precious biomaterials to make implants and be forced to close their businesses.

The many effects that current product liability law provides for with regards to biomaterials simply illustrates one segment of the detrimental effects of overlitigation on our economy. The biomaterials shortage is only one piece of a much larger puzzle. The problem remains excessive litigation while the solution is comprehensive product liability reform. It is not in the best interests of the American people to cease all litigation on defective or harmful products. However, we must provide an environment where consumers can be protected from bad products, while also limiting senseless litigation so that businesses can continue to operate, innovate, and provide for the American consumer. Piecemeal reform of cer-

tain industries, while ignoring the problems that excessive litigation is having on other industries, is not the solution. We tried, in 1995, to enact product liability reform but it was vetoed by the President. I ask Congress to enact comprehensive product liability reform.

HONORING KAY KEYSER OF
QUAKER CITY, OH

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. NEY. Mr. Speaker, I commend the following article to my colleagues.

Kay Keyser, of Quaker City, OH, has been nominated for Ohio Teacher of the Year by the East Guernsey Local School District. Kay is a seventh and eighth grade teacher at Buckeye Trail Middle School.

Kay has been in education for 24 years. She is very committed to the school and the community. Kay spends her spare time volunteering on activities which will directly benefit her students. Not only is she a volunteer but also a single mother of two which leaves a minimal amount of time for herself.

The finalists for the Ohio Teacher of the Year will be named within the next few weeks. Mr. Speaker, I ask that my colleagues join me in congratulating Kay Keyser on her nomination for Ohio Teacher of the Year. I wish Kay continued success, health and prosperity.

A COMPELLING ARTICLE

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1997

Mr. GINGRICH. Mr. Speaker, today I call attention to a recent editorial in the Washington Post by George F. Will, entitled "Melding in America."

Mr. Will eloquently encourages the Office of Management and Budget [OMB] to add a sixth racial category to the next census form: multiracial. Not only would such a designation be more accurate, it would also represent society's acknowledgment that a child should never be forced to choose between maternal and paternal heritages.

Additionally, creating such a category would serve to diffuse the politics of grievance groups that use membership in a particular race to claim victim status and thus recompensation for wrongs real or imagined. America is a country founded upon the idea of individual rights—not rights determined by one's skin pigmentation.

I encourage all of my colleagues to read Mr. Will's compelling article.

[From the Washington Post, Oct. 5, 1997]

MELDING IN AMERICA

(By George F. Will)

An enormous number of people—perhaps you—are descended, albeit very indirectly, from Charlemagne. And an enormous number are descended from Charlemagne's groom. Trace our pedigree back far enough, you may find that you are an omelet of surprising ingredients.

Booker T. Washington, Frederick Douglass, Jesse Owens and Roy Campanella each

had a white parent. Martin Luther King, Jr. (who had an Irish grandmother and some Indian ancestry), W.E.B. DuBois and Malcolm X had some Caucasian ancestry. The NAACP estimates that 70 percent of those who identify themselves as African American are of mixed racial heritage. And then there is Tiger Woods, who calls himself "Cablinasian"—Caucasian, black, Indian, Asian. Bear such things in mind as the Office of Management and Budget decides whether to make a small but consequential change in the census form.

The 1790 census classified Americans in three categories—free white male, free white female, slave. In 1850 "free colored" was added. Then came mulatto, octoroon and quadroon (one-eighth and one-quarter black). In 1890 Chinese and Japanese were included as distinct races. Today there are five categories—white, black, Asian/Pacific Islander, American Indian/Native Alaskan and other.

Now there is a rapidly spreading belief that the "other" category is unsatisfactory, because it does not contribute to an accurate snapshot of the population, and it offends sensibilities: Why should a child of a white-black marriage be required to identify with one parent, or as an "other"? So OMB is considering adding a sixth category—"multiracial."

This would serve the accuracy of the census in a nation experiencing a rapid surge in interracial marriages, which increased about 550 percent between 1960 and 1990. The number of children in interracial families rose from 500,000 in 1970 to 2 million in 1990. Between 1960 and 1990 the percentage of African American marriages involving a white spouse more than tripled, from 1.7 percent to 6 percent. Sixty-five percent of Japanese-Americans marry someone of another race.

The multiracial category would serve civic health by undermining the obsession with race and ethnicity that fuels identity politics. Such politics proceed on the assumption that individuals are defined by their membership in this or that racial or ethnic group, often a group that cultivates its sense of solidarity by nurturing its grievances. The multiracial category is opposed by many who have a stake in today's racial spoils system, and thus favor maintaining the categories that help Balkanize America.

It is estimated—probably too conservatively—that 10 percent of blacks would check a "multiracial" box on the census form. As more and more people accurately identify themselves as "multiracial," the artificial clarity of identity politics will blur. The more blurring the better, because it will impede application of the principle of categorical representation—the principle that people of a particular group can only be understood, empathized with and represented by members of that group.

Today some native Hawaiians want out of the Asian/Pacific Islander category, and some Indian and native Alaskans do not want the native Hawaiians included in their category. Some Creoles, Americans of Middle Eastern descent (there are 2 million of them), and others want their own categories. Such elbow-throwing prickliness is one consequence of government making membership in distinct grievance-groups advantageous.

Race and ethnicity are not fixed, easily definable scientific categories. The law once regarded the Irish "race" as nonwhite. Today, ethnicity and race can be, to some degree, matters of choice. Many Hispanics regard "Hispanicity" as an attribute of race, others are more inclined to identify themselves as Hispanic when it is not presented as a racial category.

OMB's decision will follow last week's report from the Commission on Immigration