

Congressional Closeup by Carl Osgood

Patients' Bill of Rights Survives Senate Test

The patients protection legislation sponsored by Edward Kennedy (D-Mass.), John Edwards (D-N.C.), and John McCain (R-Ariz.) survived a major test in the Senate on June 26, when an amendment sponsored by Phil Gramm (R-Tex.), to exempt all employers from liability for health-care decisions, was defeated by a vote of 57-43. The amendment was based on one of the GOP's objections to the bill, that it opens up employers to lawsuits for the coverage decisions made by health maintenance organizations (HMOs).

Democrats, while admitting that the language in the bill needed to be tightened up, slammed the Gramm amendment as a "poison pill." Max Baucus (D-Mont.) said that the Gramm amendment "goes too far" because "it protects employers from liability, even when they are responsible for making medical decisions that result in injury or death." Kennedy described it as part of a strategy of "collateral attack," in which they try to kill the legislation "by distorting what it would actually do, and by seeking to turn the focus away from HMO misconduct." He said, "The vast majority of employers who provide health care merely pay for the benefit," and therefore, need not fear being sued under the bill.

Debate on the bill began on June 19 and was moved along by a 98-0 cloture vote on June 21. The debate initially began under the cloud of a veto threat from President Bush, but by June 26, he was making phone calls to some of the so-called "moderates" in the Senate, including Olympia Snowe (R-Me.), Ben Nelson (D-Neb.), and Mike Dewine (R-Ohio), encouraging them to come up with a compromise on the employer liability issue. Snowe told reporters,

"The President is making it very clear that he wants to sign legislation." She also indicated she thought that they could draft language that would be acceptable to both sides and to the President.

White House Urged To Negotiate on Trade Bill

Senate Finance Committee Chairman Max Baucus (D-Mont.) warned the White House and Republicans on June 21, that there is a range of issues that have to be considered before he can seriously move a trade promotion authority (TPA) bill. As these issues become "increasingly complex," he said, "the political consensus on trade becomes increasingly difficult to hold together." He warned, "Congress simply will not approve fast track or TPA until labor rights and environmental standards are meaningfully addressed." Baucus made his remarks at the opening of a Finance Committee hearing at which Commerce Secretary Donald Evans and U.S. Trade Representative Robert Zoellick testified.

The hearing showed that the Democrats intend to play a role in policy-making denied them under GOP rule. John Breaux (D-La.) made clear that the White House is going to "have to recognize that these [labor and environmental] issues are important to many members and that they're going to have to be consulted with, in order to get a trade agreement that expands trade."

Meanwhile, Bob Graham (D-Fla.) and Frank Murkowski (R-Ak.) unveiled a bipartisan trade bill on June 26. As described by Graham, the bill sets negotiating objectives on labor and environmental standards "that receive the same priority as commercial negotiating objectives." The bill in-

cludes objectives on information technology, and measures "to assure proper implementation, full compliance, and appropriate enforcement mechanisms . . . and a stronger process for continuous congressional involvement in the process." Graham said that his contributions to the bill "were a direct result of the work of the New Democrats, led by Cal Dooley (D-Calif.) in the House," as well as those in the Senate.

Murkowski clarified that the negotiating objectives "establish that no trading partner should lower standards on labor and environmental protection in order to attract trade." He said that while there is some flexibility for the Bush Administration to take domestic objectives into account, "it suggests that while we encourage, obviously, environmental protection as an objective, we encourage fair labor standards as an objective, they're not conditioned specifically."

Dissatisfaction with FBI Aired in Senate Hearing

On June 20, the Senate Judiciary Committee held the first of what committee chairman Patrick Leahy (D-Vt.) promised will be several oversight hearings to look into the management and conduct of the Federal Bureau of Investigation. He cited a number of recent cases where the FBI's handling of document disclosures and its use of informants raised serious questions. The cases he listed included the Oklahoma City bombing; the 1992 shootout at Ruby Ridge, Idaho; the investigations of Wen Ho Lee; and the July 1996 Olympic Park bombing. While committee Republicans were, generally, much more laudatory of the FBI, Orrin Hatch (R-Utah) is co-sponsoring a bill, with Charles Schumer (D-N.Y.), to es-

establish an external commission to “do a strategic, thorough review of the FBI.”

The consensus at the hearing is that the FBI is unwilling to admit its mistakes, and it refuses to cooperate with any outside agency that attempts to investigate its conduct. Former Sen. John Danforth (R-Mo.), who led a special investigation into the FBI’s conduct during the 1993 deaths in Waco, Texas, told the committee, “I believe that there was a lack of candor on the part of the FBI and on the part of the Justice Department over a period of six years. I don’t think it was a cover-up of a bad act. I think it was basically trying to cover embarrassment.” Later, Danforth stated, “I believe that this is part of the culture. . . . The idea that the FBI is not there to be investigated.”

Former DOJ Inspector General Michael Bromwich backed up Danforth’s conclusions. He recalled the difficulty his office had in getting FBI cooperation on a review of the Aldrich Ames spy case in 1995. And on the Wen Ho Lee case, he said, “There was a tremendous amount of political pressure that was placed both on the Justice Department and the FBI, generated in part by scares about the Chinese trying to take over the 1996 election. . . . I think law enforcement agencies, and sometimes the Justice Department, are not very good at resisting that kind of pressure.”

Vote May Be Near on Senate Reorganization

On June 26, Senate Majority Leader Tom Daschle (D-S.D.) told reporters that an organizing resolution may come to the floor, possibly as soon as the day the Senate leaves for the July 4 recess.

The hangup remains the handling of judicial nominees, although Daschle has indicated support for allowing Supreme Court nominees a floor vote even if they have not been approved by the Judiciary Committee. He said that each nominee ought to get a fair hearing. “We want to ensure that people have the opportunity to be vetted, to be heard and to be voted upon.” As for the qualifications of nominees, “each Senator has to make up his or her own mind,” he said.

Just hours earlier, Charles Schumer (D-N.Y.), chairman of the Courts Subcommittee, said during a hearing that ideology must be considered during the confirmation process for a judicial nominee. He said that talking about ideological issues would “make our confirmation process more honest, more clear, and hopefully more legitimate.”

Republicans charged Democrats with trying to sabotage President Bush’s nominees. Orrin Hatch (R-Utah) said, “The Senate’s responsibility to provide advice and consent does not include an ideological litmus test.” Bush has sent up some two dozen nominees for the Federal bench, but the Judiciary Committee has yet to hold hearings on any of them, in part because of the impasse over the organizing resolution.

House Passes Supplemental Appropriations Bill

On June 20, the House passed, by a vote of 341-87, a \$6.5 billion supplemental appropriations bill for fiscal year 2001 that includes \$5.6 for the Defense Department, and most of the remainder for disaster assistance. The bill covers “urgent defense needs,” such as higher fuel costs, military health-care, readiness and operations

requirements, military housing, and repairs to the *USS Cole*, damaged by a terrorist bomb last October.

While the House overwhelmingly supported the bill, Democrats strenuously objected to the process that brought it to the floor. Martin Frost (D-Tex.), the ranking member on the Rules Committee, complained that the GOP had blocked consideration of an amendment by Ike Skelton (D-Mo.) that would have added a further \$2.7 billion for defense. Without that money, he said, “our armed services will not have the resources they need for training for the rest of the year.” The rule, he said, proved that the promise of then-candidate George W. Bush to the military that “help is on the way,” was made “with a wink.”

The bill also cut \$389 million from the Federal Emergency Management Agency (FEMA), which Frost blamed on the GOP “Keystone Cops.” Frost noted that the cut comes at the beginning of the hurricane season, and just as the flood damage in Houston has been preliminarily estimated at \$2 billion. The GOP allowed consideration of an amendment sponsored by Pat Toomey (R-Pa.) to restore the FEMA cuts at the expense of more than \$1 billion in non-defense programs, but that amendment garnered only 65 votes.

The Senate Appropriations Committee passed its version of the bill on June 21, but Majority Leader Tom Daschle (D-S.D.) decided not to bring the bill to the floor until work on the patients’ bill of rights is completed. Daschle’s decision got a rebuke from Minority Leader Trent Lott (R-Miss.), who told reporters on June 25 that “it guarantees” that “there’s no way we could get a bill before the middle of July,” resulting in “serious problems with our military health-care commitments” and operational requirements.