

Congressional Closeup by Carl Osgood

Kucinich Challenges Bush On ABM Treaty Decision

On June 6, Rep. Dennis Kucinich (D-Ohio) offered a privileged resolution calling on President George Bush to seek Congress' approval of his December decision to withdraw from the Anti-Ballistic Missile (ABM) Treaty. Under House rules, a privileged resolution deals with matters "affecting the rights of the House collectively, its safety, dignity, and the integrity of its proceedings," or "affecting the rights, reputation, and conduct of the members . . . in their representative capacity only."

Since only the Senate deals with treaties, House Foreign Affairs Committee Chairman Henry Hyde (R-Ill.) made a point of order against Kucinich's resolution, arguing that it did not constitute a question of House privilege. Hyde said that, in 1979, the Supreme Court rejected the claim, made by then-Sen. Barry Goldwater (R-Ariz.), that President Jimmy Carter had no right to abrogate the defense treaty with Taiwan. Hyde concluded that when President Bush decided to abrogate the ABM Treaty, he "was fully within his rights to act as he did."

Kucinich replied that the debate is "about the role that this institution has in a democracy." He said that because, under the Constitution, treaties are the law of the land, the President has no unilateral authority to repeal them, any more than he has the authority to repeal a law passed by Congress. "We must assert our role in this treaty withdrawal," he said, "in order to prevent further erosion of constitutional authority." What is at issue, "is whether this House of Representatives, this Congress, will stand up to an imperial Presidency," one that "does not respect the constitutionally protected role of this Congress in the governance of our nation."

Speaker Pro Tempore Ray LaHood (R-Ill.) ruled that Kucinich's resolution, because it invoked a constitutional authority of the Congress as a whole rather than just the House, was not in order. LaHood's ruling was upheld on Kucinich's appeal by a vote of 254 to 169.

Senate Passes Bill for Supplemental Spending

On June 6, the Senate passed by a vote of 71 to 22, the fiscal year 2002 supplemental appropriations bill. The total amount of the bill, \$31.5 billion, was about \$2 billion above that passed by the House, which was some \$2 billion above the request submitted by the White House in March. The debate was marked not only by charges of pork-barrel spending by some Republicans, notably John McCain (R-Ariz.), but several Senators also tried to make the debate a vehicle for budget politics.

Because the bill is nearly \$4 billion over President George Bush's request, it has drawn a veto threat from the White House. On June 4, Office of Management and Budget Director Mitch Daniels submitted a letter to the GOP caucus, saying that the bill "includes scores of unneeded items that total billions of dollars," including \$11 million in assistance to New England fishermen, \$2 million for a storage facility for the Smithsonian Institution, and so on. The GOP failed to strike some of those items from the bill, though they did have some success in removing the "emergency" designation from other items.

The failure of the Senate to pass a budget resolution for fiscal 2003 spilled onto the Senate floor, in the form of attempts to add a budget enforcement mechanism to the bill. Judd

Gregg (R-N.H.) proposed an amendment that would have reinstated the budget caps made infamous by the 1997 Balanced Budget Act. He said, "Recently, we have seen the budget discipline within the Congress has eroded rather dramatically." Budget Committee Chairman Kent Conrad (D-N.D.) said that the flaw in Gregg's proposal was that it was based, "not on what actually happens, but . . . on projections of what will happen." Conrad proposed extending the 60-vote point of order against provisions that violate the 1974 budget act. He said that otherwise, "it will become much more difficult to enforce budget discipline in the Senate."

Both amendments failed. The Gregg amendment did not have the 60 votes required to waive the budget act, and the Conrad amendment fell on a point of order, being non-germane to an appropriations bill.

House Favors Permanent Estate Tax Repeal

The House GOP leadership got their way on June 6, when they passed by a vote of 256 to 171, a bill to make permanent the repeal of the estate tax. Passed as part of last year's tax bill, the estate tax repeal expires at the end of 2010. Republicans claimed that the estate tax is hardest on family farms and family-owned businesses, often forcing a family to sell the business in order to pay the tax. John Duncan (R-Tenn.) claimed that 85% of estates that pay the tax are valued at about \$2.5 million, many of which are small businesses.

Democrats view the bill as a political payoff to the richest GOP supporters. Charles Rangel (D-N.Y.) said that the beneficiaries would be the less than 1% of the taxpayers "who are blessed

not only with high income and great estates, but those who are blessed with a whole lot of great Republican friends that would like to have them even extend benefits.” He called consideration of the bill (which would cost \$1 trillion over ten years) during a time of war, “when we do not even have a decent prescription drug bill, . . . immoral, indecent, and obscene.”

Dennis Kucinich (D-Ohio) said that “the purpose of the estate tax is to mitigate the accumulation of wealth by family lineage,” which “makes for a fairer society.” He said, “Democracy needs an estate tax. By contrast, monarchies are characterized by not having estate taxes. . . . Without the estate tax, the tax burden is more squarely placed on middle- and low-income workers and their wages. The estate tax ensures that inherited wealth bears more tax burden than earned wages that are the result of work and effort. Estate taxes reduce the concentration of wealth and foster our democracy.”

Bush Team Pushes for Terrorism Insurance

On June 10, Treasury Secretary Paul O’Neill sent a letter, signed by Director of the Office of Management and Budget Mitch Daniels, Director of the National Economic Council Lawrence Lindsey, and Chairman of the Council of Economic Advisers R. Glenn Hubbard, to Senate Minority Leader Trent Lott (R-Miss.), calling for action on a terrorism insurance bill.

O’Neill warned that the absence of such legislation is “having a palpable and severe effect on our economy.” He said the lack of terrorism coverage “makes it more difficult to operate, acquire, or refinance property, leading to diminished bank lending for new con-

struction projects and lower asset values for existing properties. . . . Without such insurance, the economic impact of another terrorist attack would be much larger, including major bankruptcies, layoffs, and loan defaults.”

Last December, the House passed a terrorism insurance bill that was based on a bipartisan agreement among the White House, Senate Banking Committee Chairman Paul Sarbanes (D-Md.), and Sens. Chris Dodd (D-Conn.), Phil Gramm (R-Tex.), and Mike Enzi (R-Ore.). However, the bill has been stalled in the Senate ever since. On June 4, Majority Whip Harry Reid (D-Nev.) said that Republicans have blocked every attempt to move the bill. He said the desire to move it quickly requires a unanimous consent agreement, and the agreement the Democrats are proposing would allow for amendments.

Reid said that part of the problem is that some Senators wish to use the bill as a vehicle for tort reform. “This is not about tort reform,” he said. “It is about maintaining the stability of our economic infrastructure.”

Army’s Crusader Artillery System’s Future in Doubt

On May 29, the White House sent up an amendment to its FY 2003 budget request asking to reprogram \$475 million from the Army’s Crusader artillery system to other “more transformational” technologies, reflecting Secretary of Defense Donald Rumsfeld’s decision to kill the self-propelled artillery system. Of the \$475 million, \$310 million would go into the Future Combat System and another \$48 million into the Excalibur precision-guided artillery shell, which

was originally intended to be fired from the Crusader but now is to be planned for existing artillery systems. The remainder of the money will go into upgrade programs for fire-support systems.

However, the decision to cancel the Crusader faces an uphill battle in the Senate. The House has already passed its version of the FY 2003 Defense Authorization bill, with a provision requiring an in-depth study of possible alternatives before allowing the system to be cancelled. Senate Armed Services Committee Chairman Carl Levin (D-Mich.) indicated on June 10, that the Senate still has many questions. He told reporters at a media breakfast that the timing of Rumsfeld’s decision was poor, and that the Defense Department did not even follow its own timetable for review of the system. He noted that Army Chief of Staff Gen. Eric Shinseki still supports the Crusader.

Levin called for allowing the Army to complete its studies so that all of the information required to make a decision will be available, whether it is to continue development of the Crusader or, if it is ultimately cancelled, then on how to reallocate those funds.

While support for the Crusader in the Senate cuts across party lines, another item passed by the Senate Armed Services Committee does not. That is the reallocating of about \$800 million from the missile defense program into the Navy’s shipbuilding account. In Levin’s view, the Bush Administration’s budget underfunds shipbuilding significantly, providing for only five ships when eight to ten are needed each year to maintain the fleet at the current level of 310 ships. Levin also expressed concern about the oversight of the missile defense program, noting that the authorization bill provides for closer scrutiny of the program.