

Congressional Closeup by Carl Osgood

Rumsfeld Rapped on Post-War Planning

Secretary of Defense Donald Rumsfeld took a grilling on July 9 in front of the Senate Armed Services Committee on, among other issues, the lack of progress in the post-war stabilization of Iraq. Rumsfeld went to great lengths to portray most of Iraq as stable, saying that most of the violence directed at occupying American troops was confined to the so-called "Sunni triangle," north and west of Baghdad. While admitting that "there are a number of sources of instability," Rumsfeld declared that "Iraq has been liberated, the Ba'athist regime has been removed from power and will not be permitted to return."

Rumsfeld collapsed, however, under questioning from skeptical Senators, who kept asking questions he did not seem to know the answers to. When Sen. Edward M. Kennedy (D-Mass.) asked about the requests for troops which the United States has made to NATO countries to go to Iraq, Rumsfeld could not provide any specifics, only that such requests had been made. Nor could he provide a specific answer when Kennedy demanded to know whether the United States had operational plans for the reconstruction of Iraq, beyond saying that there were such plans. Nor could he tell Sen. Robert Byrd (D-W.V.) how much the Pentagon was spending for operations in Iraq and Afghanistan. He had to call Pentagon Comptroller Dov Zakheim during a recess in the hearing to get the numbers that Byrd was demanding.

Rumsfeld did not get any help from Gen. Tommy Franks, the just-retired chief of U.S. Central Command, who testified with him and then separately, the next day, in front of the House Armed Services Committee. Besides disagreeing with Rumsfeld on the number of U.S. troops that will be required in Iraq and how long they will be there, he admitted to Rep. Ike

Skelton (D-Mo.) that the Congressman was correct when he asserted that "it appears to me that we find that America is quite good . . . at winning on the battlefield, and that we have a lot to learn to bring stability to a dangerous country." Skelton had earlier noted that there appeared to have been a "lack of planning" for the post-war reconstruction.

Moves To Overturn FCC Media Ownership Ruling

The House Appropriations Committee on July 16 voted 40-25 to block a June 2 Federal Communications Commission ruling, which would loosen up rules governing media ownership.

The previous day, Senators Byron Dorgan (D-N.D.) and Trent Lott (R-Miss.) had announced that they would be introducing a privileged resolution to overturn the FCC ruling. The resolution invokes a special procedure in the Senate for overturning Federal regulations, that expedites the consideration of the resolution, once the sponsor has collected at least 30 signatures on a letter asking for the resolution to be discharged from committee consideration. Dorgan announced that he had gathered the signatures of 35 Senators, from both parties, and that he had been told by Senate Commerce, Science and Transportation Committee Chairman John McCain (R-Ariz.) that "he will hold a mark-up and proceed to move this resolution to the floor of the Senate."

Lott gave two reasons why he decided to support Dorgan's effort. Sounding very much like a civil libertarian, Lott said that the FCC "clearly made a decision that's going to lead to more concentration, less diversity, fewer choices in the opportunity for people to view, to hear, or read what the news or that editorial policy is, and that's why I have consistently opposed

this change." Secondly, he reported that he had gone over to the House a few days earlier, and his discussions there "gave me impetus, quite frankly, to join this effort."

While both Dorgan and Lott expressed optimism that the resolution will easily pass the Senate, it is the House that remains the question mark, since Energy and Commerce Committee Chairman Billy Tauzin (R-La.) has already said he would oppose such an effort. Dorgan said, "If the Senate disapproves these rules by a vote of the full Senate, I think it's going to put a substantial amount of pressure on the U.S. House." Lott added that when he met with Tauzin, and House Majority Leader Tom DeLay (R-Tex.) "they didn't indicate any plans to move on this right away, and that's one of the reasons why I decided to join in this effort."

Medical Liability Reform Blocked in Senate

A July 9 procedural vote of 49-48 killed, at least for the time being, GOP-sponsored legislation in the Senate to impose liability caps on medical malpractice lawsuits. The bill, sponsored by John Ensign (R-Nev.), would put a \$250,000 cap on pain and suffering in malpractice lawsuits on the theory that out-of-control damage awards are responsible for skyrocketing insurance premiums that physicians are seeing in many states. "Our current medical liability system encourages excessive litigation, drives up costs, and is literally scaring doctors out of the medical profession," declared Mitch McConnell (R-Ky.), in opening up the debate on July 7.

While nobody disputed that the liability crisis is real, the question unsettled by the debate was what effect limiting damage awards would really have on it. Mike Enzi (R-Wyo.) told

the Senate, "We are not seeing any relief because insurance companies are paying out more in losses than they are receiving in premiums," to the tune of \$1.53 in losses to every dollar in claims; so, for him, it is very simple. Ensign, however, admitted that, in states that have enacted liability caps, it has taken anywhere from 8 to 15 years for insurance premiums to stabilize, because, he said, it takes that long for the courts to decide on lawsuits against the legislation.

Richard Durbin (D-Ill.), leading the opposition to the bill, charged that it would punish those who have suffered grievously from medical malpractice. He said that the principle of the bill is that "we will no longer trust a jury of 12 people . . . to decide what is fair compensation for your injury caused by another person." He also pointed out that the bill also includes provisions protecting health maintenance organizations (HMOs), pharmaceutical companies, and medical device manufacturers from liability. When he asked Ensign about those provisions, Ensign refused to answer, on the grounds that the Senate was debating a motion to proceed, not the bill, itself.

House Supports Labor Department Overtime Rule

The House of Representatives narrowly rejected, by a vote of 210-213 on July 10, an amendment to the appropriations bill for the Labor, Health and Human Services, and Education Departments, that would have prohibited the Labor Department from spending any money to enforce a change it is considering to the regulations under the Fair Labor Standards Act. The change will reclassify certain categories of professional workers, said to number about 8 million, so that they would no longer be eligible for

overtime pay when they work in excess of 40 hours per week. The amendment would have left untouched the rule change making about 1.3 million low-income workers newly eligible for overtime pay.

George Miller (D-Calif.), who, along with David Obey (D-Wisc.), sponsored the amendment, charged that the new rule "is going to take hundreds of millions of dollars of hard-earned pay out of the pockets of American families," for whom overtime is a significant share of their income. He noted that the Bush Administration is acting on the issue without Congress having had a single hearing on it. He accused the Republicans of preferring to change the rule by fiat, because "they do not want the debate. They do not want to defend what they are doing."

The Republicans replied that the present regulations are too complicated. House Education and the Workforce Committee Chairman John Boehner (R-Ohio) argued that "any efforts to hijack this process before the Department [of Labor] . . . is premature." He claimed that under current regulations, the Department cannot determine who is eligible for overtime pay and who is not, which, as Miller noted, had nothing to do with his amendment.

House Panel Passes D.C. School Vouchers Bill

On July 10, the House Government Reform Committee passed a bill to create a five-year, \$15 million program to give public school students in the District of Columbia vouchers to go to private schools. The program would make vouchers of up to \$7,500 per year available to 2,000 students (out of 67,500 in the D.C. school system) to attend any private school of

their choice. Committee Chairman Tom Davis (R-Va.) and Education and the Workforce Committee Chairman John Boehner (R-Ohio), co-sponsors of the bill, advertised it as "school choice" legislation, claiming that it "will expand opportunities for students in underperforming D.C. elementary and secondary schools," according to a committee press release. At issue was not whether the public school system has problems, but whether pulling 2,000 students a year out of that system, would help.

The Democrats argued that it would not, and that the bill is nothing more than a GOP scheme to set a precedent by doing in the District what they have not yet been able to do nationally. While committee chairman Davis touted the fact that the bill does not pull money out of the school system to fund the vouchers, ranking Democrat Henry Waxman (Calif.) replied that the bill "will use Federal dollars that should be used to enhance" D.C. public and charter schools.

The Democrats also attempted to address the lack of accountability in the bill. William L. Clay (D-Mo.) offered an amendment prohibiting any private school from participating in the program unless it could demonstrate that it makes yearly progress equivalent to that required of the public schools. "I think Federal accountability rules that apply to public schools should apply to schools that accept voucher students," said Clay. In any case, the future of the bill is not yet assured, given that it only passed the committee by a 22-21 vote, with two Republicans joining the Democrats against the bill. Had Major Owens (D-N.Y.) not been out of town for medical appointments, the bill would have been blocked. Davis has not said yet whether he will bring the bill to the House floor as a free-standing bill, or try to attach it as an amendment to an appropriations bill.