The PRESIDING OFFICER. The Senator from Connecticut.

RECENT TRAGEDY IN NORTHERN IRELAND

Mr. DODD. Mr. President, as all of our colleagues and most of America know, tragedy has struck once again in Northern Ireland with the untimely deaths of three young Catholic boys—Richard, Mark, and Jason Quinn. The Quinn brothers were burned to death early Sunday morning after their home was firebombed by Protestant extremists. I join with Prime Ministers Blair and Ahern, President Clinton and others in condemning this terrorist act. I also want to extend, and I am sure I am joined in this by all our colleagues, my deepest condolences to the Quinn family.

The murder of three innocent children is such a cowardly act that it is incomprehensible. Sadly though for those of us who watched the week-long escalation of violence, after members of the Orange Order were prevented from going forward with a controversial parade through the Catholic neighborhoods, the outcome was predictable. Ironically, the Quinn family had absolutely nothing to do with the standoff between members of the Protestant Orange Order and the Catholic neighborhood of Garvaghy Road over whether a controversial parade route would be followed or whether some compromise plan could be devised. Far too often disputes in Northern Ireland has produced innocent victims—many of them children, and it occurred again on Sunday night.

Prime Minister Tony Blair and Northern Ireland's political leaders have called for a halt to the current protest at Drumcree to permit a period of reflection with respect to recent events. I believe that members of the Orange Order should accede to that request. Was the dispute over parade routes really worth the lives of three young boys? I do not believe it was, nor do vast majority of the people of Northern Ireland. It is time for Protestant and Catholic community leaders to put aside their excuses for not having a face to face dialogue. Only they are capable of fashioning a compromise on matters that divide them. Only they can end the senseless violence that threatens to destroy the very foundation of the Northern Ireland Peace Agreement before it even has a chance to become fully operational.

Mr. President, The Good Friday Peace Accords were strongly supported by the majority of Northern Ireland's Catholics and Protestants in the May referendum. The agreement contains a workable plan for getting to the root causes of decades of sectarian conflict, but it must be given a fair chance to produce results. The most recent tragedy in Central Belfast has tested the resolve of Northern Ireland's political leaders to stay the course of peace. I hope they will remain resolute in support of peace. I pray as well that no more sons or daughters of Northern Ireland parents lose their lives as a result of sectarian terrorism.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, as my friend and colleague, Senator DODD, has pointed out, during the weekend, three young brothers—10 year old Richard Quinn, 9 year old Mark Quinn, and 7 year old Jason Quinn—were senselessly murdered because they were Catholic.

Some time ago, an Independent Parades Commission, appointed by the British Government, ruled that members of the Orange Order—a Protestant organization that celebrates a centuries—old victory of Protestants over Catholics by staging trumphalist marches through Protestant and Catholic neighborhoods—could not march through a Catholic neighborhood in Portadown, Northern Ireland. But the Orange Order refused to accept the ruling and vowed to force the march to proceed along the Garvaghy Road in a Catholic neighborhood. A stand-off ensued—members of the Orange Order attempted to march through the area, but were not allowed past barricades erected by security forces. Protestant extremists have used the week-long stand-off as justification to carry out attacks on Catholic homes and members of the police force.

Early Sunday morning, in Ballymoney, Co. Antrim, many miles from Portadown, the Young Quinn boys were asleep in their beds when their home was firebombed by individuals who can only be described as terrorists. The boys were living in a Protestant neighborhood, and their home was targeted because their mother is Catholic.

Both sides deserve their share of the blame for the sectarian attacks that continue in Northern Ireland. But this tragedy never had to happen and never should have happened. The Orange Order must recognize that its refusal to abide by the decision of the Parades Commission led to the murder of the Quinn boys. As a card left at the site of the Quinn home read: ''A price to great to pay for a 15 minute walk.''

Another contentious parade was conducted today in a civilized manner. Despite opposition by the local Catholic residents on the Ormeau Road in Belfast, the Parades Commission ruled that this parade should be permitted. The Orange Order conducted the parade within the bounds set down by the Commission, and the residents of the area staged a peaceful, dignified protest, but did not attempt to block the parade.

Prime Minister Tony Blair and Northern Ireland's Secretary of State Mo Mowlam deserve credit for not bowing to the pressure of extremists in the Orange Order. And I join with Protestant leader David Trimble, the First Minister of the new Northern Ireland Assembly, and Deputy First Minister Seamus Mallon in calling on those assembled in Portadown to end their confrontation in light of this tragedy.

This brutal fire bombing was the act of cowards. They do not represent the vast majority of the people in Northern Ireland, Protestants and Catholics alike, who have voted for peace and an end to division. Everyone outraged by the murder of these three young boys must redouble their efforts to support the peace process and to assure that extremists bent on sabotaging that process do not prevail.

We all extend our deepest sympathies to the members of the family.

Mr. President, I ask unanimous consent to be able to proceed for 10 more minutes as in morning business.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

PATIENTS' BILL OF RIGHTS

Mr. KENNEDY. Mr. President, the time moves on on the issue of our Patients' Bill of Rights legislation. Just 43 days remain in this session. The time has come to end the abuses of the HMOs and managed care plans. Families across the country know that too many medical decisions today are being made by the insurance company accountants instead of doctors. They know the company profits too often get priority over patients' needs and, too often, managed care is mismanaged care.

We have legislation—the Patients' Bill of Rights—to end these abuses. Included in the Patients' Bill of Rights is a section that allows ERISA-covered patients to hold their health plans accountable for abusive actions that result in injury or death.

This provision seems to have drawn the strongest opposition from the Republican leadership and their special interest allies. But an article in last Saturday's New York Times paints a poignant picture of the need for reform.

Judges throughout the Federal judicial system have written decisions in which they implore Congress to take action to correct ERISA's gross inadequacies.

They have repeatedly ruled that their hands are tied—even in the most egregious cases—from providing the patients or their families with meaningful redress when an insurance company's actions result in injury or death.

Mr. President, I will quote a few parts of this article.

I ask the Chair to remind me when 2 minutes remain.

. . . The United States Court of Appeals for the Fifth Circuit, in New Orleans, reached a typical conclusion in a lawsuit by a Louisiana woman whose fetus died after an insurance company refused to approve her hospitalization for a high-risk pregnancy. . . .

In dismissing the suit, the court said, ''The Corcorans have no remedy, state or Federal, for what may have been a serious mistake.''

The court said that the harsh result ''would seem to warrant a re-evaluation of

ERISA so that it can continue to serve its noble purpose of safeguarding the interests of employees.''

What they were pointing out is that there was no opportunity, after the negligence involved in this case, for the defendant to be able to receive any redress for the injuries they sustained, and the Federal judge was saying that Congress should act.

In a second case, Judge William G. Young of the Federal District Court in Boston, and I point out that he is a Republican appointee, said—

''It is deeply troubling that, in the health insurance context, ERISA has evolved into a shield of immunity which thwarts the legitimate claims of the very people it was designed to protect.''

Judge Young said he was distressed by ''the failure of Congress to amend the statute that, due to the changing realities of the modern health care system, has gone conspicuously awry,'' leaving many consumers ''without any remedy'' for the wrongful denial of health benefits.

Next

. . . Judge John C. Porfilio of the United States Court of Appeals for the 10th circuit, in Denver, said he was ''moved by the tragic circumstances'' of a woman with leukemia who died after her HMO refused approval for a bone marrow transplant. But, he said, the 1974 law ''gives us no choice,'' and the woman's husband, who had sued for damages, is ''left without a remedy.''

Again

The United States Court of Appeals for the Eighth Circuit, in St. Louis, said the law protected an HMO—against a suit by the family of a Missouri man, Buddy Kuhl, who died after being denied approval for heart surgery recommended by his doctors. ''Modification of ERISA in light of the questionable modern insurance practices must be the job of Congress, not the courts,'' said Judge C. Arlen Beam.

The United States Court of Appeals for the Sixth Circuit, in Cincinnati, said that the Federal law barred claims against a ''utilization review'' company that refused to approve psychiatric care for a man who later committed suicide. Because of ERISA, the court said, people who sue an HMO or an insurer for wrongful death ''may be left without a meaningful remedy.''

Federal District Judge Nathaniel M. Gorton, in Worcester, Mass., said that the husband of a woman who died of breast cancer was ''left without any meaningful remedy'' against an HMO that had refused to authorize treatment.

Federal District Judge Marvin J. Garbis in Baltimore, said . . . whether ERISA should be ''reexamined and reformed in light of modern health care is an issue which must be addressed and resolved by the legislature rather than the courts.''

The Ninth Circuit continues in another case, and it goes on and on and on.

This is what we are seeing across the country in the Federal district courts, in the circuit courts, with judges that come from entirely different traditions, Republicans and Democrats alike.

When they look at ERISA, they find out that there are grossly inadequate remedies for individuals who have suffered as a result of malpractice, or because that HMOs have denied coverage for health treatments recommended by their doctors.

So, Mr. President, this isn't just those of us who are supporting this legislation that are saying it. Here we have the irrefutable presentations made by district court and circuit court judges across the country that are inviting Congress to act to protect families in the United States of America.

There is only one bill that provides that protection, and it is the Patients' Bill of Rights. Every single day that we delay acting on it, the circumstances we have discussed here tonight will be repeated and repeated and repeated.

The insurers and corporations who fear they have something to lose if patients are able to hold plans accountable have used ginned up estimates to try scare people into thinking that offering this protection would somehow result in dramatic premium increases. But tens of millions of patients—those who work for states and localities and those who purchase health insurance on their own—have this right, and a recent study confirmed that the cost associated with it is negligible.

The independent and nonpartisan Kaiser Family Foundation hired Coopers and Lybrand to examine the costs of being able to hold plans accountable for their actions. And their study found that ensuring this right costs as little as three pennies per month. Three pennies per month to hold your plan accountable for its actions.

Now, we know that the insurance industry does not support that particular proposal, and we know that the Republican leadership does not support that proposal. But we are asking, when in the world will the Republican leadership let us at least debate that issue here on the floor of the U.S. Senate? They have denied us the opportunity to mark the bill up in our committee. They have denied us the opportunity to have legislation on the calendar and the opportunity to get that measure scheduled so we can debate it. Mr. President, that is wrong.

Now we listened to those on the floor of the U.S. Senate the other night speaking for the Republican leadership saying, ''The Republican leadership will decide when we will schedule this measure, and we in the majority are not going to schedule that measure until we are good and ready to do so.''

Well, we are saying that we are going to offer this measure on every single appropriate measure that comes before the U.S. Senate, and maybe the leader does have the power to pull legislation down and stick it back on the calendar, but they are going to be really busy doing that because they are going to have to put every piece of legislation back on the calendar because we are going to continue to offer this commonsense proposal.

The PRESIDING OFFICER. I advise the Senator that 2 minutes remain.

Mr. KENNEDY. Mr. President, I want to finally point out that the President's own blue ribbon nonpartisan commission, made up of a wide variety of different personnel representing the industry—doctors, patients, nurses—looked at the issues around patients rights. They recommended virtually unanimously that all patients should have the kinds of protections included in our Patients' Bill of Rights legislation. That is the President's commission.

Now, if our Republican friends do not want the American people to have these rights, let's get on the floor of the U.S. Senate and debate it. But they refuse to do so, Mr. President, and we will not be silent. We will continue to make every effort to bring this legislation up so that we can get about the business of protecting American consumers.

Mr. President, I ask unanimous consent that this full article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, July 11, 1998]

HANDS TIED, JUDGES RUE LAW THAT LIMITS H.M.O. LIABILITY

(By Robert Pear)

WASHINGTON, July 10—Federal judges around the country, frustrated by cases in which patients denied medical benefits have no right to sue, are urging Congress to consider changes in a 1974 law that protects insurance companies and health maintenance organizations against legal attacks.

In their decisions, the judges do not offer detailed solutions of the type being pushed in Congress by Democrats and some Republicans. But they say their hands are tied by the 1974 law, the Employee Retirement Income Security Act. And they often lament the results, saying the law has not kept pace with changes in health care and the workplace.

The law, known as Erisa, was adopted mainly because of Congressional concern that corrupt, incompetent pension managers were looting or squandering the money entrusted to them. The law, which also governs health plans covering 125 million Americans, sets stringent standards of conduct for the people who run such plans, but severely limits the remedies available to workers.

In a lawsuit challenging the denial of benefits, a person in an employer-sponsored health plan may recover the benefits in question and can get an injunction clarifying the right to future benefits. But judges have repeatedly held that the law does not allow compensation for lost wages, death or disability, pain and suffering, emotional distress or other harm that a patient suffers as a result of the improper denial of care.

Congress wanted to encourage employers to provide benefits to workers and therefore established uniform Federal standards, so pension and health plans would not have to comply with a multitude of conflicting state laws and regulations.

The United States Court of Appeals for the Fifth Circuit, in New Orleans, reached a typical conclusion in a lawsuit by a Louisiana woman whose fetus died after an insurance company refused to approve her hospitalization for a high-risk pregnancy. The woman, Florence B. Corcoran, and her husband sought damages under state law.

In dismissing the suit, the court said, ''The Corcorans have no remedy, state or Federal, for what may have been a serious mistake.''

The court said that the harsh result ''would seem to warrant a reevaluation of the Erisa so that it can continue to serve its

noble purpose of safeguarding the interests of employees.''

In another case, Judge William G. Young, of the Federal District Court in Boston said, ''It is deeply troubling that, in the health insurance context, Erisa has evolved into a shield of immunity which thwarts the legitimate claims of the very people it was designed to protect.''

Judge Young said he was distressed by ''the failure of Congress to amend a statute that, due to the changing realities of the modern health care system, has gone conspicuously awry,'' leaving many consumers ''without any remedy'' for the wrongful denial of health benefits.

Disputes over benefits have become common as more employers provide coverage to workers through H.M.O.'s and other types of managed care, which try to rein in costs by controlling the use of services.

Here are some examples of the ways in which judges have expressed concern:

Judge John C. Portfolio of the United States Court of Appeals for the 10th Circuit, in Denver, said he was ''moved by the tragic circumstances'' of a woman with leukemia who died after her H.M.O. refused approval for a bone marrow transplant. But, he said, the 1974 law ''gives us no choice,'' and the woman's husband, who had sued for damages, is ''left without a remedy.''

The United States Court of Appeals for the Eighth Circuit, in St. Louis, said the law protected an H.M.O. against a suit by the family of a Missouri man, Buddy Kuhl, who died after being denied approval for heart surgery recommended by his doctors. ''Modification of Erisa in light of questionable modern insurance practices must be the job of Congress, not the courts,'' said Judge C. Arlen Beam.

The United States Court of Appeals for the Sixth Circuit, in Cincinnati, said that Federal law barred claims against a ''utilization review'' company that refused to approve psychiatric care for a man who later committed suicide. Because of Erisa, the court said, people who sue an H.M.O. or an insurer for wrongful death ''may be left without a meaningful remedy.''

Federal District Judge Nathaniel M. Gorton, in Worcester, Mass., said that the husband of a woman who died of breast cancer was ''left without any meaningful remedy'' against an H.M.O. that had refused to authorize treatment.

Federal District Judge Marvin J. Garbis, in Baltimore, acknowledged that a Maryland man may be left ''without an adequate remedy'' for damages caused by his H.M.O.'s refusal to pay for eye surgery and other necessary treatments. But, Judge Garbis said, whether Erisa should be ''re-examined and re-formed in light of modern health care is an issue which must be addressed and resolved by the legislature rather than the courts.''

The United States Court of Appeals for the Ninth Circuit, in San Francisco, ruled last month that an insurance company did not have to surrender the money it saved by denying care to a Seattle woman, Rhonda Bast, who later died of breast cancer.

''This case presents a tragic set of facts,'' Judge David R. Thompson said. But ''without action by Congress, there is nothing we can do to help the Basts and others who may find themselves in this same unfortunate situation.''

Democrats and some Republicans in Congress are pushing legislation that would make it easier for patients to sue H.M.O.'s and insurance wrong decision, he or she can be sued, said Representative Charlie Norwood, Republican of Georgia, but ''H.M.O.'s are shielded from liability for their decisions by Erisa.''

Changes in Erisa will not come easily. The Supreme Court has described it as ''an enormously complex and detailed statute'' that carefully balances many powerful competing interests. Few members of Congress understand the intricacies of the law. Insurance companies, employers and Republican leaders strenuously oppose changes, saying that any new liability for H.M.O.'s would increase the cost of employee health benefits.

Senator Trent Lott of Mississippi, the Republican leader, said today that he had agreed to schedule floor debate on legislation to regulate managed care within the next two weeks. Senator Tom Daschle of South Dakota, the Democratic leader, who had been seeking such a debate, said Mr. Lott's commitment could be ''a very consequential turning point'' if Democrats have a true opportunity to offer their proposals.

But Senator Don Nickles of Oklahoma, the assistant Republican leader, said, ''Republicans believe that health resources should be used for patient care, not to pay trial lawyers.''

Proposals to regulate managed care have become an issue in this year's elections, and the hottest question of all is whether patients should be able to sue their H.M.O.'s. The denial of health benefits means something very different today from what it meant in 1974, when Erisa was passed. At that time, an insured worker would visit the doctor and then, if a claim was disallowed, haggle with the insurance company over who should pay. But now, in the era of managed care, treatment itself may be delayed or denied, and this ''can lead to damages far beyond the out-of-pocket cost of the treatment at issue,'' Judge Young said.

H.M.O.'s have been successfully sued. A California lawyer, Mark O. Hiepler, won a multimillion-dollar jury verdict against an H.M.O. that denied a bone marrow transplant to his sister, Nelene Fox, who later died of breast cancer. But that case was unusual. Mrs. Fox was insured through a local school district, and such ''governmental plans'' are not generally covered by Erisa.

The primary goal of Erisa was to protect workers, and to that end the law established procedures for settling claim disputes.

Erisa supersedes any state laws that may ''relate to'' an employee benefit plan. Erisa does not allow damages for the improper denial or processing of claims, and judges have held that the Federal law, in effect, nullifies state laws that allow such damages.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Thank you Mr. President.

EDUCATION: RECENT SUCCESSES AND CHALLENGES

Mrs. MURRAY. Mr. President, I rise today to mention a few topics vital to the educational success and safety of American children.

Mr. President, last week we saw some real success for American families and students. The Higher Education Reauthorization Act made several improvements that can benefit from more attention; this bill is a major victory for students and teachers across America. My daughter enters college this fall. I now get to experience first-hand the challenges of entering higher education that millions of families each year, and our actions last week were helpful.

Throughout the Labor Committee's efforts on this bill, I worked to strengthen our Nation's commitment to providing the strongest training possible for K–12 school teachers. I am most pleased with the bill's focus on teacher training, and in particular its emphasis on technology training.

The bill's provisions concerning student loans will make the dream of higher education that much closer to reality for many potential American college students. The campus safety and child care provisions will make a difference in all our communities.

I specifically thank Senator WELLSTONE for his work on the TANF amendment, so important for literacy instruction and lifelong learning. Since our debate on the welfare reform bill in 1996, I have worked with former Senator Simon, Senator WELLSTONE, and other Senators to point out the vital importance of education and literacy to a person's success in getting off of welfare. The passage of the Wellstone amendment is the right thing to do for low-income working Americans.

Under the Higher Education Reauthorization Act, I believe that the first generation of the new millennium will benefit immensely from the efforts put forth over this past year. From increases in financial aid, to campus security improvements, to technology instruction, S. 1882 will stand as a proud hallmark of this Congress.

Mr. President, on other education topics, we still have some large challenges ahead. The House Appropriations Committee is set to have full Committee mark-up of education appropriations this week. The Labor Subcommittee has cut education funding from the President's proposed levels by $2 billion in discretionary spending, and ignored his proposals to improve school construction and class size reduction. This would be the week for House members to eliminate these egregious cuts.

Let me list a few things the House has put at risk through cuts or eliminations: improving children's literacy; opening school buildings up after hours to make them the hub of the community; getting extra help in reading and math to poor-achieving students; improving education technology, including technology teacher training; getting first-generation students ready for college; and many others. The House has ignored the priorities of the American people.

The American people care deeply about education. They are frustrated when their schools do not succeed, and they bristle at those who would make it harder for the schools to succeed. This is not about just bricks and mortar, or about throwing good money after bad. This is about priorities, common-sense solutions, and improving quality.

Do not try to fool the parents. The parents know that school improvement has a cost—in hard decisions, and in hard cash. They know that when Congress offers vouchers and expanded charter schools and bonuses for private schools and private businesses—the