

We are about to enter on to a difficult and protracted debate on a Patients' Bill of Rights. It is my view, and has been, as reflected in the votes I have cast on the Senate floor for several years now, that America needs a Patients' Bill of Rights and that the traditional remedies not be capped or limited. But a good tradeoff, in my judgment, would be that exclusive jurisdiction would be vested in the Federal courts. This is not really a problem for plaintiffs of "forum non conveniens"—the Latin phrase which means an inconvenient court—because there are underlying Federal questions on ERISA. And even when cases are brought in the State court, invariably, they end up on removal actions in the Federal court. When you start to try to make distinctions under ERISA 502, ERISA 514, trying to distinguish between the quantity of coverage versus the quality of coverage, they necessarily overlap; and it will be a saving of judicial resources if all of those cases are heard in the Federal court. I ask my colleagues to consider this.

I ask unanimous consent at this time that the full text of my Dear Colleague letter, dated June 13, be printed in the RECORD.

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

JUNE 13, 2001.

DEAR COLLEAGUE: A key point of controversy on legislation now pending in the Senate is whether patients will be permitted to collect damages from insurance companies without a statutory limitation. Under more than 200 years of common law precedents, a harmed plaintiff has been able to recover compensation as set by a jury for economic losses and pain and suffering when a defendant is negligent and punitive damages for gross, malicious or intentional misconduct.

The McCain-Edwards-Kennedy Bill, of which I am a co-sponsor, provides for Federal court jurisdiction on the issue of whether a claim is covered by the contractual provisions of a health care plan and for state court jurisdiction on medical malpractice claims.

Serious concerns have been raised to that bill because of a history of very high verdicts in state courts on personal injury claims which could significantly raise the cost of health care in the United States. There is substantial experience that Federal court trials result in a more reasoned and judicious result in malpractice cases.

I intend to offer a compromise amendment which would maintain Federal court juris-

diction under McCain-Edwards-Kennedy for coverage claims and extend Federal court jurisdiction, excluding state court jurisdiction, on medical malpractice claims which would preserve plaintiffs' traditional common law remedies in a more reasoned judicial setting.

Since the Patients' Bill of Rights will be on the Senate floor next week, I thought it useful to call this proposal to your attention so that you may consider it. My staff and I are available to respond to questions and to amplify the details of this proposed compromise since this is a simplified statement on complex legal issues.

Sincerely,

ARLEN SPECTER.

Mr. SPECTER. I thank the Chair for sitting late. It is not easy to come in on a Monday afternoon. The distinguished Senator from Utah, a senior Republican on the Judiciary Committee, has performed extraordinary service. I thought it not unfitting that I should cite his report on class action cases since he was the author of those pearls of wisdom I quoted.

I believe that concludes our business.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 10 a.m. tomorrow.

Thereupon, the Senate, at 4:03 p.m., adjourned until Tuesday, June 19, 2001, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate June 18, 2001:

THE JUDICIARY

TERRY L. WOOTEN, OF SOUTH CAROLINA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF SOUTH CAROLINA, VICE A NEW POSITION CREATED BY PUBLIC LAW 106-553, APPROVED DECEMBER 21, 2000.

IN THE AIR FORCE

THE FOLLOWING NAMED AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

To be colonel

STEVEN L ADAMS, 0000
JOSEPH P ANELLO, 0000
AMOS BAGDASARIAN, 0000
MICHAEL E BATES, 0000
JAMES A BUNTYN, 0000
KEVIN M BURMAN, 0000
ROBERT B BURNS, 0000
WILLIAM J BURNS, 0000
DAVID N BURTON, 0000
WILLIAM S BUSBY III, 0000
IWAN B CLONTZ, 0000
MICHAEL G COSBY, 0000
MICHAEL J DORN BUSH, 0000
ARTHUR B EISENBREY, 0000
DENNIS C ELVIN, 0000
MICHAEL L FLOOD, 0000
LOREN W FLOSSMAN, 0000
TERRY L FRITZ, 0000
FLORIAN J GIES IV, 0000
TIMOTHY G GRAVEN, 0000

ERNEST D GREEN, 0000
MICHAEL E HILLESTAD, 0000
ELWOOD H HIPPEL JR., 0000
DAVID E HOLMAN, 0000
ROBERT H JOHNSTON, 0000
LARRY R KAUFFMAN, 0000
MARY Y KIGHT, 0000
BRADLEY A LIVINGSTON, 0000
THOMAS E LYTTLE III, 0000
GARY T MAGONIGLE, 0000
DAVID B MANSFIELD, 0000
BRUCE A MARSHALL, 0000
MICHAEL J McDONALD, 0000
MARK F MEYER, 0000
RICHARD O MIDDLETON II, 0000
MICHAEL S MILLER, 0000
ARNE E MOE, 0000
NICHOLAS M MONTGOMERY JR., 0000
YAFEU A NANTWI, 0000
ROBERT D NORTH, 0000
THOMAS A PERARO, 0000
DANA A RAWL, 0000
JEFFREY E SAWYER, 0000
THOMAS C SCHULTZ, 0000
GARY SHICK, 0000
STEPHEN M SISCHO, 0000
LAWRENCE W SMITH JR., 0000
ROBERT D SMITH JR., 0000
WILLIAM J STRANDELL, 0000
T JOHN STROM BROCK, 0000
ERNEST G TALBERT, 0000
STEVEN L VANEVERY, 0000
MICHAEL J VANLEUVEN, 0000
EDWIN A VINCENT JR., 0000
CHARLES E WEST JR., 0000
JOHN D WOOTEN JR., 0000
SALLIE K WORCESTER, 0000
ROBERT J YAPLE, 0000
JANNETTE YOUNG, 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

ROBERT E ELLIOTT, 0000
DAVID L GRAY, 0000
BERNIE R HUNSTAD, 0000
MARK H JACKSON, 0000
EDWARD S KAPRON, 0000
RICHARD A LEXVOLD, 0000
CHARLES E LYKES JR., 0000
GERALD L MEYER, 0000
JAMES K OBRIEN JR., 0000
CHARLES E PICKENS, 0000
PETER G SMITH, 0000

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

BRUCE M BENNETT, 0000
DONALD C BRITTEN, 0000
LINWOOD D. BUCKALEW, 0000
MARK A. CLINK, 0000
JOSEPH P. KELLY, 0000
JOHN T. LINDSAY, 0000
FERDINAND F. PETERS, 0000
ROY P. PIPKIN, 0000
GRANT E. ZACHARY JR., 0000

DEPARTMENT OF COMMERCE

SAMUEL W. BODMAN, OF MASSACHUSETTS, TO BE DEPUTY SECRETARY OF COMMERCE, VICE ROBERT L. MALLETT, RESIGNED.

MICHAEL J. GARCIA, OF NEW YORK, TO BE AN ASSISTANT SECRETARY OF COMMERCE, VICE F. AMANDA DEBUSK, RESIGNED.

DEPARTMENT OF DEFENSE

JOSEPH E. SCHMITZ, OF MARYLAND, TO BE INSPECTOR GENERAL, DEPARTMENT OF DEFENSE, VICE ELEANOR HILL.