leader for his effort in getting us to this point.

Mr. LOTT. I thank Senator DASCHLE for his comments and his frankly suggesting we could do the two votes at 6 o’clock, as well as his cooperation.

I know a lot of Senators have other issues they are interested in. We are still working some other issues and some, I believe, for instance, the Emerson food donation bill, a food bank bill, which I think we can get that cleared. We will be talking about other issues, so I think Senator JORDAN asked about these bills, maybe we can go ahead and get started on the debate. I see Senator NUNN, and I know he is very much interested in some nominations.

Mr. NUNN. If I could just take 2 seconds here, I am glad progress is being made.

I join the chairman of the committee, Senator THURMOND, in his plea that we pass the defense authorization bill. It will take a total of about 20 minutes, based on what I know now.

Even more urgently, I urge that we clear the nominations, the military nominations. We have posts all over the world that depend on these nominations. It is extremely important that we do these nominations this evening. Whatever else is still in dispute when we do the nominations this evening. Whatever else is still in dispute when we do the nominations this evening.

I yield the floor.

Mr. THURMOND. Mr. President, I wish to thank the able Senator from Georgia, Senator NUNN, for his remarks on these defense matters, and also Senator WARNER of Virginia.

Defense, I say again, is nonpartisan; military matters and nominations are nonpartisan. Why there is an objection here to the taking up of nominations of the President of the United States for military nominations is beyond me. Why there is objection here to the taking up a defense bill agreed to on both sides, that we can finish in 20 minutes, one, an objection beyond me. After all, defense is for the whole country. These military nominations are for the whole country.

I yield the floor.

Mr. WELLSTONE. Mr. President, let me present the challenge. I have to thank Senator PRIOR from Arkansas, who has been so diligent on these issues, and also Senator KENNEDY from Massachusetts.

I yield the floor.

Mr. LOTT. Mr. President, let me present the challenge. I have to thank Senator PRIOR from Arkansas, who has been so diligent on these issues, and also Senator KENNEDY from Massachusetts.

Mr. LEVIN. Earlier in the week, the majority leader indicated there would be an effort made to offer up the nominations of the circuit judges as well as the district court judges. Is that effort going to continue?

Mr. LOTT. I yield the floor.

The PRESIDING OFFICER. Mr. President, I wish to thank the able Senator from Georgia, Senator NUNN, for his remarks on these defense matters, and also Senator WARNER of Virginia.

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Mr. President, in the dark of night, in this conference committee for this bill, the insurance reform bill, there was a provision that was put in, which was a 2-year patent extension for a prescription drug called Lodine. I think the effect of this would be that for 5 years it would be impossible for consumers to purchase a generic drug. My understanding is that the manufacturer is paying the Federal Government $10 million each year, or $20 million, because this would be additional costs, since the Medicaid assistance would go up more than it would if in fact consumers had access to the generic drug. In addition, the company would be providing reimbursements to some of the States because of the additional Medicaid costs.

The problem, Mr. President, is that this is a gigantic ripoff for the rest of the consumers because the generic drug would give consumers access to affordable treatment, those who are suffering from arthritis. So that, I think, is egregious. Clearly, I think it is the wrong thing for us to do.

The point of this challenge, however, has to do with the process. There was an attempt to stick this provision into the Senate Appropriations Subcommittee, and there was a very strong letter from Senator PRIOR and Senator CHAFEE saying, don’t do that. So at the last minute the committee late at night, not known to very many Members. It had never really passed out of the Republican and the Democratic Senators from Michigan, and he is from Michigan. Is there any possibility now that would be offered this evening?

Mr. LOTT. We will continue to work with the Senator on that. Senator ARBUTT, I have talked to me about that. We will continue to work on that.

Mr. NUNN. It will take a total of about 20 minutes, based on what I know now.

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Mr. NUNN. It will take a total of about 20 minutes, based on what I know now.
Senator SANTORUM. I appeal the ruling of the Chair.

Mr. WELLSTONE. Mr. President, I reserve the remainder of my time, and I will yield on your time.

Mr. SANTORUM. In that case, I will yield to the senior Senator from Pennsylvania.

Mr. SPECTER. Mr. President, contrary to the statement by the Senator from Minnesota, this matter has been considered in the Judiciary Committee as part of the markup on the drug patent bill. It was on the floor as a part of the Hatch amendment, which was a part of the defense authorization bill.

This measure was also considered by the House, which passed a 2-year patent extension for this drug on separate occasions; in 1992 and again in 1996. It has been so considered as a matter of basic fairness. The FDA delayed action on this matter for some 97 months, contrasted with 27 months on the average.

This matter has been considered extensively. I raised it in open session in the Agriculture Subcommittee of the Appropriations Committee earlier this week. It had been in the House Agriculture appropriations bill and was dropped in conference. I do not vouch for the provision where it was added to the health care bill after conference. I do not know about that and was not a party to that.

But we have a very basic problem in America about research expenditures for drugs that benefit sick people. These drugs benefit everybody including the elderly, the young, and those not in either category. If we are going to expend a very substantial sum of money on research, there is going to have to be a reasonable return. We have a patent period, and the patent period was not honored in this case. The manufacturer here, Wyeth-Ayerst, is a major Pennsylvania constituent of Senator SANTORUM's and mine, employing thousands of people in the Philadelphia suburbs. If they are to be able to continue, they are going to have to have a reasonable return.

Those who added it to this bill did so because this is a health bill. One way to do that, and that must be considered, I am very sympathetic to generic manufacturers, and I have a very strong voting record for senior citizens on issues like this. But if we are to have the kind of research, productivity and the great miraculous advances and similarly going to have to have a reasonable rate of return on the patent period that is realistic. That is why on the merits and as a matter of fairness, I have advocated this position publicly and do so today, because I think it is an appropriate and sound position.

I yield to my colleague from Pennsylvania.

Mr. SANTORUM. I think the Senator has articulated the arguments on the merits very well. This is an appropriate remedy. I just ask the Senator from Minnesota if he has ever heard of the drug Daypro. It is a competing drug that had the same problems going through the FDA as Lodine, the same problem with the FDA. But in the 1996 omnibus appropriations bill, Daypro got an extension. I don't recall the Senator from Minnesota objecting to that extension, asking for that to be removed. But they got one, too.

So why would there be a competitive disadvantage? We have one company with a similar drug, a similar prescription, getting an extension and another drug with the same FDA problem not getting an extension. This is a health care bill. The Chair has ruled that it is within the scope of this bill. So I think what is going on here is, frankly, not a special interest, but simply a matter of fairness that we are trying to address. I think what has gone wrong here is really a lot of action that—as the Senator said, this bill passed here in the Senate, passed in the House. It is not a new provision. It has had committee discussion. This thing is not anything new to any Member of this floor. We should have left it alone and created the fairness that this Senate acted on and the House acted on in the past.

Again, I agree with the Senator from Minnesota, and I don't agree with sticking a tax provision that weren't originally there. I understand that objection. But this is not a red herring proposal. This is a sound proposal. This is a fair approach, and I think we are going to see either this week, frankly, the repeal of the Daypro. One or the other is going to happen again sometime in the next couple of months.

Mr. WELLSTONE. Mr. President, I appreciate working with both of my colleagues. For all I know that other provision was stuck in conference committee in the dark of night. I did not catch it. I really appreciate what you have said. I think we would probably disagree maybe on the substance because I think by postponing the time that this can be generic. We really provide more cost to the consumers. But it seems like what you have said—and hopefully we can all agree on this—this should not remain stuck in the conference committee the way it was. It was not appropriate, and that is why I challenged the ruling of the Chair.

I think from the point of view of the way our process operates it is a huge mistake to legislate this way. That is why I hope that I will receive strong support on this challenge. And my understanding is that, if we prevail on the voice vote, this will become a successful concurrent resolution which will be a technical correction resolution that I introduced on behalf of myself, and also Senator KENNEDY from Massachusetts.

Again, I thank especially Senator DAVID PRYOR for really bringing this to my attention.

Mr. SPECTER. Mr. President, I would take strong exception to any language if it refers to anything which my distinguished colleague, I, or others in the advocacy of this position have done. We have spoken of it directly. I did so earlier this week in the conference, and we do so on the floor today.

We need medical research. We need these wonder drugs to be produced. It is a matter of fairness as to how we are going to compensate those who produce them. If we are to have them for the consumers, we will have to be able to pay for them. And I think ultimately we will have to take this matter up on the merits, and I think at that time we will see that it is an appropriate position which Senator SANTORUM, I, and others have advocated.

Mr. WELLSTONE. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. The Senator has 36 seconds.

Mr. WELLSTONE. I say to my both my colleagues from Pennsylvania that they clearly are two Senators who are always more than willing to be strong and determined and honest in their positions in public.

This amendment is not at all aimed at the Senator from Pennsylvania. It is aimed at something that I think is wrong with this process. I yield the floor.

The PRESIDING OFFICER. The question is, Should the decision of the Chair stand as the judgment of the Senate?

The ruling of the Chair was not sustained.

CORRECTING THE ENROLLMENT OF H.R. 3103

The PRESIDING OFFICER. The clerk will now report the concurrent resolution.

The bill clerk read as follows:

A concurrent resolution (S. Con. Res. 68) to correct the enrollment of H.R. 3103.

The PRESIDING OFFICER. Under the previous order, the concurrent resolution is agreed to.