

That is, of course, the right of the majority and the right of the majority leader, especially, to make that decision. I am disappointed. Until that House bill comes before the Senate, it is not my intention to have to require the Senate to go through a debate on the same issue twice. That was the reason the rules were written as they were. Constitutionally, appropriations bills must begin in the House of Representatives. We are, in a sense, circumventing the rules of the Congress by allowing these bills to be debated and considered prior to the time the bill comes before the Senate.

We will certainly object. We will look forward to the House acting, as we hope they will soon, and not only on this bill but on others. Senator LOTT is absolutely right. This legislation should have been reported out it should have been passed in the House by now. It hasn't been. It is disappointing that it hasn't been. That is the only reason we are not taking it up this afternoon. I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I ask unanimous consent I be permitted to speak as in morning business for not to exceed 8 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRESCRIPTION DRUG PRICE DISCRIMINATION

Mr. GORTON. Mr. President, all of us have read accounts of Americans crossing our borders in order to buy vital prescription drugs at deeply discounted prices. Every day seniors and other Americans can save 50 percent, 60 percent, or even 70 percent on their drug bill simply by going to Canada or Mexico. A busload of seniors from Seattle recently saved \$12,000 just by driving two hours north to buy their medications at a Canadian pharmacy.

The reason drugs are so much less expensive in Canada, Mexico, and other countries? American manufacturers sell products that were discovered, developed and manufactured in the United States for far lower prices in virtually every other country in the world than the prices they charge American customers.

Why? Every other country imposes some form of a price control on prescription drugs. As long as we let our drug companies impose all of their research and development costs on American consumers, our drug manufacturers agree to this arrangement because they can recoup their manufacturing costs and still make some profit. But the price other countries pay in no way compensates for the expensive research and development costs for new drugs. American consumers end up subsidizing the research and development for the rest of the world.

When Americans pay higher prices at the drug store cash register, that is not the first time they subsidize the research and development of new drugs. Taxpayer dollars are used to fund the research conducted by the National Institutes of Health; much of the basic science research conducted with NIH grants is then transferred to the private sector. Taxpayer money is also the major source of funds for training scientific personnel, scientists hired by the drug industry in large numbers.

According to a 1993 report by the Office of Technology, in addition to general research and training support, there are 13 programs specifically targeted to fund pharmaceutical research and development. That same report noted: "Of all U.S. industries, innovation within the pharmaceutical industry is the most dependent on academic research and the Federal funds that support it."

Finally there are the tax breaks: for research and development, for orphan drug development; and possession tax credits for manufacturing drugs in Puerto Rico.

Let me be clear. I understand and support the need to invest in research and development. I have supported all of the programs I just spoke about including the National Institutes of Health and the Research and Development tax credit. I also agree that drug companies should be able to recoup costs associated with research and development. But I do not think that American consumers should be the only ones to foot that bill. American consumers who already strongly support R&D efforts through their tax dollars should not have to pay for R&D costs again in the form of higher prices at the drug store. All users, domestic and foreign, should pay a fair share of those costs.

But drug companies are satisfied with the status quo. They know that they can simply raise prices in the U.S., if other countries negotiate or regulate to win lower prices. American consumers should not be subject to this kind of price discrimination—especially for products that are vitally important to preserving our health.

My idea is to borrow from a law that has applied to interstate commerce within the United States for the last 60 years—the Robinson-Patman Anti-discrimination Act. It simply says that manufacturers may not use price to discriminate among like buyers. My bill, the Prescription Drug Fairness Act, takes these same principles and applies them to prescription drug sales overseas. Drug manufacturers would not be able to offer lower prices at the wholesale level in Canada, Mexico or any other country than they charge inside the United States.

Since 1936, the Robinson-Patman Act has established as a legal norm the concept of fair dealing in pricing by

prohibiting unjustified price discrimination. The same principle of fair dealing should be applied to prescription drug sales to wholesale buyers in different countries.

The drug companies have demonized my idea by labeling it "price control." If this is a price control then we have had price controls on every product sold in the United States for the last 60 years. My bill in no way tells drug companies what they can or can not charge for a prescription drug. It simply says that they cannot discriminate against Americans.

I asked the pharmaceutical companies for their ideas to ensure that Americans are treated fairly and have access to affordable prescription drugs. Their response? They simply want to expand Medicare by adding drug coverage for its recipients. While I do think coverage is one important part of the solution for seniors—it is only a partial answer.

It does nothing to address the cost for the uninsured American and does nothing to address the growing concerns of employers, health plans, and hospitals about rising costs associated with prescription drugs. As more and more people use prescription drugs, drug costs take up more of overall health care spending. But drugs are also costing Americans more. Last week, Families USA released a study that showed the average cost of the 50 drugs most commonly used by seniors rose by 3.9 percent, outpacing the inflation rate of 2.2 percent. A study from the University of Maryland's Center on Drugs and Public Policy projects prescription drug expenditures will rise 15–18 percent annually. Total prescription drug expenditures could double between 1999 and 2004 from \$105 billion to \$121 billion.

I do think the Medicare program should be modernized to include a prescription drug benefit. If we expand the program, however, it must be done responsibly and must not jeopardize the benefits seniors currently have. CBO estimates that the program will be insolvent by 2023. While there are a number of ideas for how to structure a benefit, the sticking point always seems to be how to pay for it. CBO recently revised its estimate of the President's proposal. It is expected to cost \$160 billion between 2003 and 2010. And that is for minimal coverage up to \$1,000 (with seniors paying a second \$1,000 out-of-pocket), relatively high premiums, and no protection for those seniors with exceptionally high drug bills.

My skepticism about the industry's support for simply expanding Medicare is increased by reports in the Wall Street Journal last week that Medicare and Medicaid have overpaid the drug industry by as much as \$1 billion a year for the few drugs these programs do cover. My idea would save Medicare beneficiaries money on their drug bills

and would in no way jeopardize the solvency of the fiscally ailing Medicare program.

I am convinced that we need to address the issue of price discrimination this year, not only for Medicare patients but for the health system overall. I am pleased to note that Senator JEFFORDS will hold a hearing on the issue of drug pricing and safety in the next few weeks and I hope that the Senate Judiciary Committee, to which my bill has been referred, will also take a look at this issue.

In the meantime, while seniors and health plans, employers, hospitals and others struggle with the growing cost of prescription drugs, the pharmaceutical industry has been among the most profitable U.S. Industries in the last five years, with year to year earnings growing by more than 10 percent and for some companies 20 percent. So far, they have refused to engage in this debate.

I hope they will change their minds. Right now the current system leaves the drug companies' best customers feeling like they've been ripped off. Bob Elmer from University Place, Washington recently wrote:

I am a recently retired pharmacist . . . and have always been proud of the American pharmaceutical manufacturers and the role that they play in . . . the search for new and innovative entities that help us live not only longer, but better. As a matter of fact, I worked for a major manufacturer for some time.

I, like you, am outraged at the manufacturers' practices of charging the American public more than the Mexican public or the Canadian public. What is their rationale for the price differences?

This overcharging is a black mark on this industry.

Mr. President, I couldn't agree more. Drug companies should no longer be allowed to discriminate against Americans by charging higher prices here than they do elsewhere in the world. My bill will end that discrimination.

FOREIGN OPERATIONS, EXPORT FINANCING AND RELATED PROGRAMS APPROPRIATIONS ACT, 2001—MOTION TO PROCEED—Continued

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I rise to speak with regard to the MOTION TO PROCEED and share my concerns that we should not be moving to an "S" numbered appropriations bill at this time. In fact, it is a practice simply we should not be involved in at all. For this reason I rise to speak for a bit about care for the Senate in general.

The Senate is a special place. It is a place steeped in history. Around this chamber stand the desks of Daniel Webster and Robert LaFollette, of Robert Taft and Richard Russell, of Everett Dirksen and Hubert Humphrey. The

drawers of these desks still bear their names, etched in the wood. The polished mahogany still reflects their memory. Their voices still echo from these marble walls.

I am honored to have been able to serve with some of the Senate's living legends. It is with pride that I will tell my grandchildren that I worked with the likes of TED KENNEDY, Bob Dole, and ROBERT BYRD. No honest history of the Senate will omit their names.

It is in a modest attempt to follow in the tradition of remarks by Senator BYRD that I rise today. All Senators are aware of Senator BYRD's encyclopedic four-volume treatise on the Senate. And none can forget the series of addresses that Senator BYRD gave on the history of the Roman Senate, which have been reprinted in another volume. His discussions of the special nature of the Senate inspire us all to hold this institution more dearly.

The Senate is an almost sacred place, consecrated by the will of the people, hallowed by the expression of the people in free elections. In this room, our 50 separate States each find expression. Every region of our vast continental nation here finds voice.

In a country as large and as diverse as ours, disputes will naturally arise. The Senate, almost like a court of law, provides a means for our society to resolve those disputes in peace. Courts allow private parties to resolve their disputes without resort to fist fights. And the Senate allows significant sections of our society to resolve their disputes without resort to the battlefield or the street.

For the Senate, as for a court of law, to work this magic, it must do justice. As with a court, as Gordon Hewart, the Lord Chief Justice of Great Britain, wrote, it is:

Of fundamental importance that justice should not only be done, but should manifestly and undoubtedly be seen to be done.

For the Senate, as for a court of law, to advance the perception of justice and the fair resolution of disputes, it must air disagreements fully. It must give opposing parties their day. It must allow all to approach on an equal footing and make their case.

Justice is not cursory. Justice is not offhand. Doing justice can take time. That is how the Founders wanted this great system to work.

In the debates of the Constitutional Convention, James Madison said of the Senate:

In order to judge of the form to be given to this institution, it will be proper to take a view of the ends to be served by it. These were first to protect the people against their rulers; secondly to protect the people against the transient impressions into which they themselves might be led.

Madison warned that the people's representatives might be "liable to err also, from fickleness and passion." Madison's answer was that Senators,

because of their "limited number, and firmness[,] might seasonably interpose against impetuous counsels." He thus called the Senate: "A necessary fence against this danger."

Time and again, in the history of our country, the Senate has served as that "necessary fence." And the firm pillars and posts supporting that fence have been the Senate Rules. The Senate Rules have helped the Senate to do justice. It is because of the Senate Rules that the British Prime Minister William Gladstone is said to have called the Senate:

That remarkable body, the most remarkable of all the inventions of modern politics.

The Senate Rules make it one of the few places in government where disagreements can be fully aired. The Senate Rules give opposing parties their day. And the Senate Rules allow every Senator to make his or her case.

As Senator Dole said in his speech in the Leader's Lecture Series March 28:

We all continue to learn that this institution can only survive if it operates by rules.

The two fundamental pillars of those rules are the right to debate and the right to amend. It is these rights that distinguish the Senate from the House of Representatives and from other parliaments. It is these rights of Senators that allow the Senate as a body to preserve the rights of minorities.

Rule XIX of the Standing Rules of the Senate provides that "the Presiding Officer shall recognize the Senator who shall first address him." Precedent, of course, gives priority of recognition to the Leaders. Once the Presiding Officer has recognized a Senator, Senate rule XXII allows that Senator to speak for as long as humanly possible, unless 60 Senators vote to cut off debate. As my Colleagues well know, the mere threat of extended debate—called a "hold"—can detain legislation.

As well, the Senate Rules give Senators the right to offer amendments. The Senate Rules do not require Senators to go hat-in-hand to a leadership-dominated Rules Committee to ask permission to offer an amendment, as Members of Congress must do in the House of Representatives. This ability to bring up a subject with which the majority does not want to deal provides a check and balance on the agenda-setting power that is vested in the majority leader.

These powers to debate and amend make every single Senator a force to be reckoned with. Every Senator—whether a member of the majority or the minority—can be a player. And Leadership cannot neglect or exclude any single Senator without substantial risk. As a result, Senators do well never to burn bridges with any other Senator. Because any one Senator can disrupt the Senate, every Senator has good reason to show comity for every other Senator.