

years. The nursing home at the end of their lives became a home away from home. For God's sake, who makes up those cuts?

In my State of Minnesota we are talking about 300,000 children; 300,000 children. Medical assistance is an important safety net to make sure that children receive some health care. As a former teacher, I want to make it clear to my colleagues: students—young students, children—do not do well in school when they go to school not having had adequate health care. If a child has an abscessed tooth because that child cannot afford dental care, that child is not likely to do well in his or her elementary school class.

For people with disabilities, this is an unbelievably important issue. It is a life or death issue. Because, for families who want to keep their children at home as opposed to institutionalization, the medical assistance payments are critically important. And, for adults who want to get up in the morning and be able to go to work and own their own small business, they need medical assistance for a personal attendant. That is a life with dignity. That is what medical assistance means to those people. So when we are talking about a formula and we are talking about statistics and we are talking about what happened to the State of Minnesota in the dark of night, Friday evening, we are talking about people's lives.

What this part of the amendment is going to say, when we give our instructions to conferees, is that we should undo, reverse those provisions which provided medical assistance spending to States based upon the votes needed for the passage of the legislation rather than the needs of the people in those States. I would like to debate that today, I say to my colleague from Arkansas. I am ready for that debate. I am ready for people to tell me who made that decision between 6 p.m. and 9 p.m. What committee met in public? Who voted? Who is held accountable?

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. WELLSTONE. Mr. President, I ask unanimous consent I have 30 more seconds.

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

Mr. WELLSTONE. What was the justification? I would like to hear a careful policy justification. But, Mr. President, I will not. Because there is none.

I know the pain this inflicts on citizens in my State and I intend to fight this all the way until we change this formula. And above and beyond that, I intend to be a part of an effort in this Senate to make sure that we do deficit reduction but we do it on the basis of a standard of fairness, not on the basis of responding to the people who give the money and who have the clout and have their way and are not asked to tighten their belts. But it is the children, the elderly, people with disabilities, the working families, the people who live in the communities.

We are going to change that one way or another. We are going to change that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

GATT AND PRESCRIPTION DRUGS

Mr. PRYOR. Mr. President, on three previous occasions I have come to the floor of the Senate to raise the issue that I wish to discuss today. Each time, I have laid out the facts of a particular problem—in fact, a loophole—which Congress created and which only Congress can fix.

Left uncorrected, that problem will cost the American consumer and the American taxpayer several billion dollars and will unjustly enrich a few pharmaceutical companies enjoying undeserved and unintended special treatment under the GATT treaty.

Over the next several days I intend to spend a few minutes to highlight a different and disturbing aspect of this GATT loophole. Let me give a brief overview, if I might, for those who may not be quite so familiar with the issue, despite the recent attention it has received in the media.

There is a very simple way to describe this issue. It is like a person walking down the sidewalk and finding a wallet. After picking it up, he learns it contains \$100 and the rightful owner's name. His question is, "Do I keep the money or do I return it to its rightful owner?"

In this case, this money clearly belongs to the American taxpayer and American consumer. But the drug companies are saying "OK, you made a mistake. But we want the money and we are going to try to keep it. Don't confuse us with the facts." That is what this issue is about.

I know that these companies have hired a swarm of lobbyists to come to Capitol Hill. I know today, in fact, that they are distorting the truth and they are deceiving the public. This issue is all about whether a handful of drug companies will be honest—whether they will give the figurative wallet back to its rightful owner, the American consumer and the American taxpayer.

Any fair-minded person will tell you that these drug companies are on the wrong side of this issue. But with billions of dollars at stake, how do you think they have responded? With a multimillion-dollar lobbying campaign. They are trying to pocket this undeserved profit.

It is difficult to believe the lengths they have gone to. They have distorted the facts. They are deceiving the public, and their unvarnished greed is on display for all to see.

The only argument they can come up with is, "Yes, we knew that a mistake was made. Yes, we haven't done a thing to deserve these billions of dollars. And yes, we know you are trying to correct this mistake. But, hey, this fell into our laps. We're going to do everything we possibly can to keep these dollars."

Mr. President, let me weave together the three pieces of this issue. It is pretty simple. I think they lead to a simple conclusion. We need to fix this problem, and we will let our colleagues judge for themselves as to whether they agree.

The first piece is the loophole itself. When Congress voted on the GATT treaty, we did two things. First, we extended all patents from 17 years to 20 years. Second, we stated in that treaty that a generic company in any industry—not just the drug industry—could market their products on the 17-year expiration date if they had already made a substantial investment and were willing to pay a royalty.

Why did we do this? We did a favor to patent holders, but in doing so, moved the goalposts on generic companies of all kinds. So we thought this was a fair deal and a good balance of commercial interests. It made sense and it makes sense today. Everyone bought onto it—the automotive companies, the computer companies, the high-tech companies, and yes, the drug companies.

Everyone said this is a fair way to solve this problem. We believed it to be fair. And we believed when we voted for the treaty that these provisions covered every person and every product, every company and every industry in the entire country. Everyone had to play by the same set of rules.

Let me emphasize: everyone includes our U.S. Trade Representative, Mickey Kantor. He has attested time and again that this was the case. Letters from Ambassador Kantor to myself and my colleague, Senator CHAFEE, are part of the RECORD.

But Mr. President, we were wrong. We made a mistake and accidentally left the prescription drug industry out of the picture. Today, they get the patent extension of 3 additional years. But the GATT loophole shields them from any generic competition whatsoever; in other words, a free ride for an additional 3 years with no competition—a monopoly, and exorbitant prices. The rest of us are playing by one set of rules while these few companies enjoy special treatment because of our mistake.

That is part 1, Mr. President, and that is the loophole. Part 2 is the windfall.

Mr. President, may I ask if there is additional time?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. PRYOR. Mr. President, I ask unanimous consent—I see no other Senator seeking recognition—that my time may be extended for 5 additional minutes.

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

Mr. PRYOR. Mr. President, part 2 is the windfall itself.

Remember: The drug industry is the only industry which enjoys special protection because of this GATT loophole.

As a result of that special protection, the American consumer is going to pay more for a handful of bestselling drugs—in fact, as much as \$2 billion to \$6 billion more.

If we take Zantac, an ulcer drug as well as the world's best-selling drug, for example, a consumer is going to have to pay twice as much for Zantac.

If we take Capoten for hypertension, for example, we are going to be paying from 40 to 45 percent more for the next 2 or 3 years for Capoten than we would if we corrected this mistake.

Here, for example, is a bottle of Zantac made by Glaxo Wellcome. Typically, you can go to the retail pharmacy and spend \$180 for a 2-month supply of Zantac. If we simply correct the GATT loophole, we would have a generic drug out there within weeks, and the consumer could be buying this same bottle of Zantac for no more than \$90.

Mr. President, that is outrageous. We should be embarrassed. We should be embarrassed if we do not correct this horrendous mistake. There is no conceivable reason why we should allow this loophole to remain uncorrected.

Do you want a second opinion? Ask Mickey Kantor, the U.S. Trade Representative, as well as the Patent and Trademark Office or the Food and Drug Administration. Ask the people who know. All of them agree that this provision should be fixed and that this loophole should be closed.

The GATT negotiators, Mr. President, the people who personally negotiated the treaty itself and who represented this country in those complex negotiations, say without question that a mistake was made.

Even the drug companies which benefit from our mistake and currently enjoy this undeserved profit admit it was all a mistake. In fact, one of their spokesmen, upon reading our legislative error—and realizing they had gained a multibillion dollar windfall—said, "Eureka."

Mr. President, Congress is faced with a choice: Do the right thing, fix the legislative error and save the taxpayers and the consumers money, or cave in to the lobbying and to the deception of several pharmaceutical companies.

Mr. President, that brings us to the third and the last part of the equation; that is, the solution. What is the solution?

Closing this loophole is very simple. It will not change our patents. It will not violate the sanctity of our patent law. It will not alter our trade policy nor the GATT treaty. It simply applies GATT to those free-riding drug companies the same way it applies to every other company and every other product in America.

This amendment would save consumers as much as \$6 billion. The Government would save hundreds of billions of dollars. People are talking about slashing Medicare and Medicaid, and here are billions of dollars that we could save if we would just fix a simple mistake.

Let me add that this is not a partisan issue. It never has been. I hope it will not be. It is about fixing a mistake, saving taxpayer money, and basically doing the right thing.

I know for a fact that many of my colleagues, Republican and Democrat alike, support our amendment. I also know that some of my colleagues have come to me in the last 2 or 3 weeks especially, and have said, "Gosh, we want to vote with you. But we have a Glaxo factory, or we have a Glaxo office, or we have a Glaxo facility in our State, and we do not know if we can be with you or not."

Mr. President, I hope that they will look at the overall picture. There is only one possible reason to oppose this solution. You have to honestly believe that these companies deserve a multibillion-dollar windfall. I do not. You have to ignore the fact that this was a mistake. That is the truth. And you have to believe that the consumers should pay more for those drugs because a legislative drafting error is a sound basis for public policy.

Is that what we believe, Mr. President? I do not believe that is the case in the U.S. Senate.

I have summarized the three pieces of this issue: the loophole, the windfall, and the solution. But there is a dark side to this issue, a shadow cast by a few companies who will enjoy this multibillion-dollar windfall. They have pulled out the stops. They have hired every lobbyist, law firm, and consultant inside and outside the beltway. Their motto is, "Don't confuse me with the facts, because on this one there's just too much money at stake."

This is how a newspaper headline read just last week: "Money Greases Massive Effort to Protect Glaxo Windfall."

Mr. President, Glaxo is the name of the company with the most at stake. They have hired the lawyers, they have hired the lobbyists, and they are here right this minute. They make the No. 1 drug in the world, Zantac. Last year, they sold \$2.2 billion worth of Zantac. Every day Glaxo sells \$6 million worth of this particular drug. That means the windfall for this single company is absolutely enormous.

The amount of money Glaxo has at stake is \$3.6 billion.

That doesn't include the \$300 million for Squibb and the more than \$100 extra million for Searle.

Mr. President, finally, does our proposed amendment violate the sanctity of patent rights? Of course, it does not.

Here is a letter of September 25, 1995, directed to our friend on the other side of the aisle, from Rhode Island, Senator JOHN CHAFEE. It was signed by Mickey Kantor, our U.S. Trade Representative. It says there is no way that it would violate the sanctity of patent rights. Why is this a question at all? Because, with all of the simple facts against them, Glaxo and its cohorts have had to create an issue out of thin air to lobby with.

Does our amendment curtail research dollars? Certainly not. In the case of

Zantac, all of the research on this particular drug was completed 20 years ago. Glaxo has had a 17-year monopoly to collect a fair and deserved return. And does anybody believe Glaxo will commit this money to research? The fact is, the industry still spends more on advertising than it does on research. And when was the last time someone invested money they don't deserve? Look under Glaxo's mattress and look at their campaign donations: that's where this money is going.

In fact, a lot of the underlying research on these products was done at taxpayer expense, not Glaxo's. We fund the National Institutes of Health. We give the industry generous research and development tax write-offs. We protect them in Puerto Rico from paying income taxes by section 936 of the Tax Code. And they still charge the American consumer far more than they charge the overseas consumer.

And now we are about to allow Glaxo and other companies an additional 3 years' worth of illegitimate monopoly. Remember, we are talking about \$6 million a day of competition-free cash on one, single product. Is that what we are all about in the United States Senate? Handing out \$3.6 billion in consumers' hardearned money as an unjustified bonus?

The great Notre Dame football coach, Lou Holtz, formerly coached the Arkansas Razorbacks. Coach Holtz was known for many things, but one thing that is indelible in my mind is his "do-right" rule. Coach Holtz had a rule that if something was not covered in the rule book or if it was a close question or what have you, he would just say, "Let's use the do-right rule."

Mr. President, I think now is the time for the Senate to adopt a do-right rule—to protect the taxpayer and to protect the consumer from an unjustified, undeserved windfall for a few pharmaceutical companies.

On a few occasions in the near future, I will be discussing this GATT loophole again. I hope that my colleagues in this body will help us correct this absolutely unthinkable situation. I trust they will join me in correcting this loophole in the GATT treaty.

I thank the Chair. I yield the floor.

I see no others seeking recognition. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GORTON). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

CHANGE IN MEMBERSHIP OF THE JOINT COMMITTEE ON TAXATION

The PRESIDING OFFICER. The chair announces, on behalf of the chairman of the Finance Committee, pursuant to section 8002 of title 26, United