

Commerce Committee to discuss this issue, and he was also asked repeatedly to testify in the House of Representatives. He repeatedly refused to do so.

As a result, I put a hold on his nomination. It was not acceptable to me to move Dr. McClellan's nomination unless he was willing to come and testify before the Congress on these issues.

Yesterday, Dr. McClellan did testify before the Commerce Committee. I and others, including Senator MCCAIN, asked him a substantial number of questions about these issues.

I had a long telephone conversation with Dr. McClellan last evening. I also had a conversation with the Secretary of Health and Human Services about these same issues. A couple of things happened as a result.

No. 1, Dr. McClellan has given me a commitment that in his new position, when he is asked to testify before the Congress, he is going to testify. That is an important principle for this Congress. We ought not say to people: We will promote you even though you stiff us.

I use the term "stiff," which is a term Senator MCCAIN used yesterday at the hearing. That is exactly what had happened. Dr. McClellan said he has learned from his confirmation experience and when asked to testify before relevant committees of Congress in the future, he intends to do so. That is No. 1. That is an important step.

No. 2, when Dr. McClellan's name was cleared last evening, Senator FRIST put this statement in the Senate RECORD:

Mr. President, I announce for the information of my colleagues that, in consultation with the chairman of the Senate Committee on Health, Education, Labor, and Pensions, Senator DORGAN, Senator STABENOW, Senator MCCAIN, Senator COCHRAN, and other interested Senators, the Senate will begin a process for developing proposals that would allow for the safe reimportation of FDA-approved prescription drugs.

What is the import of that? The majority leader of the Senate, for the first time, has made a commitment: He wants to put together a group that will develop proposals that will allow for the safe reimportation of prescription drugs. That is a change.

The question now is not whether we have some mechanism by which we can import prescription drugs and, therefore, have access to the reduced prices. Instead, the question is how can we do that. The majority leader used the word "allow." "Developing a process that will allow for the safe reimportation of FDA-approved prescription drugs." That is a significant change and a significant commitment. We will no longer fight about whether this ought to happen. We will fight about, perhaps, the mechanics of how to make it happen. And that is OK with me.

I appreciate Senator FRIST's statement and his commitment. Senator FRIST and I spoke four or five times last evening about this before he put his statement in the RECORD.

Again, the majority leader has said that he commits to beginning a process

that will develop proposals that will allow for the safe importation of approved prescription drugs. That is a significant change and a significant commitment. I appreciate the words and the commitment of the majority leader.

The minority leader, Senator DASCHLE, has also worked on this issue for some long while. Senator DASCHLE is a supporter of re-importation done under conditions that would provide for safety and also for savings for American consumers.

Based on those two things—a commitment from Dr. McClellan that when asked to testify, he will testify, and also the commitment by Senator FRIST to move towards developing proposals that will allow for the re-importation of FDA-approved drugs—I lifted my hold and Dr. McClellan was approved.

What we have accomplished in the last few days—Senator MCCAIN, myself, Senator SNOWE, Senator STABENOW, and others—is a significant shift, and it will inevitably lead to a change in public policy that will allow for the safe reimportation of FDA-approved drugs that will allow the American people to get them at a lower price. That is the goal.

I yield the floor.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, I congratulate the distinguished Senator from North Dakota for his tireless efforts and for the success he has now described. Without his persistent leadership, and the effort he has made over the last couple of days, we would not be in the position we are today. I know I speak for senior citizens and certainly for the members of our caucus and many others who care deeply about this issue. He has moved the process forward in quite a dramatic way in the last 48 hours. Were it not for his persistence and the leverage he had with regard to this nomination, we would not be in the position we are. I am grateful to him for the work he has done.

As he has just noted, this definitely moves the ball forward. This is a significant development that will once again allow the Senate the opportunity to consider the issue of drug reimportation in a meaningful way.

I have absolutely no doubt there is growing support for the efforts of the Senator from North Dakota and others who have been advocating for drug reimportation. In the last couple of days, the Senator from Mississippi, Mr. LOTT, announced his change of position, and for good reason. I talked with him last night about his desire to be supportive of the effort. He, too, is troubled by the pharmaceutical rip-off that is now going on and the determination among drug companies to hold senior citizens captive to high prices for prescription drugs. On a bipartisan basis, Senator LOTT, and Republicans and Democrats alike, have joined Senator DORGAN. This allows us,

once again, to look at ways with which to address the issue.

I commend the Senator for his success and applaud him for keeping the Senate's focus where it belongs: on bringing lower drug prices to seniors.

I also acknowledge his role in moving the McClellan nomination forward. This was a controversial nomination in some ways. I have been working with the majority leader over the last couple of days to consider the ramifications of either holding up the nomination or moving it forward. I will have more to say in a moment about another very disturbing bit of news that has just been released this morning.

But I think because of the extraordinary responsibilities that go to the office of CMS Administrator, filling that position is something that is important. I supported the effort to try to move this nomination forward in spite of some of the misgivings I have, as described so well by the distinguished Senator from North Dakota.

Let me say, though, that when we come back from the recess, I will come to the floor to talk more specifically about nominations and the process that is currently being employed with regard to the consideration of other nominees from this administration. Last night, I spoke with the distinguished majority leader about some of the concerns I have. There are now over a dozen Democratic nominees, some of whom have been held for months by the administration. Their refusal to send the nominations to the Senate has caused many of us to be concerned about the fairness with which this process has been implemented. It will be very difficult for us to move forward on nominees in the future if this matter is not resolved.

I have indicated to the majority leader that I will be providing him with the names of those people who have not been given fair consideration and whose names have been withheld. And whether it is in regard to judges or with regard to other executive appointments, there has to be a reciprocal treatment of nominees.

If we are not able to move these nominees in the future, I think it would be very difficult for us to at least consider all of those who are being given to us by the administration with an expectation that they will be voted upon until this matter is resolved.

We will have more to say about that when we return from the week recess.

THE MEDICARE DRUG BILL

Mr. DASCHLE. Mr. President, I wanted to call attention to another matter that just came to our attention this morning. There was a story filed by the Knight Ridder news organization in the Miami Herald, by Tony Pugh. The Miami Herald and other papers have had this story now on the Internet. I wanted to read a piece of it:

The government's top expert on Medicare costs was warned that he would be fired if he

told key lawmakers about a series of Bush administration cost estimates that could have torpedoed congressional passage of the White House-backed Medicare prescription drug plan.

The Senator from North Dakota was just addressing this issue. Obviously, the reimportation plan was part of the Medicare legislation, and had we been able to pass a meaningful reimportation provision, we could have brought down costs.

Again, quoting from a report copy-righted by the Miami Herald:

When the House of Representatives passed the controversial benefit by five votes last November, the White House was embracing an estimate by the Congressional Budget Office that it would cost \$395 billion in the first 10 years. But for months the administration's own analysts in the Centers for Medicare and Medicaid Services had concluded repeatedly that the drug benefit could cost upward of \$100 billion more than that.

Withholding the higher cost projections was important because the White House was facing a revolt from 13 conservative House Republicans who had vowed to vote against the bill if it cost more than \$400 billion.

Representative Sue Myrick of North Carolina, one of the 13 Republicans, said she was "very upset" when she learned of the higher estimate.

"I think a lot of people probably would have reconsidered [voting for the bill] because we said that \$400 billion was our top of the line," Myrick said.

Five months before the November House vote, the government's chief Medicare actuary had estimated that a similar plan the Senate was considering would cost \$551 billion over 10 years. Two months after Congress approved the new benefit, White House Budget Director Joshua Bolten disclosed that he expected it to cost \$534 billion.

Richard Foster, the chief actuary for the Centers for Medicare and Medicaid Services, which produced the \$551 billion estimate, told colleagues last June that he would be fired if he revealed numbers relating to the higher estimate to lawmakers.

"This whole episode, which has now gone on for 3 weeks, has been pretty nightmarish," Foster wrote in an e-mail to some of his colleagues June 26, just before the first congressional vote on the drug bill. "I'm perhaps no longer in grave danger of being fired, but there remains a strong likelihood that I will have to resign in protest of the withholding of important technical information from key policymakers for political reasons."

Cybele Bjorklund, the Democratic staff director for the House Ways and Means health subcommittee, which worked on the drug benefit, said Thomas Scully—then the director of the Medicare office—told her that he ordered Foster to withhold information and that Foster would be fired for insubordination if he disobeyed.

The vote on this Medicare legislation was one of the most critical decisions Congress had made in 40 years on Medicare. We are talking about a difference of more than \$150 billion. What this article states is that key members of the administration were told they would be fired if they told Congress the truth. I think this is one of the most reprehensible actions that I have seen since coming to Congress.

For the life of me, I cannot understand how such irresponsible behavior could be condoned, could be allowed.

We will get to the bottom of this. But I think it calls into question how laws are made. It certainly calls into question what efforts may now be made by the administration to keep information on other issues from Congress, before we make critical decisions.

I think we ought to bring this bill back for another vote. I think the House and the Senate deserve to have a vote based on all of the information, not just part of it. If this and perhaps other information was withheld, Members of Congress were called to vote under false pretenses. They were called to vote without having the truth. On an issue with these repercussions, we have no other choice but to revote this issue.

Already, the Congress has tried to offer corrections to the bill. Bills have been offered and amendments suggested to try to correct many of the problems created by this bill. But now we know, based on the information provided in this article, that not only are there significant policy questions, but the very issues provided to Congress as fact before were, in fact, untruthful misrepresentations upon which Congress voted mistakenly.

So we are going to have to review the available options that we have, with regard to how this happened and what ought to be done. I think an investigation of some kind is certainly warranted. Whether this is criminal or not is a matter that we will certainly want to clarify. But if not criminal, it is certainly unethical.

I think we need to know the facts. How did this happen? Why did it happen? Are there precedents for things like this happening for which the situation called for another vote? As close as that vote was, in the dead of night, I think we owe it to the American people, we owe it to seniors, to reconsider these votes and question whether or not we can put in place some absolute guarantee that this will never happen again.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, following the comments of my colleague, this is a shameful thing to have had happen and to read about. It breaks the bonds of trust that exist in this town. This is a political town, so we expect politics, but not in the context of information given us by agencies that are inherently nonpolitical and are supposed to give us good information with which to make public judgments and policy. I agree fully with my colleague. This not only breaks the bonds of trust, but it is a shameful and disgusting thing to read in a paper this morning. My hope is that it is fully investigated.

TRIBUTE TO JIM TESCHER

Mr. DORGAN. Mr. President, on another subject, I will now make some comments about a North Dakotan who

has died. I want to do this for a very special reason. I think his passing needs to be noted by us.

Willie Nelson has a song called "My Heroes Have Always Been Cowboys." Out in my part of the country—I grew up in western North Dakota—we understand Willie Nelson's music and lyrics and what his songs mean. Willie Nelson really gave voice, with "My Heroes Have Always Been Cowboys" to a way of life—about rodeos, ranch life, 10-gallon hats, pickup trucks, sweet clover, wild horses, newborn calves, going to town on Saturday night, good neighbors, strong families, and living free.

I grew up in a small area of western North Dakota. My dad was a good horseman. He raised horses. When I was a young boy, we went to rodeos. We did not have professional sports. We did not have Major League Baseball or the National Football League. We went to rodeos.

I recall as a young boy going to the rodeos in all the small towns in North Dakota, but also going to the National Western Livestock Show in the coliseum in Denver, CO. Cy Tallon was the announcer, one of the great rodeo announcers in our country. He would announce, "Coming out of chute No. 2, Jim Tescher from North Dakota."

We had cowboys who were the best in the world—Jim Tescher, Tom Tescher, Alvin Nelson, Duane Howard, Dean Armstrong—tops in the world. I remember how proud I had been hearing these North Dakotans being introduced at the National Western Livestock Show—saddle-bronc riders, bareback riders, and bull riders. They were the best in the world—tough, good people and champions.

Last month, one of them died. In a cemetery in the Badlands of North Dakota up on a hill, his casket sat to be buried. His name was Jim Tescher. He came from a ranch in the Badlands of North Dakota. He rode in rodeos in Madison Square Garden, the Boston Garden, and the Cow Palace. He won the saddle-bronc riding in the National Finals Rodeo twice. He was a real champion. He went for 2 years at one stretch as a professional RCA cowboy without being bucked off a saddle-bronc horse. Think of that: 2 years without being bucked off a saddle-bronc riding in rodeos.

His first love was the ranch, the cows, and the horses, so he rodeoed when he could. He didn't rodeo as much as some of the others, but when he did, he was a winner. After a long rodeo career, he returned to his ranch to live in the Badlands.

Last summer, he was driving a little four-wheeler out in the Badlands to check on some cattle and it tipped, fell down a cliff, and pinned him and paralyzed him from the neck down. I went to visit him at Thanksgiving time in the hospital in Mandan, ND. Jim was lying in his hospital room paralyzed. He said to me that what he really wanted to do was try to get back to the ranch and the Badlands and look out