

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

Mr. LEAHY. Mr. President, one of the privileges of serving in the Senate is the chance to hear debates—some good, some not so good. Periodically, we hear greatness in speeches. The Senate just heard greatness.

I think all Senators would agree, whether they are for or against this constitutional amendment, that when the history of this debate is written, when the history books are written, the speech of the distinguished senior Senator from West Virginia, Mr. BYRD, will be in that recounting. This is the type of speech that students of constitutional history, students of the Constitution itself—and this Senator wishes there were more—will look to, and they will read and reread.

We sometimes forget that every 6 years, those of us who are fortunate to serve here, to serve more than once, take a very specific oath of office. I can think of times when various people have administered this oath, usually the Vice President of the United States. But I recall watching the distinguished senior Senator from West Virginia administer that oath on a couple of occasions in his role as President pro tempore of the Senate.

There was one big difference when he administered it than when all the various Vice Presidents, Republican or Democrat, administered it. The difference is, they had a card before them and they read the oath. The Senator from West Virginia didn't need a card before him to do it. The Senator from West Virginia would stand there, tell them to raise their right hand, and he would administer the oath. There was no prompting. There was no teleprompter. There was no card. There was no book. There was the mind that carries the history of the United States Senate there, when he would do it.

I mention that oath because we swear we will uphold the Constitution, we will protect the Constitution. There could be no more solemn duty. If we are protecting the Constitution of this country, we are protecting the country itself. In this debate, that really is the issue.

I have said over and over again, I do not want to see the first amending of the Bill of Rights in over 200 years. I think we know from our history there have been times when we have amended the Constitution. We did it to provide, after the tragedy of the death of President Kennedy—I was not serving here at that time; the distinguished Senator from West Virginia was—a means of succession of Vice President. And in this era of the nuclear age and all, it is good we have that. But these are matters of enormous consequence. These are matters that can go to the very survival of our Nation and that make it possible, actually necessary, to amend the Constitution.

Let us not amend it simply because it is a matter of passing political favor.

I have spoken too long, and I do not wish to embarrass my friend. I have

had the honor of serving with him for just over 25 years. There is hardly a day goes by that I do not learn something from the distinguished Senator from West Virginia. Today the Nation learned from the Senator.

Mr. DORGAN. Mr. President, will the Senator yield?

Mr. LEAHY. I am happy to yield to the Senator from North Dakota.

The PRESIDING OFFICER (Mr. CRAPO). The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, let me briefly comment on the remarks made by the senior Senator from West Virginia. I know from having visited with him about this subject over some long while that he found this to be a difficult subject, not a simple subject, not an easy issue to resolve. I felt the same way about this issue. He spoke about the U.S. Constitution at great length today and all Members of the Senate will learn from that speech.

I have told my colleagues previously that on the 200th birthday of the writing of the Constitution I was one of the 55 Americans who went into that room where the Constitution was written 200 years prior to that, when 55 men went into that room and wrote a Constitution. Two-hundred years later, 55 people—men, women, minorities—went into that room. I was privileged to have been selected to be one of them. I have told the story before and people may get tired of hearing it, but I sat in that room—I come from a town of about 270 people, a small ranching area of Southwestern North Dakota. I sat in that room—the assembly room in Constitution Hall—200 years after the Constitution was written, the document that begins, "We the people."

In that room, George Washington's chair is still in front of the room, where he sat as he presided over the constitutional convention, and Ben Franklin sat over on this side, and there was Madison and Mason; Thomas Jefferson was in Europe, but he contributed through his writings to the Bill of Rights. I thought to myself that this is a pretty remarkable country where a fellow from a town of about 270 people can participate in a celebration of this sort.

From that moment, I have been troubled by the proposition that some convey so easily of wanting to change the U.S. Constitution. I mentioned yesterday that we have had, I believe, 11,000 proposals to change the Constitution, 11,000. Among those, for example, was a proposal to have a President from the North during one term and then the requirement that the next term of the Presidency be filled by a President who comes from the southern part of the U.S. That was one idea.

Fortunately, the Constitution is hard to amend. Since the Bill of Rights, only 17 times have we amended this document, and then in almost every case, it was to expand freedom and liberty. So I have had great difficulty with this issue. I love the flag and what

it stands for. I am devoted to the flag and the Constitution and the principles on which this country was founded. I know the Senator from West Virginia is as well. I wanted to say how much I and my colleagues, I am sure, appreciate his presentations to the Senate not just today but on a recurring basis, reminding us of the timeless truths about who we are and about who we have been, about the rich and majestic history of our country and the principles that have allowed us to progress to the point now of the year 2000 as the oldest successful democracy in history.

So I want to say thank you. As I say, this is a very difficult issue. I came to the same conclusion, that I did not feel I could amend the U.S. Constitution in this manner. It doesn't mean that I don't believe we ought to find a way, short of changing the Constitution, to provide sanctions for those who would desecrate America's flag. I just have not been able to make the leap of saying, yes, let's change the framework of the Constitution. I thank the Senator from West Virginia for his enormous contribution today.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the senior Senator from Vermont and the senior Senator from North Dakota for their remarks. I also thank them for the courage they have displayed time and time again in protecting this founding document. I thank them for the inspiring leadership that the rest of us have had from watching them and listening to them. They, indeed, have done a tremendous service to the country, to the Senate, and to the Constitution. I thank them both from the bottom of my heart.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Mr. President, I ask unanimous consent that I be permitted to speak as in morning business, the time not charged under cloture.

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

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PRESCRIPTION DRUG COSTS

Mr. GORTON. Mr. President, good health is one of life's greatest blessings. Over the last 25 years, there has been a tremendous change for the better in the delivery of health care. New drugs help to prevent heart disease and provide better treatments for cancer, allergies, depression, and many other debilitating conditions. In short, prescription drugs can help people live longer, lead healthier, happier, more productive lives—and can help lower the overall cost of health care. We all applaud.

The United States leads the world in the development of new drugs. Almost half of the new drugs developed in the last 25 years were created in the USA.

But new drugs are expensive to develop. Only one of every five candidate medicines will turn out to be effective, be approved by the FDA and make it to

drug store shelves. Last year, the drug industry spent \$24 billion on research and development. U.S. taxpayers also invest \$18 billion every year in the National Institutes of Health, which provides grants for basic health research. Drug companies that are willing to take on the risk of developing new treatments receive tax credits for their research and development costs.

Yet when American consumers pick up their prescription at the drugstore they pay again for research and development in the form of higher prices. Why? Every other developed country imposes some form of price control. Those countries pay for the cost of manufacturing the drug, which is normal, and maybe some profit; but they don't even come close to paying a fair share of the research and development costs of new drugs developed in the United States.

So when some Americans get sick, they can't afford the medicine they need to stay healthy. Instead they go without or they ration medicine. If they are able to travel, Americans cross the borders to Canada or Mexico to buy for much less, the prescriptions they need to stay healthy.

I was curious to know just how much my constituents were saving by traveling to Canada. My office recently conducted an informal study comparing the prices of the top ten most commonly prescribed prescription drugs in several Washington state retail drug stores to the price paid in a typical Canadian pharmacy. I was astounded by the results: on average prices are 64% lower in Canada.

Here are a few examples: The average cost of 30 pills of Zocor, which used to treat high cholesterol, is \$76 in our state, in Canada it costs \$38; Premerin, an estrogen replacement therapy used by many women, is \$26 in our state and \$10.50 just across the border; and a popular new allergy treatment, Claritin, is just \$34 in Canada but almost \$80 in Washington State.

During last week's break, I spent time talking with seniors, doctors, hospital administrators, and others about the cost of prescription drugs. All expressed their concern about the growing amount spent on medicine and the ability of people to continue to have access to the medication that keeps them healthy.

While this debate has properly focused a lot of attention on uninsured seniors and their daily struggle to pay for needed medications, the costs of prescription drugs affect every American—even those with health insurance coverage. Drug spending is a growing part of our overall health care costs. The rising cost of prescription drugs is one of the biggest problems facing health plans, hospitals and others in the health care field.

Obviously, American drug companies have to pay for this huge amount of research and development and the years that it takes to get these drugs licensed. But, what I am outraged about

is a set of foreign policies that means that Americans who by drugs that were developed in America pay substantially more for those drugs than the same manufacturers sell them for in Canada or Mexico. I think that is unconscionable. Those countries are riding on our research and development.

The cost issue is one important part of the debate as we talk about modernizing the Medicare program to include a prescription drug benefit. I do think that Medicare should be updated and that prescription drugs should be covered under the program. Expanding this benefit, however, must be done responsibly—it must not jeopardize the solvency of the current program and that benefits now available to seniors. It is also fairly contentious. Most agree that we should add a drug benefit to Medicare, however, good people have honest disagreements about the best way to do it. Addressing cost is something we can do now.

It is not fair to the American consumer to let other countries get away with policies that make drug companies sell their products cheaper in their country because they don't want to pay for any of the development costs. It's not right, and I will work actively to see that Americans are not overcharged.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

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FLAG DESECRATION CONSTITUTIONAL AMENDMENT—Continued

Mr. LEAHY. Mr. President, in 1791, the State of Vermont, the State that I am honored to represent, was admitted to the Union. Kentucky followed. Congress then saw fit to change the design of the American flag for a time to include 15 stars and 15 stripes, one for each State. It was this flag, the one recognizing the addition of Vermont to the Union, that flew over Fort McHenry in 1814, and inspired Francis Scott Key to write the Star Spangled Banner.

Along with Vermonters and many others I find that flag inspirational, as I do the American flag with 48 stars under which my family fought in World War II. I remember the great pride my wife and I felt seeing the current American flag with 50 stars being carried in formation at Paris Island when my youngest son became the newest member of the U.S. Marine Corps.

Fifty years after that famous battle that inspired our national anthem in Baltimore's harbor, President Abraham Lincoln visited that city as this country confronted its greatest test. It was a time in which this nation faced grave

peril from a civil war whose outcome could not yet be determined. Many flags flew over various parts of the United States and our existence as a nation was in doubt. President Lincoln used the occasion to reflect on a basic feature of American democracy.

As Professor James McPherson recently reminded us, Lincoln observed: "The world has never had a good definition of the word liberty. And the American people just now are much in need of one. We all declare for liberty, but using the same word we do not mean the same thing."

Through the course of this debate, it has seemed to me that all of us here in this chamber would champion liberty. If any of us were asked, we would say: Of course we do. When I listen to the debate, I have to conclude that Lincoln's wish for a definition on which all of us would agree remains very elusive.

Ultimately, the debate over this amendment turns on the scope we think proper to give to speech which deeply offends us. For Congress to limit expression because of its offensive content is to strike at the heart of the First Amendment. Justice Holmes wrote that the most imperative principle of our Constitution was that it protects not just freedom for the thought and expression we agree with, but "freedom for the thought that we hate." He also wrote, that "we should be eternally vigilant against attempts to check the expression of opinions that we loathe."

Justice Robert Jackson made this point with unsurpassed eloquence in a 1943 decision, *West Virginia State Board of Education v. Barnette*. Unlike that small handful of wartime decisions upholding flag burning statutes on which the proponents try to base their claim of an expansive judicial tradition before the Johnson case, the Supreme Court, even in 1943, during the difficult days of World War II, recognized the fundamental tradition of tolerance that makes this country strong. The Supreme Court in a very difficult decision, at the height of world War II held that State school boards may not compel their teachers and students to salute the flag. Justice Jackson wrote:

To believe that patriotism will not flourish if patriotic ceremonies are voluntary and spontaneous instead of a compulsory routine is to make an unflattering estimate of the appeal of our institutions to free minds.

We can have intellectual individualism and the rich cultural diversities that we owe to exceptional minds only at the price of occasional eccentricity and abnormal attitudes. When they are so harmless to others or to the State as those we deal with here, the price is not too great. But freedom to differ is not limited to things that do not matter much. That would be a mere shadow of freedom. The test of its substance is the right to differ as to things that touch the heart of the existing order.

If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein.