I am not a lawyer, but it does not take a lawyer to know that the Supreme Court missed the mark when they upheld the program at the University of Michigan Law School that relies on race and the law school admissions decision-making process. The race-based admissions policy violates Martin Luther King's call for a color-blind society. Admission should be determined based on criteria that reward excellence, not race. It is paternalistic for minority students to be given preferential treatment. All students should have the same opportunities to succeed, regardless of color.

I agree with Justice Thomas when he said of the majority opinion in the Grutter case, ''For the immediate future, however, the majority has placed its imprimatur on a practice that can only weaken the principle of equality embodied in the Declaration of Independence and the Equal Protection Clause.'' He then quoted the landmark case of Plessy v. Ferguson: ''Our Constitution is color-blind, and neither knows nor tolerates classes among citizens.''

Justice Thomas hit the nail on the head when he wrote of the lack of principle in the majority opinion: ''I can only presume that the majority's failure to justify its decision by reference to any principle arises from the absence of any such principle.'' Justice Thomas, I agree. And I agree that the only principle in the majority opinion in Grutter was the principle of expediency to allow racial preferences. Certainly, constitutional principles were not involved. The Fourteenth amendment prohibits such race-based admissions decisions. Our Constitution is color-blind. Obviously, a majority of the Supreme Court is not.

SUPPORT THE FREE MARKET PRESCRIPTION DRUG BILL

The SPEAKER pro tempore (Mr. GARRETT of New Jersey). Under a previous order of the House, the gentleman from Illinois (Mr. EMANUEL) is recognized for 5 minutes.

Mr. EMANUEL. Mr. Speaker, we are about to take up the prescription drug bill, and a group of Democrats and Republicans have come together on an amendment to the legislation that is the free market prescription drug bill. It has three components.

One is to bring generics to market so we can have competition between generics and name-brand drugs and force the prices down and make medications more affordable to more and more, not only of our elderly, but all consumers, and also help private businesses on their health care costs through their insurance policy.

The second provision allows consumers and also the government and also the private sector to buy prescription drugs in anywhere of the 27 countries, be they Great Britain, France, Germany, Canada, Italy, England. They allow it in Holland, where you can get competitive prices. Because today, in Germany, many of the name-brand drugs are 30, 40, 50 percent cheaper than they are here. And we can bring competition and the market forces to bear on the prices to make medications more affordable for our American consumers.

The third provision is that the taxpayers have been funding research through the National Institutes of Health. The truth is the NIH is one of the largest venture funds in the world. Yet American taxpayers get no return on their investment through the NIH. All the cancer drugs, all the AIDS drugs, a great deal of the blood thinner drugs and medications, and arthritis drugs were funded through government research.

In the private sector, many people who invest look for a 30 percent return on their investment. The taxpayer, through the government, gets no return on their investment. This legislation would call for a 10 percent return to the taxpayers for that research for all of the new medications the taxpayers have funded, and we could make the NIH and the FDA, Food and Drug Administration, self-funded in the future. In my view it would keep America in the forefront of new medication. We could bring medications down in price, and we could get real competition and make medications affordable.

What is really missing in this whole debate, in my view, is bringing the free market to play and to bear, and it would be successful. Unfortunately, the American taxpayer has been funding all the research and the only benefit we have gotten is that we pay the highest price. As we would say in Chicago, ''such a deal.''

Now, the truth is, in England, France, Canada, Germany, Italy, American-made pharmaceutical drugs are 30 to 40 to 50 percent cheaper in those countries than they are here at home. The American consumer, the American senior citizen, is the profit guinea pig for the pharmaceutical companies. For too long they have been gouging our seniors, using our elderly to make up their profit margins, while in Canada, in Germany, in France and in England they are getting cheaper prices. So it has a bipartisan approach around a commonsense set of principles to make medications, the drugs people need for their children, for themselves, or for their grandparents, more affordable, more accessible.

Now, why would it be that if we are about to go spend $400 billion over 10 years, why would we deny the government the ability, through the taxpayers, the ability to stretch that $400 billion to get more out of it? Nowhere else in the private sector would we do that. We are denying ourselves the right to use competition to bring down the price, to make medications more affordable to all of the folks, be they elderly or kids or families, so the family budget, the business budget, and the government's budget go cheaper.

I have confidence in the free market. I wish some of my colleagues here on the other side of the aisle would have as much confidence as we have in the free market. I do not know what they are all scared of. We would have generics competing against name-brand drugs, and we could pick based on price and quality. You would be able to buy drugs at the local pharmacy, or if you look on the Internet and find the same drug cheaper in Germany, you buy it there. If globalization is such a great thing, why do we not allow it to work for everybody, not just for a select few? Why let Germany get the advantages of cheaper medications made here in America by American companies funded by American taxpayers?

On the last account, allow our taxpayers to reap the benefits of their tax-funded research.

Mr. Speaker, in the private sector world, if you get less than 30 percent on your return, you know what you are called? Dumb money. I wonder how long we are going to treat the taxpayers as dumb money around here. This is taxpayer-funded research. Every drug related to cancer has been funded in part by taxpayer money; and the only thing we are guaranteed besides the medications, which we are not guaranteed, is to pay the highest price in the world for that medication. Yet people in Germany and England pay half that price.

I have full confidence, along with my colleagues on the other side and folks on this side of the aisle. We have come together on a common set of principles with a common set of values to ensure affordability and return for taxpayer rights on their investment.

I know the pharmaceutical companies do not want this bill because it would finally bring some real sensible principles like the free market to bear on the pharmaceutical industry and on the pricing of medication.

So I hope that we have the opportunity to offer this amendment and everybody can either start not just talking the talk, but start walking the walk when it comes to their views in espousing the free market.

REPUBLICAN PARTY PRINCIPLES OF LIMITED GOVERNMENT, ECONOMIC FREEDOM, AND INDIVIDUAL RESPONSIBILITY SHOULD PREVAIL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. FLAKE) is recognized for 5 minutes.

Mr. FLAKE. Mr. Speaker, I rise today out of some reluctance to take a position at variance with the leadership of my party. I do so, however, because I believe that the direction we are headed with this bill on prescription drugs is inconsistent with the Republican Party's principles of limited government, economic freedom, and individual responsibility.

I hope that my opposition to this bill does not imply my support for the

Democratic alternative. While we Republicans are surely headed off the fiscal cliff, the Democrats' plan would only get us there much faster.

This legislation is a prime example of the question debated in high school civics classes all over the country: Are we as Members of Congress sent to Washington to vote the wishes of our constituents or the demands of our conscience?

We have all read the polls. It is clear that seniors want a prescription drug benefit as part of a traditional Medicare. Further, seniors seem skittish when it comes to substantive Medicare reform. These findings are often cited by supporters of the legislation. Rarely cited, but certainly understood, is the fact that seniors vote in numbers disproportionate to their size of the electorate.

But as sitting Members of Congress, we are also aware that adding a new entitlement of this size is wholly unsustainable. Even without this new entitlement, Medicare will go bankrupt within the next couple of decades. The $400 billion, 10-year estimate for this add-on will almost certainly spiral out of control, just as Medicare's costs have ballooned far beyond original estimates.

So what are we to do? Do we vote as the polls tell us we should vote? After all, if it is what our constituents want, can we not simply vote ''aye'' and wash our hands of the matter?

We are not the first Congress to face such questions. More than 200 years ago, the delegates to the Constitutional Convention had a similar dilemma. Many in this new country wanted a governmental structure similar to the one that they were used to, rather than what was envisioned by the Founding Fathers.

George Washington's words to the Constitutional Convention should instruct us today: ''If, to please the people we offer what we ourselves disprove, how can we afterwards defend our work?''

George Washington understood what leadership is all about. It is not about riding the wave of public opinion, but in changing its course. It would have certainly been more comfortable for the Founding Fathers to go along with what they perceived to be the will of the people, rather than to persuade them that there was a better way. Many generations later, we are grateful for their leadership.

So here we are today. As Members of Congress, we know that adding a prescription drug benefit without reforming Medicare will only hasten its bankruptcy. By our own estimates, this plan will add about $7.8 trillion to Medicare's unfunded liability. Somehow, I doubt that generations to come who are saddled with this debt will be hailing us as leaders.

Knowing all of this, can we defend our work? No, Mr. Speaker, we simply cannot. I urge my colleagues to join me in voting ''no.''

MEDICARE PRESCRIPTION DRUG BENEFIT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. MCDERMOTT) is recognized for 5 minutes.

Mr. MCDERMOTT. Mr. Speaker, the ''Rubber Stamp Congress'' is about to go back in session. The President sent the word down from the White House: he wants a bill. We have not seen the bill. It has been put together in two different committees. We do not know what the Committee on Rules is going to put out here, but I can tell my colleagues two things about it. It is very clear from what went on in the Committee on Energy and Commerce and what went on in the Committee on Ways and Means that the bill that will be before us in the next couple of days is not going to satisfy what senior citizens really want.

The senior citizens want no privatization. They do not want Medicare to become totally a private insurance operation. They like the program run by the government. It has worked very well for many years; not perfect, but it has worked very well, and the idea that we are going to have a drug benefit and we are going to say, here is some money, we are putting it on the table here, and the drug companies are going to run in or the insurance companies are going to run in and figure out how to give a benefit is simply nonsense, and people know it.

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They do not trust insurance companies. They have had the last couple of years dealing with the insurance companies around HMOs and they said, Why do we need more of that? How will we feel more safe if we know the insurance companies can come in one day and out the next and back in another day and another and out, in and out? We will not have any benefit.

They want a guaranteed Medicare benefit that they do not have to join a private program to get. They can get it through the government and it is just that simple. That is why they have rejected all these private HMOs, all of that stuff and have stayed in the basic Medicare program. It is partly because the way the insurance companies have treated them.

Insurance companies went out and promised benefits all over the place. They promised drug benefits and everything else. People joined and 6 months later they pulled out and left them hanging. So they expect the very same thing to happen with this drug benefit.

If this were something the insurance companies wanted to do, believe me they would have done it a long time ago but they do not want to do it. So it has got to be in the regular Medicare program. It cannot be privatized. And it has to have a guaranteed benefit.

You can say to people, well, here is $100 a month. Go out and see what kind of plan you get offered because you are not guaranteed anything in that. In some parts of the country it might buy more than it buys in another part of the country. But everybody will have the same amount to go out and try and buy with, so how is that going to work?

Why should it make a difference if you live in Tennessee or you live in Oklahoma or you live in Vermont or you live in Washington State or you live in Illinois? Why should you not be able to have this same plan no matter where you are in this country? Suppose you want to leave San Francisco and go and live with your children in Kansas City? Suddenly you have got to change plans. All of these are issues that come when you put it in the hands of a private insurance company.

Now, the second thing people want is to control the costs of medication. I live up in the Northwest. I live up in Seattle. Every day people get in their cars, drive across the border into Canada, and buy drugs at markedly reduced prices. Now, that went on for a long time and now there are organizations that will allow you to fill your prescriptions from Canada without ever leaving your home in the United States. Thousands and thousands of people are filling their prescriptions in Vermont and New Hampshire and Maine and New York and Michigan and Minnesota. All the States along the northern tier are doing that and it is going down in other States in the country.

Now, you ask yourself, why are drug costs lower in Canada? I mean, what is it about the Canadians that they are better negotiators or what have they done? They did one simple thing. They said you cannot charge a Canadian, they put this in law, you cannot charge a Canadian more than the average of the G–7 countries. Now, what are the G–7 countries? France, Britain, Germany, United States, Canada, Japan, and I think Italy is the other one. You take all those countries, add the price together on a drug and the average price is what Canadians pay.

All it would take for us to save all that traffic to Canada is to pass a law here that grants us the average price of the G–7 countries. This bill will not have it. It is a bad bill. And you should look very carefully at what you pay and what you do not get.

DO NOT PRIVATIZE MEDICARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. HOEFFEL) is recognized for 5 minutes.

Mr. HOEFFEL. Mr. Speaker, there are two things wrong with the Republican prescription drug bill. Perhaps more than just two but two I wanted to talk about this evening.

The first is this bill would privatize the program. It would privatize the prescription drug benefit and it would privatize Medicare itself. The second thing wrong with the Republican prescription drug bill is that it would actually forbid, prohibit, any negotiation