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.

These rules honor the sentiments of committed minorities. They give dedicated groups of Senators substantial power. And they give any group of 41 Senators the absolute right to kill a bill.

The Senate Rules thereby force consensus. When these rules are honored, no major change in our government's laws may come about without the concurrence of a three-fifths majority. When these rules are honored, policy changes are likely to be more moderate and more incremental.

As Nobel Prize-winning economist James Buchanan has argued, societal efficiency may be served by a Congress that has a hard time enacting laws. Under such circumstances, laws change less often—less frequently disrupting peoples' lives, less often intruding into them. If you agree with Thoreau that the best government is that which governs least, then the most efficient government for society is the one with the most checks and balances.

Unfortunately, the Senate is not honoring its rules. The Senate is breaching its longstanding traditions of comity and respect for the minority. Too often, in the name of expediency, today's Senate is cutting corners on the Senate rules. When we give in to expediency it can be disappointing. When we indulge in expediency in this, the place where deliberation is most sacred, it can be deplorable.

Although some of the trends of which I speak have, of course, their roots in past Senates and other majorities, the Senate's current majority has brought the level of honor for the Senate's unique ideals to a new low.

The current majority has diminished the Senate by abusing and overusing cloture. The application of the rules of cloture have changed dramatically since President Woodrow Wilson, infuriated by an 11-Senator filibuster that blocked the rearming of merchant ships during World War I, complained of ''[a] little group of willful men, representing no opinion but their own,'' who he said ''have rendered the great government of the United States helpless and contemptible.''

Cloture used to be a rarity. The Senate conducted only 45 rollcall votes on cloture in the entire half century from 1919 to 1969.

In 1975, the Senate changed the filibuster rule, reducing the two-thirds vote requirement to a vote of 60 Senators, although one still needs two-thirds to cut off debate on changes to Senate rules. With that change in the rules, the leadership began invoking cloture more frequently.

As the chart behind me shows, the process of invoking cloture has now reached what I call a fevered pitch. The Senate conducted 99 rollcall votes on cloture in the 1970s. It conducted 138 in the entire decade of the 1980s, and it conducted fully 234 in the 1990s.

As this next chart shows, the number of cloture votes has increased in every year of the current majority, nearly doubling, from roughly 20 in 1995 to nearly 40 in 1999.

Even by 1984, a select committee on procedure chaired by then-Senator Dan Quayle concluded: ''Cloture is not only invoked too often, it is invoked too soon.'' Senator Quayle's criticism is all the more true today. In the Congress when Senator Quayle made his remark, the 98th Congress, there had by this time been 10 rollcall votes on cloture motions. In the comparable time period in this 106th Congress, we have held more than four times as many—43 rollcall votes on cloture. Add to that another 11 cloture motions that were withdrawn, vitiated, or otherwise disposed of without a vote.

As Senator Quayle noted, the problem with cloture is not just how often, but when. The form of a motion to invoke cloture reads: ''We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate'' upon the bill.

But on bill after bill, from tax cuts to trade bills to constitutional amendments, the majority no longer tolerates even a day's worth of debate before moving ''to bring to a close the debate'' upon the bill. Indeed, filing cloture without any debate has now become the norm. We proceed to the bill and the cloture motion is filed in the time that it takes the majority leader to draw one breath and make the request.

As an example, I have a chart that shows the entire verbatim transcript of the debate on the motion to proceed to S. 2285, the gas tax bill, prior to the filing of cloture. The ''debate''—if you would call it that—was the 11 words the majority leader uttered to make the motion to proceed. In the same breath, the cloture motion was upon us.

The practice of filing cloture without any debate at all has made a mockery of the motion.

Beyond limiting debate, the majority is also using the blunt instrument of cloture to bludgeon the minority into forgoing its right to offer amendments. All too often, the majority leader now makes a take-it-or-leave-it offer to the minority leader: Either muzzle your right to amendment or we will paint you as obstructionist. Either clear your amendments with us in advance, or have no amendments at all.

I am afraid too often, the minority's leadership can get caught up in the business of helping the majority make the trains run on time, in a sense, playing the role of Alec Guinness's Colonel Nicholson in ''The Bridge on the River Kwai,'' building bridges that should not be built.

This is not how the Senate was meant to act.

Recall that the Senate has often addressed a number of amendments on a single piece of legislation. The Senate conducted 121 rollcall votes on amendments to the Civil Rights Act of 1964. It conducted 127 rollcall votes on the Natural Gas Policy Act in 1977. Now the idea that a bill might elicit more than ten amendments appears to be anathema to the majority.

The current majority has also diminished the Senate by changing the rule that limits what can be incorporated into a conference report. Late in 1996, to secure last-minute passage of a version of the Federal Aviation Authorization Act that included a special provision for the Federal Express Corporation, the Senate voted 56–39 to overturn the Chair and nullify the rule. At the time, Senator SPECTER called the change ''a very, very serious perversion of Senate procedures.''

As conference reports are privileged, Senators cannot engage in extended debate to block getting to them. As well, conference reports are not open to amendment. And after the 1996 precedent, Senators have no recourse if a conference committee exceeds the scope of what the Senate committed to it.

The majority in a conference committee need not work with the minority, and the majority often does not. Conference committees usually work in secret. Senate rules require no open meetings. House practice has generally required one such meeting, but that tends to be a photo opportunity. Thereafter, Senators' signatures on the conference report constitute their votes, and nothing further need be done in public.

Last July, the Democratic leader offered an amendment to restore the rule with regard to conference reports, but the majority would not allow it. The

majority voted it down 51–47 in a nearly party-line vote.

The current majority has also diminished the Senate by extending and contorting the congressional budget process far beyond any expectations that its drafters may have had.

Once again, of course, the roots of the current abuse of the budget process lie in earlier Congresses. Participants in the Federal budget process initially underestimated the power of the budget process. They failed completely, however, to foresee the power of reconciliation bills.

The Congressional Budget Act of 1974 originally provided for two budget resolutions: The first would advise, and the second, passed closer to the start of the fiscal year, would bind. The Budget Act provided that the second budget resolution could instruct committees of Congress to reconcile substantive laws passed within their jurisdiction over the summer to the new priorities of the second budget resolution.

Of course, the reconciliation process has not turned out that modestly. Rather, in 1981, in an effort to expedite President Reagan's first budget, the budget resolution included instructions for years beyond the first fiscal year covered by the resolution, extending the reach of reconciliation bills to more permanent changes in law.

Since then, reconciliation has become a regular feature of most budget resolutions. Since then, Congress has accomplished most significant deficit reduction through the reconciliation process.

Because reconciliation bills limit debate, Senators cannot filibuster them. A simple majority can pass their policies. Because reconciliation limits amendments, Senators must stick to only the narrow subjects chosen by the majority in the committee process.

The reconciliation process is so powerful that the Senate chose in the mid-1980s to adopt the Byrd Rule, named after Senator ROBERT BYRD, to limit reconciliation solely to deficit reduction.

But the current majority dramatically extended reconciliation in 1996. The new Republican Congress sought to move three reconciliation bills—on welfare, Medicare, and tax cuts. And in a marked departure from past practice, the budget that year devoted one of the three reconciliation bills—the one to cut taxes—solely to worsening the deficit, not cutting the deficit but making it worse.

The Democratic leader formally challenged the procedure, but to no avail. Through a series of exchanges with the Presiding Officer, the Democratic leader demonstrated that the new reconciliation procedure has few limits. After the Democratic leader appealed the ruling of the Chair, the Senate sustained the procedure on a straight party-line vote.

In the wake of that precedent, the majority party has repeatedly created reconciliation bills to worsen the deficit or spend the surplus by cutting taxes, and the same logic would allow fast-track reconciliation bills to increase spending. The majority has taken to using the reconciliation process to move its fiscal legislative agenda through the Senate with simple majority votes and few distractions. The result is plain to see: Congress passes extravagant tax bills that do not command a national consensus and that cannot become law.

As well, in this most recently-adopted budget resolution, the majority has even chosen by majority vote to require 60 votes to offer sense-of-the-Senate amendments to future budget resolutions. Though by no means an earth-shaking change in and of itself, it shows yet another instance of how the majority abuses majority-vote vehicles to create yet another variance from the Standing Rules of the Senate. Once again, the current majority seeks to muzzle debate.

The current majority has also diminished the Senate by bringing S.-numbered appropriations bills to the floor.

That is what is happening right now. That is what prompted, in part, these remarks. The majority wants to go to these S.-numbered appropriations bills. They want to do it on the foreign ops bill.

The Senate just considered the military construction appropriations bill as a Senate-numbered bill, not—as is usually the case with appropriations bills—a House bill with Senate Committee-reported amendments. And what does this do? It has a purpose. This posture deprives Senators of the ability to offer legislative amendments. It is yet another way to deny the duly elected Members of this body a chance to offer amendments—an absolutely basic right of every Senator.

Not infrequently, the House chooses to attach legislation to an appropriations measure. In that case, if as is usually done, the Senate considers the House bill with Senate amendments, a Senator can also offer amendments with legislative language. If another Senator raises a point of order under rule XVI against legislating on the appropriation bill, the amendment's proponent can raise the defense of germaneness. The idea is that the House opened the door to legislation on this appropriations bill, and the Senate must be able to respond with germane amendments.

If, on the other hand, as is being attempted here, the Senate takes up a Senate-numbered appropriations bill, as it did with the military construction bill, then there is no House bill to provide a basis for the defense of germaneness. Under this circumstance, if a Senator offers a legislative amendment and another Senator raises a point of order against legislating on an appropriation bill, then the Chair simply rules the amendment out of order and the amendment falls. The Senator does not have a chance, again, to offer an amendment.

Through this device, the majority once again deprives the minority of opportunities to legislate. As well, the majority deprives the full Senate of its ability to respond to riders that the House attaches to appropriations bills. Once again, the majority has diminished the deliberation of the Senate.

And now, we see the spectacle of the majority standing ready to shut down the Senate for over 4 hours, as they did, on Tuesday, just to prevent a sense-of-the-Senate vote on gun safety.

And now, we see the majority leader appealing the ruling of the Chair, and by a majority vote, changing the Standing Rules of the Senate, so as to have the Presiding Officer rule out of order nongermane amendments to appropriations bills.

This in itself was a remarkable thing. Rule XVI, which creates the prohibition against nongermane amendments, states in part:

> [A]ll questions of relevancy of amendments under this rule, when raised, shall be submitted to the Senate and be decided without debate.

And as my colleagues know, it takes a two-thirds vote to invoke cloture on a change to the Senate rules. But by a party-line, majority vote Wednesday, the Senate just erased those words from the Standing Rules of the Senate. And why? For the same reason all these other things were done—all to make it more difficult for Senators to offer amendments on appropriations bills.

What has become of our right to debate? What has become of our right to amend?

The traditional Senate, I am afraid, is becoming a thing of the past. I have seen this change just from the time I got here in 1993 to now. Some may say, ''Good riddance.'' After all, as a Democratic Member of Congress once said, ''In the Senate, you can't go to the bathroom without 60 votes.''

But the character of this Senate, I am afraid, has been unmistakably altered. The majority's actions are transforming the Senate into a much more majoritarian institution. And that is not how the founders wanted it.

Recall that the Constitution itself manifests a belief in supermajorities. Supermajority requirements are evident in the veto power, in the ratification of treaties, in the constitutional amendment process, and in a number of other places.

Recall, as well, that the founders who created this Senate also expressed a healthy distrust of simple majority rule.

James Madison said that:

> [i]n Republics, the great danger is, that the majority may not sufficiently respect the rights of the minority.

In a letter to James Monroe, Madison also wrote:

> There is no maxim, in my opinion, which is more liable to be misapplied, and which, therefore, more needs elucidation, than the current one, that the interest of the majority is the political standard of right and wrong.

In his first inaugural address, Thomas Jefferson said:

> Though the will of the majority is . . . to prevail, that will, to be rightful, must be reasonable. . . . The Minority possess their equal rights, which equal laws must protect, and to violate which would be oppression.

And John Adams wrote:

> That the desires of the majority of the people are often for injustice and inhumanity against the minority, is demonstrated by every page of the history of the whole world.

More recently, Senator J. William Fulbright said:

> The greatest single virtue of a strong legislature is not what it can do but what it can prevent.

In 1984, retiring Congressman Barber Conable told Time Magazine: ''Congress is 'functioning the way the founding fathers intended—not very well.' He explain[ed], 'They understood that if you move too quickly, our democracy will be less responsible to the majority. I don't think it's the function of Congress to function well. It should drag its heels on the way to decision.'''

And Senator BYRD, who has stood on both the giving and receiving end of many a filibuster, writes in his Senate history:

> The Senate is the only forum in the government where the perfection of laws may be unhurried and where controversial decisions may be hammered out on the anvil of lengthy debate. The liberties of a free people will always be safe where a forum exists in which open and unlimited debate is allowed.

For all their inconvenience, the Senate traditions of deliberation and amendment serve our Nation. It is through those traditions that the Senate protects liberty. It is through those traditions that the Senate can effect justice.

When we stand and look back at the Senate's glorious history, we can be forgiven when we do not measure up to the standards of our greatest predecessors. We cannot be forgiven—and we should not be forgiven—when so often we do not even care to try.

We can be forgiven if, after considering the traditions of the Senate's hallowed past, we choose to depart from those traditions. We can not be forgiven—and we should not be forgiven—if we depart from those traditions unaware or oblivious of what we leave behind.

I invite my colleagues to look around this Senate Chamber, to read the inscriptions in the marble reliefs over the doors. To the east is written ''Patriotism.'' To the west is inscribed ''Courage.'' And to the south is carved ''Wisdom.''

These are the icons under which we walk whenever we come into this Chamber and whenever we leave it. These walls do not speak of ''ease.'' The marble does not memorialize ''rapidity.'' These sculptures do not enshrine ''convenience.''

This Senate advances the love of country that is patriotism when it struggles to deliver justice. The Senate serves the people not when it avoids difficult issues but when it acts with courage to address them fully. And it is only through the crucible of debate and amendment that this Senate can come, as come it must, to wisdom.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. ENZI). The Chair recognizes the Senator from Minnesota.

Mr. WELLSTONE. Mr. President, first of all, let me thank my colleague and my neighbor from Wisconsin, Senator FEINGOLD. I have a very strong feeling and belief that this speech, which has been given at 5 o'clock this Thursday afternoon, will end up being one of the more memorable speeches given on the floor of the Senate. I think the speech was eloquent and powerful. It went way beyond political party. I thank my colleague from Wisconsin.

Mr. FEINGOLD. Mr. President, I thank my friend from Minnesota for his efforts on each and every issue I tried to raise to try to constantly point out that this place is supposed to be where we can deliberate and actually talk about these issues and offer amendments. He is probably the best example of a person who understands the need to do that.

Mr. WELLSTONE. Mr. President, I won't be—I can't be—as eloquent, but I actually thought I would come to the floor and try to basically speak to what I think are some important questions for the Senate.

This is, in part, the discussion we had yesterday; and especially with the majority leader not on the floor, I will make sure that what I say, I say in such a way that if he wants to respond later, he can. In any case, I intend to say it at least in the best possible way I can.

I know the majority leader today, in a couple of interviews—it has come my way from several journalists—has said that yesterday he sort of believed that I was responsible for this exchange that we had on the floor—in getting it started. I believe he also mentioned Senator DURBIN.

I want to say that, actually, if that is the case, I would be proud to accept the blame. I think it is a discussion we needed to have, albeit what I hope is that something positive will come out of it. That is to say—and this is what Senator FEINGOLD was trying to say—I came here to do my very best to represent the people in Minnesota. I think when you are a Senator, and also when you pass amendments or bills, it can have implications for people all across the country.

What I have always loved about the Senate in the time I have been here is that individual Senators can matter and can make a difference. We are really much more of an amendment body. I think the Senate is at its best when bills come to the floor and Senators bring amendments out and we start early in the morning and—we don't need to go until midnight; that is not good for families. But we can go until 7 or 8 o'clock at night.

We are about the work of democracy. That is what we are doing. We have votes up or down, and we are all held accountable; we are able to come out here and introduce amendments that speak to the concerns and circumstances, in our view, of the people we represent. That is why I came here.

Yesterday, on the floor of the Senate, in response to some of what the majority leader said—I will make sure I do not make the response personal—I said I felt that we have had a pattern here—and Senator FEINGOLD has spoken about this—over and over and over again where bills are considered and the majority leader and others make it clear that only certain amendments are acceptable—not very many—for debate. If there is no agreement on the minority side, then the majority leader files cloture and usually doesn't get it. The bill is pulled and no legislation is passed. This has been happening over and over and over again.

From my point of view, a point of order challenge for the first time in 16 years, or thereabouts, which prevented Senators from introducing even sense-of-the-Senate resolutions to appropriations bills—the argument that was made was, well, hey, we have to do business and we have to get going. You know what. Every year we have appropriations bills—last year and the year before that and the year before that. Never before—at least in the last 16 or 17 years—has this been done.

My view was that all of this added up to an effort to basically run the Senate like the House of Representatives. That is what I have said, and that is what I believe. I have said it many times. I think that is detrimental to the Senate. I think it takes away the vitality that we have and robs us of some of the capacity for debate, for deliberation, for honest differences of opinion, which need to be expressed out here on the floor of the Senate, and for individual Senators to be able to speak to their priorities.

Now, some of my colleagues on the other side may want to talk about tax cuts or about this or that and the other. I may want to talk about the poverty of children and the need to have affordable child care and the need to make sure we have food and nutrition programs so children don't go hungry. We all have things about which we care the most. Nobody is better than anybody else. But do you know what. I want the right to be able to do that. What I was trying to say yesterday—and I will say it, given what the majority leader said to several journalists—was I actually didn't intend to be silenced.

So I will continue to issue challenges and speak out. I think that Senator DASCHLE spoke probably for every single Democrat yesterday. I think it is going to be important for us to move forward, and I hope we will. Sometimes what happens on the floor of the Senate is that people speak with some indignation because that is what they

feel, and they may feel very strongly. So the words are uttered in that way, and some of the discussion takes place that way. Do you know what? I think there comes a time when that is necessary.

Frankly, I think it is important that the minority party makes sure we maintain our rights. It is important that the minority maintains its voice. It is important that Senators have opportunities to bring amendments out here and do their very best to legislate for people back home, to introduce amendments, have debate, to win or to lose, but to be at the work of democracy. I just think that the Senate doesn't do the work of democracy when we basically go through bills that are laid out, and then cloture is filed and the bills are pulled, and that is about it. And we really aren't about doing the work I think we ought to be doing. That is my own view.

Again, in responding to some of what has been said today, listen, if the majority leader feels that I am the blame for getting this debate started yesterday, I am proud to accept that. I think we needed to have the debate. But the most important thing is that we all figure out a way we can move forward from it.

I will tell you that I feel very strongly that we have to get back to some debate out here on the floor of the Senate. We have to get back to the deliberation.

I would be interested in the Senator's response, frankly, if he can help me a moment.

To me, the work of democracy is when Senators come out here with amendments. As I said earlier, we should start early in the morning, go to 8 or 9 at night, and have at it. We would have good deliberations and good debate, and we would vote amendments up or down. Senators would be able to raise the kinds of questions they want to raise and speak to the kinds of issues they think are so important to the people they represent; we are all accountable. But it is substantive. It is real. It is about issues, and nobody is gagged; nobody is blocked. That is the Senate and the vitality of the Senate.

I wonder what my colleague thinks about that.

Mr. FEINGOLD. Mr. President, I couldn't agree more.

First, I thank the Senator from Minnesota for his discussion of the problems we are having in the Senate, and for that important statement. But I also certainly will not accept his apology for what he did yesterday, for what he did was right.

Mr. WELLSTONE. I wasn't trying to apologize.

Mr. FEINGOLD. I understand. What the Senator did was absolutely essential. We need to get out here and talk about what is happening.

I remember when I first came here. The Senator from Minnesota was here several years before I was—I believe two. But I remember when we were in the majority, Senators on the other side were allowed to freely amend bills.

I learned a great deal from my colleagues, the Senators on the other side. When they offered an amendment, I sometimes agreed with them. Usually I wouldn't. I learned a great deal about what they were thinking, and about what my constituents might think. I, in particular, give credit to the Senator from Texas, Senator GRAMM. He is a superb Senator in terms of his ability. For us to be deprived because of this kind of a process of benefiting from the knowledge and thinking and sentiments of our colleagues on the other side is a terrible loss to the Senate. I have not been here that long, but I remember when it used to be different that it was better.

Mr. WELLSTONE. I will ask my colleague another question. It is interesting that he mentioned Senator GRAMM from Texas because I remember that several years ago, we were in the majority. We were in the office because I know it was July 21. It was my birthday, and we had the cake and candles. Somebody said: Senator GRAMM is out there with an amendment on legal services that you don't agree with. You have to go out there and debate him.

I didn't know he was going to bring that amendment up. I had to end the birthday party, get the notes, and run down here. There was a 2- or 3-hour debate on it.

But that is what I love about being a Senator. It is not a game. He was serious about what he was doing, and I was serious in opposition.

Mr. FEINGOLD. Mr. President, I find it hard to believe in these few years that the nature of what we do out here has changed this much. I wonder if there is any way that the number of Senators on both sides of the aisle, who remember, who valued that, could sort of come together and talk about restoring this institution to what it was.

Mr. WELLSTONE. I would like to ask the Senator from Wisconsin another question. This has not been brought up. I think the Senator gave a speech that, as I said, will be memorable for many years to come. This is a little bit away from the framework. The Senator can respond in any way, of course, that is appropriate from the Senator's point of view.

One of the things that I think in part caused me to raise these questions with the majority leader yesterday was that I was little worried. Back home, people meet with you, and they believe because of the chance of meeting with you that something positive can happen, that it will make a difference in lives, that it will help them.

I get worried that if you can't offer amendments and you are shut out, you are not able to respond to people.

For example, take agriculture and dairy farmers in Wisconsin and in Minnesota, much less other farmers. For them, time is not mutual. They really believe when I meet with them that I can do something right now about the abysmally low prices, whether it is the livestock producers, or whether it is the corn growers. You meet with people. With what is going on in farm country with crops, people are in such pain. They still come out to meetings because they still believe you are their Senator, and by meeting with you and talking about what is happening to them, somehow since you are their Senator you can do something to help. But I can't do anything to help right now.

Mr. FEINGOLD. Again, Mr. President, looking back over the last several years, I have worked a great deal on agriculture issues, as well, and I remember these kinds of meetings and being able to honestly say to a group of farmers I didn't know if we were going to be able to pass a bill. But I could say there was a decent chance to be able to bring it up on the floor, either as a bill or as an amendment. Maybe we would win; maybe we would lose.

It is an odd feeling now to tell a bunch of farmers that we are not allowed to offer amendments anymore. They look at you as if you have lost your mind. But that is what we have to tell them. We aren't allowed anymore in the Senate to bring up ideas and have amendments and have bills because they have to be cleared with the majority leader. We have to show him the amendment first. If he doesn't like it, we can't offer it. I try to be candid with people. That is a candid comment. That is truly different from the way things were. And I have served both in the majority and in the minority in the short years that I have been here.

Mr. WELLSTONE. Mr. President, I wonder what the response of the Senator from Wisconsin would be. I even found myself saying to people—I can think of different meetings, but I will stay with agriculture. I want to talk about some of the other issues where I literally sometimes slip into, if you will, I guess, what I call ''Washington language,'' and say to people I don't know if there will be a vehicle. People are thinking: Wait a minute; we are losing our farms.

They do not know what you are talking about. They have no health care coverage, and can't there be more support for child care, teachers talk about what will make a difference in the schools—pick your issue. And you are at a meeting with people, you are moved by people, and you want to do something to help.

Other Senators might have a very different viewpoint, in which case we can have the debate. I find myself saying I just hope there will be a vehicle. People do not know what you are talking about. What do you mean, there is no vehicle? Don't you have an opportunity as a Senator to try to legislate and to be out there representing people and fighting for people?

That is what I am worried about. That is what yesterday was about.

The PRESIDING OFFICER. The Senator from Minnesota has the floor.

Mr. WELLSTONE. I asked the Senator from Wisconsin whether or not he has been in a similar experience. I have the floor.

The PRESIDING OFFICER. The Senator from Minnesota may accept questions when he has the floor.

Mr. FEINGOLD. Mr. President, I wonder if the Senator from Minnesota would respond to a question.

Mr. WELLSTONE. I would be pleased to.

Mr. FEINGOLD. If he will yield for a question, I suggest to the Senator that if I tell a group of my constituents that I cannot find a vehicle, they would offer me a ride. They would say: Do your job; here is your ride. That is the problem.

I ask the Senator if he would agree, if we are forced to talk to our constituents about the minutia of Senate procedure, and if that is the kind of conversation we have to have with our dairy farmers in Wisconsin instead of talking to them about what we should be talking about, the substance of the legislation—let us worry about the Senate procedure—then really the opponents of any kind of change have won because that is not something they should have to concern themselves with. It is very interesting; great. But that is not what dairy farmers in Wisconsin need. They have some great ideas about how to do things differently, and we should be able to come out here and have an amendment or a bill.

In fact, I ask the Senator from Minnesota if he would agree with this. We are not used to getting a lot of votes sometimes. Sometimes we don't get many votes on our amendments. Sometimes there is a little laughter about how WELLSTONE and FEINGOLD only got 10 or 12 votes. But at least we got a chance to get some votes.

Mr. WELLSTONE. The Senator should speak for himself.

Mr. FEINGOLD. That is right. I would ask the Senator how he would react to that.

Mr. WELLSTONE. I would say to my colleague from Wisconsin that I have two answers. The first answer is part of what I have been trying to say, which is I am really in a debate with the majority leader. I think other Democrats are with me. I hope some Republicans are. It is not a debate for the sake of debate because what I worry about the most is to go back home all the time and to have people meet with you to talk about their lives and have the hope that you as a Senator can make a difference, and you can't make a difference. If there is this effort basically to silence you and if there is this effort basically to block amendments and block debate, Senator FEINGOLD is right. Sometimes you win; sometimes you lose. But you have to have that opportunity to be out here advocating and legislating and fighting for people.

That is important to me.

Second, this didn't come up in yesterday's debate. I ask my colleague in the form of a question, part of what is going on I think is whether or not the Senate becomes just a nondecision-making body. Whether that is good or bad very much depends on one's view about government. If one thinks there is no positive role that government or public policy can play in the lives of people and in improving the lives of people, it would not bother Members that Senators cannot introduce amendments and that we don't debate these issues.

I ask my colleague whether or not he thinks that is in part what is going on. If one believes there is nothing the government can or should do to respond to dairy farmers, family farmers, by way of making health care more affordable, or improving educational opportunities for children, then denying Senators the opportunity to debate and offer amendments and moving forward is not a problem. If one believes there is a role for government to be doing this, I think it is a problem.

I ask my colleague whether he thinks there is a philosophical debate.

Mr. FEINGOLD. Mr. President, I suggest that is one way that a person can come to the conclusion that the Senate should operate this way. However, there are others who would believe that government sometimes has to stop things that are bad that other levels of government or perhaps the other body would want done.

I ask the Senator if he does not agree that the Senate has a role from another philosophical point of view; I think it is called the ''saucer'' that THOMAS Jefferson spoke of, the saucer that goes with the cup in order to cool the Senate.

Whether this reflects a belief that government does not have a function, or whether it reflects a fundamental misunderstanding of what the Senate is supposed to be, I wonder if the Senator would react.

Mr. WELLSTONE. I thank my colleague from Wisconsin. I am a political scientist and taught American politics classes, but I think the Senator from Wisconsin is my teacher.

I talked about it from the point of view we ought to be about the business of legislating and deciding, not about the business of not deciding and not moving forward.

I think what my colleague from Wisconsin is saying is, but also, Senator WELLSTONE, the other critical role of the Senate is by definition, two Senators from every State, regardless of population of State. It is not straight majority or majoritarian principles. The Senate is there to defend the rights of minorities, sometimes to represent unpopular causes, and sometimes to make sure that if there is a rush to pass a piece of legislation which has cataclysmic consequences in people's lives, such as the bankruptcy bill, there is an opportunity for Senator or Senators to say: Wait a minute; I insist this not move through. I will be out here fighting, even if it is an unpopular cause. I want the public and the country to know. Sometimes there is much to be said for deliberation. Sometimes there is much to be said for the Senate as a deliberative body, and therefore there is much to be said for a Senator's rights or a group of Senators' rights to represent this viewpoint.

I thank my colleague from Wisconsin for his comments, and I yield the floor.

Mr. FEINGOLD. Mr. President, I thank the Senator from Minnesota. This was a useful opportunity to discuss very serious problems in the Senate.

CRISIS FACING THE ADMINISTRATION OF THE DEATH PENALTY

Mr. FEINGOLD. Mr. President, I rise today to talk about the crisis facing our criminal justice system. For the first time since the reinstatement of the modern death penalty almost a quarter century ago, there is an increasing recognition, from both death penalty supporters and opponents, that the administration of capital punishment in our country has reached a crisis stage.

Our criminal justice system is fraught with errors and the risk that an innocent person may be condemned to die. Since 1976, there have been over 600 executions in the United States. But during this same period, 87 people who were sentenced to death were later proven innocent. That means for every seven persons executed, our criminal justice system has found an innocent person was wrongly condemned to die. The system by which we impose the sentence of death is rife with errors, inadequate legal representation of defendants and racial disparities. At the same time, Congress, state legislatures and the courts have curtailed appellate review of capital convictions.

With declining crime rates and a world where our closest allies have increasingly shunned capital punishment, a growing number of Americans—both opponents and supporters of the death penalty—are realizing that something must be done. Indeed, momentum for a moratorium on executions has been building for some time. In 1997, the American Bar Association called for a moratorium on executions. Numerous city and local governments have followed the ABA's lead by passing resolutions urging a moratorium on executions. Governor George Ryan, a death penalty proponent, has acknowledged that fatal flaws exist in the criminal justice system in Illinois and earlier this year effectively put a halt to executions in his state while a blue ribbon panel reviews his state's criminal justice system. Christian Coalition founder and death penalty supporter, the Reverend Pat Robertson, also recently proclaimed his support for a moratorium.

Today, on the heels of this activity, the New Hampshire state legislature earlier today took a historic step that is indicative of the deepening public