

Common Cause

May 19, 2003

This was a very good day. Who would have believed that the late John Marvin and the Maine Council of Senior Citizens' crazy idea that prescription drugs should be affordable would not only pass the Maine Legislature in 2000, but today, after a long legal battle, win a favorable ruling from the U.S. Supreme Court. When a little state like Maine can take on the big pharmaceutical manufacturers and persuade Justice Clarence Thomas to speak in favor of its actions, you have to remind yourself that sometimes right prevails. Another important asset we should never forget is the power of many citizens fighting on behalf of the right of every citizen to have access to affordable health care and prescription drugs that don't cost two to three times in America what they do in every other country.

As the sponsor of the bill, I was humbled on that very cold day last January to watch the debate in the Supreme Court and somewhat surprised that the resulting ruling was this good. I was even more proud to think back to our humble beginnings in 2000: The Maine Legislature fighting off the money and lobbying of this powerful industry, and the many seniors, labor activists and citizens who stormed the state house, sent the governor e-mails and made phone calls to make this happen. Lastly, I was very proud of Attorney General Steve Rowe and his staff who prepared the case before the Supreme Court, and all of the great people and organizations who filed on behalf of this case including my good friends at the Maine Citizen Leadership Fund.

I am not a lawyer, but here is my understanding of today's ruling. With a 6-3 majority the court basically said that Maine could proceed with its program. In a 9 to 0 decision,

the justices also said we had not overstepped our boundaries under the commerce clause of the U.S. Constitution when we attempted to lower the prices of out-of-state pharmaceutical manufacturers on behalf of people who could not afford their medications. The justices also said that if the Pharmaceutical Research and Manufacturers of America (PhRMA) wanted to come back and argue that there should be an injunction to stop the program under the supremacy clause of the U.S. Constitution, PhRMA would have to come up with a better argument.

Maine now has some work to do to modify the law and begin Maine Rx. This requires the state to negotiate with the drug manufacturers and use our leverage with them to pass along the same discounts they are offering the insurance companies and every other country in the world. I have no doubt that the manufacturers will think up roadblocks and attempt other court challenges, but the Supreme Court has essentially told us, 'Go ahead, let's learn more about what this program will do.'

So today was indeed a very good day for seniors and everyone who lacks adequate health care coverage. It was a good day for the more than 20 states around the country that have been wanting to follow Maine's lead, but were waiting for a court ruling. Lastly, it was a good day for all citizens ready for a victory in spite of the millions that pharmaceutical manufacturers spend to influence elections and to lobby Congress. It makes it all worth getting up another day to fight yet another battle and to remember that John Marvin is smiling down at us from heaven and saying he knew all along that we would win.

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