

veto of the reconciliation bill, which surely there should be if these are representative of the kind of provisions that are in that bill. If the Congress passes a new bill, I do not believe there is going to be time to get the regs out to borrow the money, to make the preparations in order to get the crop out this year.

So, Mr. President, what I am saying is the Congress needs to act as in an emergency and to extend the present law. We need to extend that present law so we can get the crop in the ground this year. If we do not do that, and if we have the reconciliation bill as passed, then we are going to wipe out the cotton and rice industry in the State of Louisiana and elsewhere in this country.

#### CHANGE OF VOTE

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, on the rollcall vote on the conference report accompanying H.R. 1058, I was recorded as voting in the affirmative. I ask unanimous consent to change my vote, which was recorded as "yes", to "no." It will not change the outcome of the vote.

I ask unanimous consent I be recorded as a "no" vote.

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

[The foregoing tally has been changed to reflect the above order.]

#### PARTIAL-BIRTH ABORTION BAN ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 1833

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH. 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.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mrs. BOXER. Mr. President, I ask unanimous consent the Senator from California, Senator FEINSTEIN, be allowed to speak until such time as the majority leader comes to the floor and has a chance to discuss with the manager of the bill how we are going to proceed.

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

The Senator from California.

Mrs. FEINSTEIN. Mr. President, as everyone knows, about a week ago the Judiciary Committee held hearings on this so-called partial-birth abortion legislation. I wanted to speak today on what I learned from the hearings and

my reasons for opposing this bill. Let me summarize those reasons up front, and then go into each one specifically.

First, I believe that this bill attempts to ban a specific medical procedure which is called, in this bill, a "partial-birth abortion," but there is no medical definition for what a "partial-birth abortion" is.

Second, the language in the bill is so vague that I believe it will affect more than any one single medical procedure.

Third, the bill presumes guilt on the part of the doctor, so that every physician may have to prove that in fact he did not perform this procedure, or justify his reasons for so doing if he did.

This bill could be an unnecessary, I think an unconscionable complication to families who face many tragic circumstances involving severely deformed fetuses. I also believe it is an unnecessary Federal regulation, since 41 States have already outlawed post-viability abortions, except to save a woman's life or health.

Finally, I hope to make a case that this bill is very carefully crafted to provide a direct challenge to Roe versus Wade.

First and foremost, this legislation claims to outlaw a medical procedure called a partial-birth abortion. As I said, this medical term does not, in fact, exist. It does not appear in medical textbooks. It does not appear in medical records. The medical doctors who testified before the Senate Judiciary Committee 2 weeks ago could not identify, with any degree of certainty or consistency, what medical procedure this legislation refers to.

I would like to read some of the responses to my question in the committee, when I asked these doctors what a partial birth abortion is.

Dr. Pamela Smith, director of ob/gyn medical education at Mt. Sinai Hospital in Chicago, said it was " \* \* a perversion of a breech extraction."

Dr. Nancy Romer, a practicing ob/gyn and assistant professor at Wright State University School of Medicine, said it is "a dilation and extraction, distinguished from dismemberment-type D&Es."

Dr. Norig Ellison, President of the American Society of Anesthesiologists, who was at the hearing to represent anesthesiologists who supposedly participate in these procedures, said, "I pass on that one. I am as confused as you are."

And, Dr. Mary Campbell, medical director of planned parenthood of Washington, defined it as " \* \* a procedure in which any part of the fetus emerges from the cervix before the fetus has been documented to be dead."

Others have said it is an "intact dilation and evacuation," or a "total breech extraction."

I asked Dr. David Grimes of the University of California at San Francisco this same question, and he put it in writing.

First, the term being used by abortion opponents, "partial-birth abortion," is not a

medical term. It is not found in any medical dictionary or gynecology text. It was coined to inflame, rather than to illuminate. It lacks a definition.

As I understand the term, opponents of abortion are using this phrase to describe one variant of the dilation and evacuation procedure, known as a D&E, which is the dominant method of second trimester abortion in the United States.

Second trimester abortion.

If one does not use the D&E, the alternative methods of abortion after 12 weeks gestation are total birth abortion—labor induction is more costly and painful—or hysterotomy, which is the more costly, painful, and hazardous.

Given the enviable record of safety of all D&E methods as documented by the Centers for Disease Control and Prevention, there is no public health justification for any regulation or intervention in a physician's decisionmaking with the patient.

Then I asked one of the professors who testified at the hearing about this. I will get to what he said in a moment. But for just 1 minute let me read the exact language of the bill. We have heard testimony from the authors that this refers to a breech extraction by stopping the head from leaving the birth canal and injecting scissors into the base of the skull and draining fluid. But the definition of the bill is entirely different. The bill says, "The term 'partial-birth abortion' means an abortion in which the person performing the abortion partially delivers a living fetus before killing the fetus and completing the delivery." There is no reference to scissors in the bill. There is no reference to drawing fluid from the brain in this bill. In fact, many people believe that the purpose of this bill is really to get at second trimester abortions.

I believe that the language in this bill, Mr. President, is vague for very deliberate reasons, because by making it vague every doctor that performs even a second trimester abortion could face the possibility of prosecution in that he or she could be hauled before a court and have to defend their abortion. So this bill in effect could affect all abortions.

I asked the legal and medical experts who testified at the Judiciary Committee hearing last week if this legislation could affect abortion—not just late-term abortions but earlier abortions of nonviable fetuses as well. Dr. Louis Seidman, professor of law from Georgetown, gave the following answer, and I quote:

. . . as I read the language, in a second trimester pre-viability abortion where the fetus will in any event die, if any portion of the fetus enters the birth canal prior to the technical death of the fetus, then the physician is guilty of a crime and goes to prison for 2 years.

That is a law professor's reading of the bill. He then continued his testimony, and I quote:

If I were a lawyer advising a physician who performed abortions, I would tell him to stop because there is just no way to tell whether the procedure will eventuate in some portion of the fetus entering the birth canal before the fetus is technically dead, much less being able to demonstrate that after the fact.