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House of Representatives

The House met at 2 p.m. and was called to order by the Speaker pro tempore [Mrs. VUCANOVICH].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
March 27, 1996.

I hereby designate the Honorable BARBARA F. VUCANOVICH to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Where there is no hope, our hearts are heavy; where there is no love, then evil thrives; where there is no faith, doubt increases; and where there is no vision, the people perish. Grant to us and to every person, O gracious God, the wisdom to discern and to accept Your gifts of faith and hope and love and, filled by Your spirit, may we be Your faithful people and You our God for ever and ever. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House her approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from New York [Mr. WALSH] come forward and lead the House in the Pledge of Allegiance.

Mr. WALSH led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Edwin Thomas, one of his secretaries.

RESIGNATION OF MEMBER AND APPOINTMENT OF MEMBER TO UNITED STATES-CANADA INTERPARLIAMENTARY GROUP

The SPEAKER pro tempore laid before the House the following resignation as leader of the House delegation to the United States-Canada interparliamentary group for the year 1996:

HOUSE OF REPRESENTATIVES,
Washington, DC, March 27, 1996.

Hon. NEWT GINGRICH,
Office of the Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to my request, I am hereby resigning as the leader of the House delegation to the United States-Canada Interparliamentary Group for the year 1996.

Sincerely,

DON MANZULLO,
Member of Congress.

The SPEAKER pro tempore. Without objection, and pursuant to the provisions of 22 U.S.C. 276d, the Chair announces the Speaker's appointment of the following Member of the House to the United States delegation of the Canada-United States interparliamentary group: Mr. HOUGHTON, New York, chairman.

There was no objection.

APPOINTMENT AS MEMBER TO LIBRARY OF CONGRESS TRUST FUND BOARD

The SPEAKER pro tempore. Without objection, and pursuant to the provisions of section 1 of 2 U.S.C. 154, as amended, by section 1 of Public Law 102–246, the Chair announces the Speaker's appointment to the Library of Congress Trust Fund Board the following member on the part of the House:

Mrs. Marguerite S. Roll, Paradise Valley, AZ, to a 3-year term. There was no objection.

GO ORANGE

(Mr. WALSH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALSH. Madam Speaker, I rise today to congratulate the Syracuse University Orangemen men's basketball team who are on their way to the final four in the Meadowlands in East Rutherford, NJ, this weekend.

In central New York, we look forward to cheering them on in their third final four appearance in school history, the second under 20-year head coach Jim Boeheim—and the first since SU was denied the national championship by a single basket in 1987.

As I boast, I wish also to congratulate all the teams who have played in the National Collegiate Athletic Association's tournament, especially the University of Massachusetts, Kentucky and Mississippi State. The other three schools in the final four are State schools. Syracuse is the only one that bears the name of a city. So there is indeed a special feeling in my hometown for this team. At this moment there is a huge pep rally occurring in front of city hall and lots of orange everywhere.

No team has come further than the SU Orangemen. Coach Boeheim has

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once again successfully inspired and challenged an extraordinary group of young men.

They have fought from the first whistle, having been unranked in the preseason, to get here today, to play one more weekend. Two more games, we hope, in an incredible season.

We in Syracuse know them to be a great group of student athletes who have made us all very proud. Win or lose, the Orangemen of 1995–96 will be remembered with fondness for their sportsmanship and their heart. They have given many central New Yorkers a warm feeling after a very long winter.

Congratulations to all, and go Orange.

PASS A CLEAN BILL TOMORROW

(Mrs. KENNELLY asked and was given permission to address the House for 1 minute.)

Mrs. KENNELLY. Madam Speaker, the Kennedy-Kassebaum bill has a simple premise: If you leave or lose your job, you should not lose your health insurance because of a preexisting health condition. As introduced in the House, the bill is only 65 pages long. Here is a copy of it.

However, the bill that will come to the House floor tomorrow is more than 220 pages long. Here is a copy of it. The bill adds 10 separate provisions to the health insurance portion of the bill.

Some of these additions are good ideas, but several are very controversial, such as tax breaks for medical savings accounts and exempting certain health plans from State insurance regulation. I am worried these additions could kill a bill that guarantees Americans the right to have portable health insurance.

Madam Speaker, Republicans in the Senate say they want a clean bill. Democrats in the House say they want a clean bill. And the President says he wants a clean bill. I hope the majority in the House will now join us in an effort to pass a bill without any special interest addons. Let us not load on so much baggage that we bring the whole plane down.

RAISING TAXES IS THE WRONG WAY TO GO

(Mr. NORWOOD asked and was given permission to address the House for 1 minute.)

Mr. NORWOOD. Madam Speaker, not so long ago, the President stood before us in this very Chamber and declared that ''the era of big Government is over.'' His latest budget tells a different story, particularly with taxes. The President wants to raise taxes immediately and phase in a tax cut—that can be yanked if deficit targets are not met. In other words, the President wants a permanent tax increase and a temporary tax cut.

Madam Speaker, will liberal Democrats ever learn that smaller Government means less taxes? It is not enough to say you want to end big Government, you have to back it up with actions. If the President really wants to end the era of big Government, he needs to stop feeding the beasts. Raising taxes is simply the wrong way to go. We need to reduce our spending and reduce the tax burden on the American people—only then will the era of big Government truly be over.

TRIBUTE TO SENATOR ED MUSKIE

(Mr. BALDACCI asked and was given permission to address the House for 1 minute.)

Mr. BALDACCI. Madam Speaker, I was deeply saddened to learn yesterday of the death of Senator Ed Muskie. As a new Member of Congress from Maine, I have been privileged to call on Ed Muskie for advice and wisdom.

Ed Muskie was a leader for Maine and a statesman for the Nation. He never lost sight of his roots, nor wavered from his principles.

The people of Maine and the Nation are indebted to Ed Muskie for his passionate work on a wide range of issues. His vision in developing environmental legislation, especially the Clean Air and Clean Water Acts, is a legacy which will be recognized and honored by generations to come.

We can all learn much from the life that Ed Muskie led. I will never forget the advice that he gave to me shortly before I took office. He said, ''Be yourself, work hard, and tell the truth.'' Those simple principles guided his life, and are what I strive to live up to every day.

Senator Muskie's devotion to Maine and his dedication to improving the quality of life for all Americans will long be remembered and appreciated. I know that my colleagues join me in expressing our deepest sympathy to Ed Muskie's wife, Jane, and the rest of his family.

CHINA ARMING IRAN

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Madam Speaker, China just sold patrol boats armed with state-of-the-art cruise missiles to Iran. Let me repeat. China just sold cruise missiles to Iran.

Now, the last time I checked, Iran is still listed as a terrorist nation by America, and, No. 2, the leaders of Iran refer to Uncle Sam as ''the Great Satan.''

This is unbelievable. China continues to arm, aid, and abet Iran, America's No. 1 enemy, and after all of this, the Congress of the United States rewards China with most-favored-nation trade status. Beam me up, Madam Speaker.

Our policy with China not only kills American jobs, it destabilizes the world, threatens American security, and people around here are granting them most-favored-nation trade status. I suspect today that not only are there a lot more people in Washington, DC, smoking dope, they are inhaling every single day.

WHAT IS IN STORE FOR AMERICA?

(Mr. ENGEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ENGEL. Madam Speaker, our Republican friends are at it again. Last year they spent the whole year trying to decimate Medicare and Medicaid and hurt our senior citizens, and, thankfully, at least for now, we were able to stop them.

This year what do they have in store for America? The largest education cuts in the history of the United States. They would deny our schoolchildren the ability to compete in this global economy.

Let us look at what the $3.3 billion in education cuts amount to. Sixty-five million schoolchildren will be affected, basic reading and math skills cut, safe and drug-free schools cut, vocational education cut, adult education cut, title I education cut, the summer youth and employment program eliminated.

Not only do the Republicans not want to teach our children, they do not want to give them summer jobs. I guess they think they are better off hanging out on street corners than earning a few dollars to help with their families. This just shows once again the extreme, mean-spirited Republican agenda of sticking it to middle-class families.

Last year it was Medicare and Medicaid. Now it is education. What comes next?

OIL IMPORTS A THREAT TO U.S. NATIONAL SECURITY

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Madam Speaker, independent oil and gas producers are the mainstay of our domestic energy industry. In fact, independents produce about 64 percent of the natural gas in the country and about 39 percent of the crude oil.

But this great industry is struggling. Imports of both oil and natural gas are on the rise, and employment is declining. The United States now imports over half of our annual demand.

Our dependency on foreign oil costs about $60 billion annually and makes up a substantial part of our trade deficit.

Just over a year ago, President Clinton signed a report issued by the Department of Commerce saying that increasing oil imports are a threat to national security. But even as the President felt the pain of the oil and gas industry, he offered no plans to end that pain.

In a survey released by the Sustainable Energy Budget Coalition on January 16, it found that ''three-quarters of the American voters believe we need to do something to reduce dependency on foreign oil.''

Public servants must do more than talk. They must act to lower taxes, reduce regulation, and lower the burden of government on our oil and gas industry. As we approach the next century, we must, once again, make a domestic oil and gas industry a priority.

KENNEDY-KASSEBAUM HEALTH CARE REFORM EFFORT

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Madam Speaker, health insurance reform is long overdue. As we know, fewer Americans are able to obtain health insurance now, and the cost of that health insurance keeps going up. So my colleague, the gentlewoman from New Jersey, Mrs. ROUKEMA, had a very good idea, which is shared in the Senate by Senator KASSEBAUM and Senator KENNEDY on a bipartisan basis, to put forth a bill in this House that would make it easier for people to take health insurance from one job to another. We call that portability. We also try to make it easier for people who have preexisting conditions or perhaps were disabled with some sort of health disorder, that they would be able to buy health insurance.

We are all supportive of this. The Democrats, over 170, have said that they support it, but the Republican leadership here is trying to load down this bill with all kinds of extraneous material in terms of the best example is medical savings accounts that will actually drive up the cost of health insurance for the average person and make health insurance less affordable.

It is time now that we got together on a bipartisan basis and passed the Kennedy-Kassebaum-Roukema bill to make health insurance more affordable and make it possible for more people to obtain health insurance.

□ 1415

TIME TO STOP PLAYING POLITICS WITH OUR CHILDREN'S FUTURE

(Mr. NADLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NADLER. Madam Speaker, the Republican majority's political gamesmanship knows no bounds—even when it comes to defaulting on the most important obligation of this House, providing for our children's future.

Because of Republican intransigence on the fiscal year 1996 budget, which is now almost half a year overdue, local schools have been severely injured, now knowing how much Federal aid they will receive, not knowing how many teachers they can hire, how many books they can buy, what kind of science programs they can run.

Not only do the Republicans think it is a good idea to slash education funds to pay for a tax cut for the wealthiest Americans, but now their irresponsibility is crippling local school boards' ability to spend whatever money we do send them.

Let's stop shooting dice with our children's futures. Let's fund the Government for the second half of the fiscal year and commit ourselves to supporting the President's proposal to increase funding for such crucial educational programs as title I for basic reading, writing, and math skills, Pell grants, safe and drug free schools, and the School to Work Program.

WHO IS FOR KIDS, AND WHO IS JUST KIDDING?

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Madam Speaker, the question of who is for kids and who is just kidding sounds very playful, but this is not a playful question to ponder. This is really about the survival of this great Republic which we are so proud of, because we need to know which Members of this body are not for kids. If they are not for kids, they are going right at this Nation's future.

I went to public school, my husband went to public school, both of our children went to public school, my mother taught in public school. Public schools have been the foundation of the future of this Nation. I am appalled that the Republicans in this body have put the biggest cuts in education we have ever seen at a time when we all agree that our schools need more help, not less.

If Members think that our math scores are high enough so we can pull back our funding to help math, if they think our basic reading skills are good enough so we can pull back on math, if Members think our classes are too small and we ought to make them bigger, and if they think it is a good idea to surrender on the drug war in the schools and not make them safe, then Members will love their side of the aisle. I do not. I think it is time we all wake up and fight back.

PUT OUR CHILDREN FIRST AND VOTE TO FUND EDUCATION

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Madam Speaker, on Monday I visited schools and met with parents in my district. I visited a DARE program in Stratford, CT, where a police officer works with fifth graders to keep kids off drugs. I attended an awards ceremony where young people were recognized for their work to keep their peers off drugs and alcohol. That evening, I organized a parents summit where about 100 parents gathered to discuss the challenges that they face trying to raise good kids today.

Let me share the comments of one parent. She said: ''I feel like a boxer who is down and the count is 8. My head is down and I am dripping blood from every part of my body. The schools need to help teach the basics,'' she said. That is not what House Republicans are proposing. They want to cut basic math skills, basic reading skills.

The families that I met with do not believe that this Congress is on their side. This week we will have an opportunity to prove that we really want to help working families. Once again, I urge Speaker GINGRICH and the Republican leadership to reverse course, stand with our parents and our kids, and vote to fund education. Let us put our children first.

IN SUPPORT OF THE WOMEN'S HEALTH EQUITY ACT

(Ms. EDDIE BERNICE JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. EDDIE BERNICE JOHNSON of Texas. Madam Speaker, I rise today in support of the Women's Health Equity Act and, in particular, in support of the osteoporosis provisions of the bill. Most women find out that they have osteoporosis when it is too late, after a bone fracture or a curvature of the spine has occurred. The real tragedy is that for many women the disease is preventable and treatable. But this is a disease that has an underlying condition that affects 25 million Americans, most of them, 80 percent of them, women. All of us lose bone mass as we age, but people with osteoporosis lose an excessive amount, leading to weak and brittle bones. As I just said, 80 percent of those suffering from osteoporosis are older women, and a woman's risk for hip fracture alone is now equal to the risk of developing breast and ovarian cancer.

It is time for us to give a little bit more attention to this disease, Madam Speaker.

CONGRESS, THE ADMINISTRATION, AND INDUSTRY MUST WORK TOGETHER TO PROVIDE STABILITY TO OUR DOMESTIC OIL AND GAS PRODUCTION

(Mr. BREWSTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BREWSTER. Madam Speaker, domestic oil and gas production is critically important to our Nation's economy and national security. Just 5 years after fighting a war in Iraq, our Government has yet to take a single substantive step toward reforming restrictive regulations on our domestic energy industry.

Since the gulf war, our dependence on Middle Eastern oil has grown to the point where more than half of our country's oil and gas consumption is from imports. We cannot allow this situation to continue.

Working together, Congress, the administration, and industry must pass and enact legislative and regulatory initiatives which will provide stability to this extraordinarily important segment of our Nation's economy.

As you know, U.S. relations with our Middle East oil trading partners historically have been unstable. However, the United States does have at least one reliable trading partner. Petroles de Venezuela, the owner of Citgo, has been supplying oil and product to the United States for 70 years—through World War II and the Arab oil embargo.

While maximizing our domestic resources, we should also encourage trading with reliable neighbors and allies such as Venezuela.

THE WOMEN'S HEALTH EQUITY ACT OF 1996

(Ms. SLAUGHTER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SLAUGHTER. Madam Speaker, I rise today as Chair of the Women's Health Task Force of the Congressional Caucus on Women's Issues. On behalf of the caucus, I have the honor of introducing the Women's Health Equity Act of 1996. A momentous legislative initiative, the Women's Health Equity Act is an omnibus bill comprised of 36 separate pieces of legislation targeting women's health.

The first Women's Health Equity Act was introduced in 1990 as a result of a GAO report that documented of widespread exclusion of women from medical research and energized caucus and women around the Nation to action on women's health issues.

In the 6 years since, we have accomplished a great deal. We have achieved greater equity in both women's health research funding and inclusion of women in clinical trails. The increased funding for breast cancer has resulted in the discovery of the BRCAI genelink to breast cancer 18 months ago. Since then, it has been found that the BRCAI gene seems to inhibit the growth and formation of tumors and may provide therapy for both breast and cervical cancer.

This news is miraculous and is very gratifying to the caucus because it was our initiative that resulted in the increased funding. But, our responsibility does not stop there. We must assure that social policy keep pace with advances in biomedical research. As a part of the Women's Health Equity Act, I have introduced legislation that would do just that.

H.R. 2748, The Genetic Information Nondiscrimination in Health Insurance Act prohibits insurance providers from:

First, denying or canceling health insurance coverage; second, varying the terms and conditions of health insurance coverage on the basis of genetic information; third, requesting or requiring an individual to disclose genetic information; and, fourth, disclosing genetic information without prior written consent.

The Women's Health Equity Act's initiative to increase funding for breast cancer research has resulted in discovery of potentially lifesaving genetic information and therapy. As therapies are developed to cure genetic diseases, and potentially to save lives, the women and men affected must be assured access to genetic testing and therapy without concern that they will be discriminated against. As legislators, I believe it is our responsibility to ensure that protection is guaranteed and I hope my colleagues will join me in that endeavor.

SPECIAL ORDERS

The SPEAKER pro tempore (Mrs. VUCANOVICH). Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona [Mr. SHADEGG] is recognized for 5 minutes.

[Mr. SHADEGG addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. SKELTON] is recognized for 5 minutes.

[Mr. SKELTON addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 5 minutes.

[Mr. BURTON of Indiana addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

INTRODUCTION OF HPV RESOLUTION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Connecticut [Ms. DELAURO] is recognized for 5 minutes.

Ms. DELAURO. Madam Speaker, I rise today to announce and celebrate the introduction of the Women's Health Equity Act of 1996. Included in the omnibus legislation are two bills that I have authored, the HPV Infection and Cervical Cancer Research Resolution, which I will introduce today, and the Equitable Health Care for Neurobiological Disorders Act of 1996. Both measures will enhance the length and quality of life for women in this country, and should be enacted by this Congress.

First, I am proud to introduce the HPV Infection and Cervical Cancer Research Resolution. This vital legislation will speed the detection and diagnosis of cervical cancer, and will, in fact, help to save women's lives. Early detection is the most effective method of stopping this killer of women. I know. I am a survivor of ovarian cancer, and early detection saved my life.

My measure expresses the sense of Congress that the National Cancer Institute and the National Institute of Allergy and Infectious Diseases should conduct collaborative basic and clinical research on the human papilloma virus [HPV] diagnosis and prevention as an indicator for cervical cancer.

Approximately 16,000 new cases of cervical cancer are diagnosed each year, and about 4,800 women die from this disease annually. However, if cervical cancer is detected while in its earliest in situ state, the likelihood of survival is almost 100 percent. HPV is a known risk factor for cervical cancer. Of the more than 70 types of HPV that have been identified, two types, types 16 and 18 in particular, have a strong linkage to cervical cancer.

With further study of the natural history of HPV and its association to the development of cervical cancer, HPV testing may prove to be an effective tool to aid the early diagnosis of this deadly disease. Therefore, it is appropriate to recommend basic and clinical research to determine how to utilize this data in the screening of women in clinics and hospitals across the country. My legislation will bridge the gap between new scientific discoveries about the linkage of HPV with cervical cancer and practical application of that knowledge by physicians and qualified health specialists in local communities.

The legislation has received the endorsement of the American Social Health Association. In addition, I am proud to include my bill in the Women's Health Equity Act of 1996.

In addition, I have introduced H.R. 1797, the Equitable Health Care for Neurobiological Disorders Act, into the Women's Health Equity Act of 1996. This legislation requires nondiscriminatory treatment of neurobiological disorders in employer health benefit plans. Under my bill, insurance coverage must be provided in a manner that is consistent with coverage for other major illnesses. Neurobiological disorders, include affective disorders like major depression, anxiety disorders, autism, schizophrenia, and Tourette's syndrome.

Currently, in short, individuals with neurobiological disorders receive much less insurance coverage than illnesses such as cancer, heart disease, or diabetes. This in equality contributes to the myth that such disorders are not physical illnesses and somehow they are the fault of the patient. For the individuals and the families affected by these disorders, the ordeal of coping with the

disease is often compounded by severe financial burdens. My legislation recognizes the physical basis for many mental disorders, and requires their equal health coverage.

Just as the Kennedy-Kassebaum-Roukema health insurance reform bill addresses the need to ensure access to health care for Americans who change jobs, my bill ensures access to health care for Americans who suffer from mental disorders.

□ 1430

Both job portability and comprehensive coverage are key access issues in the health reform discussion. Without comprehensive coverage or health insurance portability, millions of Americans will be forced to seek treatment in expensive health care settings, like emergency rooms, or drain other social service institutions.

Mental disorders severely impact the health and the quality of life for millions of women throughout the Nation. Clearly, the equitable insurance coverage for mental disorders is an issue for all of us in society, as it is a women's health concern, as well.

Treatments for mental illnesses like depression exist and have a very high rate of success; therefore, it is essential that women suffering from neurobiological disorders have access to the care that they need.

Madam Speaker, I am proud to announce the introduction of these two bills. I urge my colleagues to cosponsor and enact the omnibus bill.

STATUS OF THE DRUG WAR

The SPEAKER pro tempore (Mrs. VUCANOVICH). Under a previous order of the House, the gentleman from Florida [Mr. MICA] is recognized for 5 minutes.

Mr. MICA. Madam Speaker, I come before the House this afternoon really concerned about a report that has now been released to the Congress. It is the National Drug Policy: A Review of the Status of the Drug War.

Madam Speaker, I serve on the Committee on Government Reform and Oversight, and this product is from our subcommittee, which I also serve on, which is the Subcommittee on National Security, International Affairs, and Criminal Justice. This report should be required reading for every Member of Congress, should be required reading for every citizen of the United States, and it should be required reading for everyone who is involved in the media of the United States.

This report details a history of total failure of our Nation's drug policy, and we see that decline almost immediately the moment that President Clinton took office. This is one of the most startling reports to ever be produced by the Congress, and I hope it gets the attention of every Member of Congress and every parent and everyone in the media.

What it does is, it in fact outlines a policy of national disaster. President Clinton started this when he dismantled the drug office, and did not make drug prevention and attacking the drug problem a priority of this administration.

Madam Speaker, when he talked about cutting the White House staff, he in fact cut 85 percent of the White House drug policy staff, and that is where the cuts came in. That is where the attention was not focused. Then he appointed Joycelyn Elders, who made drugs and drug abuse a joke and sent a mixed message. It was not the message of ''just say no,'' it was the message of ''just say maybe,'' and this report details the disaster that that policy has imposed on this Congress and on the Nation and our children.

Under President Clinton's watch, listen to this, drug prosecution has dropped 12.5 percent in the last 2 years. You have heard the comments about the judiciary he has been appointing and their decisions as far as enforcement, which have made enforcement and prosecution a joke in this country.

Madam Speaker, let me tell you the details of what this report is about and how it is affecting our children. Heroin use by teenagers is up, and emergency room visits for heroin rose 31 percent between 1992 and 1993 alone. In less than 3 years, the President has destroyed our drug interdiction program, and we know that cocaine is coming in from Bolivia, Peru, and Colombia, and transshipped through Mexico, which he recently granted certification in the drug certification program to.

What did we do with the drug interdiction program? We basically dismantled it. What are the results, again, with our children? Juvenile crime, in September 1995 the Justice Department's Office of Juvenile Justice and Delinquency Prevention reported that, now listen to this, and this is from the report: after years of relative stability, juvenile involvement in violent crime known to law enforcement has been increasing, and juveniles were responsible for about one in five violent crimes.

We see what this failed policy of this Clinton administration has brought us. Juvenile use and casual drug use in every area, marijuana, cocaine, designer drugs, heroin. Every one of these areas is dramatically off the charts, and it is the result of a failed national drug policy, and the responsibility and the trail to responsibility leads right to the White House.

Let me say finally that even the media coverage of this situation is terrible. It is a national disgrace that the media is not paying more attention, that they in fact put on one antidrug ad per day in markets and the Federal Government controls the airwaves, so the media should have as much responsibility for getting the message out, the message of this disaster created by this administration, and should begin a policy of education.

Finally, the President's policy, every standard, including drug treatment, is a disaster, and I will detail this further in another special order.

WOMEN'S HEALTH ISSUES

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized for 5 minutes.

Mrs. SCHROEDER. Madam Speaker, I take the floor first of all to say, in this month of women's history, how pleased I am that the President has made more history for women today. I thought the newspaper article was very, very exciting to talk about how the President has nominated the first woman to the rank of 3-star general. She is in the Marines, Maj. General Carol Mutter, and her wonderful motto is ''perseverance pays.'' We salute her, and we thank the President for moving her forward, and I think all of our foremothers would be proud.

But we heard many other Congresswomen take the floor today and talk about the Women's Health Equity Act. The one thing that Congresswomen have the right to make a victory lap about is the progress that we have made on women's health in this body.

If the Congresswomen had not been here, believe me, it would not have happened, because when we first got into this they were even doing breast cancer studies on men. They had no women in any studies, no women in the aging studies, no women in any studies. Basically the Federal Government's message to women was, we may as well go see a veterinarian, because what our own doctors got from Federal studies was really very little. They had to take studies done on men and then try and see if it distilled and was applicable to women.

We got all of that changed. After prior vetoes and everything else, we finally not only got it passed, but a President who would sign it and a lot of it on board. But we are still just beginning. Unfortunately, in this body they tend only to see women's health as circling around reproductive issues and breast cancer. Those are both very important key issues, but there are any number of health issues that affect women that we have just begun to tap.

Starting in 1990, we put together different bills that all of us had dealing with different issues on women's health and we put them in one bill called the Women's Health Equity Act. Then we all cosponsored it together and pushed as much of it as we could.

This year there are 36 bills in there, and it deals with an awful lot of the things still on the table that we have not dealt with, everything from eating disorders, which affect women much more severely than men, all the way through to female genital mutilation, which this body has still refused to deal with, even though our European countries and other countries have, and there are all sorts of international bodies crying out, saying this is a human rights violation and that we

should make it a felony for people to move to this country as immigrants and bring those cultural things with them.

I do not want to see female genital mutilation in this country and I hope every American agrees, and I cannot understand why this body will not move on it. But to still think we have got 36 bills of that wide a range that we have reintroduced, that are out there, that we are still going to keep trying to move before we are anywhere close to having parity with where men have been in all the health care issues.

Our point has always been, this is Federal money we are talking about, Federal money that goes to research and Federal money that goes to services, and they always collected the same tax dollars for women they did for men. No one ever said to women, ''We'll leave you out of the research and we won't give you any services, but don't worry, we'll charge you lesser taxes.'' Maybe we would negotiate if they did that, but they never did. They charged us the same and then proceeded to leave us out of the research and cut us our of the services.

What we are trying to do is reclaim this, and the goal of the Congresswomen has been to try and know as much about women's health as we now know about men's health by the end of this century, so that we start on an equal health footing when we begin the next century. That is getting tougher and tougher to do, because over and over again the extremists in this body have turned around many of the gains that we are making. They turn them around daily. Today we will probably see another turnaround as we watch the first criminalization of a medical procedure that has ever happened in this body.

When we see these things happening to women's health, watch out. Yes, we should take a victory lap for what we have gained in information on osteoporosis, on breast cancer, on many of the things that we have gotten passed, gotten funded, and gotten out there, and the fact that we have gotten women into these research models so we will know much more when those different programs are done and those research projects are finished. But we are not there yet. We are not there yet. It is very easy to deny us getting to that goal of equal information by the year 2000, and it is also very easy for them to push back all the progress we have made, So cheer, but be alert.

SUPPORT H.R. 1833, PARTIAL-BIRTH ABORTION BAN ACT OF 1995

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. CANADY] is recognized for 5 minutes.

Mr. CANADY. Madam Speaker, today we will consider a bill that deals with a hard truth. H.R. 1833 addresses the ugly reality of partial-birth abortion. While every abortion sadly takes a human life, the partial-birth abortion method takes that life as the baby emerges from the mother's womb.

Partial-birth abortion goes a step beyond abortion on demand. The baby involved is not unborn. His or her life is taken during a breach delivery. A procedure which obstetricians use in some circumstances to bring a healthy child into the world is perverted to result in a dead child. The physician, traditionally trained to do everything in his power to assist and protect both mother and child during the birth process, deliberately kills the child in the birth canal.

This is a partial-birth abortion: First, guided by ultrasound, the abortionist grabs the live baby's leg with forceps; second, the baby's leg is pulled out into the birth canal; third, the abortionist delivers the baby's entire body, except for the head; fourth, then, the abortionist jams scissors into the baby's skull. The scissors are then opened to enlarge the hole; sixth, the scissors are then removed and a suction catheter is inserted. The child's brains are sucked out causing the skull to collapse so the delivery of the child can be completed.

As you can see, the difference between the partial-birth abortion procedure and homicide is a mere 3-inches.

Abortion advocates claim that H.R. 1833 would ''jail doctors who perform life-saving abortions.'' This statement makes me wonder whether the opponents of the bill have even bothered to read the bill. H.R. 1833 makes specific allowances for a practitioner who performs a partial-birth abortion that is necessary to save the life of a mother.

Of course, there is not a shred of evidence to suggest that a partial-birth abortion is ever necessary to save a mother's life or for maternal health reasons.

Indeed, the procedure poses significant risks to maternal health. Dr. Pamela Smith, director of medical education, Department of Obstetrics and Gynecology at Mount Sinai Hospital in Chicago has written:

> There are absolutely no obstetrical situations encountered in this country which require a partially delivered human fetus to be destroyed to preserve the health of the mother. Partial-birth abortion is a technique devised by abortionists for their own convenience . . . ignoring the known health risks to the mother. The health status of women in this country will . . . only be enhanced by the banning of this procedure.

Further, neither Dr. Haskell nor Dr. McMahon—the two abortionists who have publicly discussed their use of the procedure—claims that this technique is used only in limited circumstances. Dr. Haskell advocates the method from 20 to 26 weeks into the pregnancy and told the American Medical News that most of the partial-birth abortions he performs are elective. In fact, he told the reporter:

> I'll be quite frank: most of my abortions are elective in that 20- 24-week range . . . probably 20 percent are for genetic reasons. And the other 80 percent are purely elective.

He advocates the method because, quote:

> Among its advantages are that it is a quick, surgical out-patient method that can be performed on a scheduled basis under local anesthesia.

Dr. McMahon uses the partial-birth abortion method through the entire 40 weeks of pregnancy. He claims that most of the abortions he performs are nonelective, but his definition of nonelective is extremely broad. He describes abortions performed because of a mother's youth or depression as ''nonelective.'' I do not believe the American people support aborting babies in the second and third trimesters because the mother is young or suffers from depression.

Dr. McMahon sent the subcommittee a graph which shows the percentage of, quote, ''flawed fetuses,'' that he aborted using the partial-birth abortion method. The graph shows that even at 26 weeks of gestation half the babies Dr. McMahon aborted were perfectly healthy and many of the babies he described as ''flawed'' had conditions that were compatible with long life, either with or without a disability. For example, Dr. McMahon listed 9 partial-birth abortions performed because the baby had a cleft lip.

The National Abortion Federation, a group representing abortionists, has also recognized that partial-birth abortions are performed for many reasons other than fetal abnormalities. In 1993, NAF counseled its members, ''Don't apologize: this is a legal abortion procedure,'' and stated:

> There are many reasons why women have late abortions: Life endangerment, fetal indications, lack of money or health insurance, social-psychological crises, lack of knowledge about human reproduction, etc.

The supporters of partial-birth abortion seek to defend the indefensible. But today the hard truth cries out against them. The ugly reality of partial-birth abortion is revealed here in these drawings for all to see.

To all my colleagues I say: Look at this drawing. Open your eyes wide and see what is being done to innocent, defenseless babies. What you see is an offense to the conscience of humankind. Today, we will attempt to put an end to this detestable practice. After today, it will be up to the President. He has the power to stop partial-birth abortion or continue to allow the killing of a living child pulled partially from his mother's womb.

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The SPEAKER pro tempore (Mrs. VUCANOVICH). Under a previous order of the House, the gentleman from Colorado [Mr. MCINNIS] is recognized for 5 minutes.

[Mr. MCINNIS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

PARTIAL-BIRTH ABORTION BAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. SMITH] is recognized for 5 minutes.

Mr. SMITH of New Jersey. Madam Speaker, even if President Clinton bows to the pressure of the pro-abortion lobby and vetoes the partial-birth abortion ban, the fact that the Congress, in what will be, as it was previously, a bipartisan vote in support of the ban and the fact that the American people of all political persuasions, men and women of all ages, are beginning, and I mean just beginning, to face the truth and reality about the cruelty of abortion on demand will have made all of this worth the effort.

I chair the subcommittee on International Operations and Human Rights. I also am chairman of the Helsinki Commission. I have been in this body now for some 16 years, Madam Speaker. I have always found when we work on human rights issues, it is never easy, whether it be trying to help a Soviet Jew, whether it be trying to help a persecuted Christian in the People's Republic of China, there are always these so-called unwanted people everywhere. Regrettably, the human rights abuse in this country is that which is directed at the most innocent and the most defenseless of all human beings, unborn children. This is the violation of human rights in the United States of America in 1996, the killing of unborn children, 1½ million or so per year on demand, and most of them are for birth control reasons, not the hard cases, life of the mother or even rape and incest. They constitute a very small, infinitesimal number of the abortions. Most of the abortions are done on demand.

Madam Speaker, I believe very strongly that the 22-year coverup of abortion methods, including chemical poisoning of babies is coming to an end. I think most people are beginning to realize, salt solutions are routinely injected into the baby's body, killing that baby, because of the corrosive impact of the salt. And they are appalled.

Another method of abortion, the most commonly procured method, is the dismemberment, D&C suction method, where the baby's body is literally ripped to shreds. We have, because of the leadership of subcommittee Chairman CHARLES CANADY's bill, hopefully, achieved the end of a very gruesome method of abortion, the partial-birth abortion method. This method in recent years has been done increasingly. It is being done in the later terms, in the 6th, 7th, 8th, 9th months of the babies' gestational ages. And, hopefully, even though the President may veto this, this will be the beginning of an effort to outlaw this sickening form of child abuse.

This picture to my left is truly worth a thousand words. It shows what the doctor does, and I just would like to use the doctor who is one of the pioneers of this gruesome method. I will just very succinctly read his statement as to how this method is done. His name is Dr. Martin Haskell, a doctor who performs partial-birth abortions by the hundreds. He has said, and I quote,

> The surgeon takes a pair of blunt, curved Metzenbaum scissors in the right hand. He carefully advances the tip curved down along the spine under his middle finger until he feels contact at the base of the skull under the tip of the middle finger. The surgeon then forces the scissors into the base of the skull. Having safely entered the skull, he spreads the scissors to enlarge the opening. The surgeon then removes the scissors and introduces a suction catheter into this hole and evacuates the skull contents. When the catheter is in place, he applies traction to the fetus, removing it completely from the patient.

What this so-called doctor is describing, Madam Speaker, is infanticide. The baby is partially born, and this so-called doctor then kills the baby in this hideous method. Hopefully, this legislation will get a second shot, not withstanding the President's veto, so we can outlaw this gruesome form of child abuse and banish it from this land.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. MCINTOSH] is recognized for 5 minutes.

[Mr. MCINTOSH, addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. BILBRAY] is recognized for 5 minutes.

[Mr. BILBRAY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona [Mr. SALMON] is recognized for 5 minutes.

[Mr. SALMON addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. SAXTON] is recognized for 5 minutes.

[Mr. SAXTON addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

WHY THE ENDANGERED SPECIES ACT SHOULD BE IMPROVED

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Alaska [Mr. YOUNG] is recognized for 60 minutes as the designee of the majority leader.

Mr. YOUNG of Alaska. Madam Speaker, I take this time to bring to the attention of the floor, my colleagues, and those that might have the opportunity to hear what I have to say why the Endangered Species Act should be improved. That is the subject of this hour of debate. I will be joined by other Members that were directly involved in trying to improve the Endangered Species Act.

Madam Speaker, I came to this House as a Representative in 1973. Later that same year, I voted, one of the few remaining individuals that voted for the Endangered Species Act of 1973. There were only two hearings on the bill. There was no objection in the committee, and it very nearly passed unanimously on the floor. Those of us who voted for it never dreamed that some day it would be used by this Federal Government, the Government of the people, by the people, and for the people, supposedly, to control vast amounts of privately owned land, that it would be used by extremists to throw thousands of families on to the welfare roll.

The Government has said they want to improve the lot of the people, allowing this bill to be misused. And, Madam Speaker, that is what has happened to the Endangered Species Act. It is a tragedy. It is a law with good intentions, a good goal, but it has been taken to the extremes that the American people no longer support thus endangering the species and why we must improve the act.

This law has resulted in some people losing the right to use their land, their land, not your land, not the Federal Government's, but their land, because an agency, the Fish and Wildlife Service, has ordered them to use their land as a wildlife refuge. These landowners have not been compensated in any way, shape, or form, as our Bill of Rights requires. They still must pay their taxes on this federally controlled land and are singled out unfairly to bear the burden of paying for, supposedly, the public benefit. This has hurt not only the private landholder, the basis of our society, but it has also hurt the wildlife that depend on that land.

Because of the way that these Washington bureaucrats, primarily in the Fish and Wildlife agencies, have treated landowners, and particularly farmers, wildlife is no longer considered an asset by the landowners. Now the presence of wildlife is feared. A lucky few of these landowners have been able to file suit or fight the bureaucrats and extremists in court, a lucky few, those that have extremely great amounts of wealth. However, there are many people who have not been so lucky and have had to suffer the loss of their property or their livelihoods in silence without the tens of thousands of dollars needed to defend their rights in court.

Since I became chairman of the Committee on Resources, I have tried to ensure full and fair public debate on how to protect our endangered species and our threatened species while protecting the private property owner. Our committee held seven field hearings and

five Washington, DC, hearings on this issue, the Endangered Species Act, and the revision of said act. We heard over 160 witnesses. Over 5,000 people attended and participated in these hearings.

Through our hearings all over the country, we gave the American people an opportunity to help us write our recommendations for repairing the Endangered Species Act. What we learned from these hearings is that American people love wildlife and have a true appreciation for our natural resources. However, the American people also love and cherish our Constitution, our way of life, and our freedom. The American people want a law that protects both wildlife and people. They want a law that is reasonable and balanced. They want a law that uses good science to list the species. Right now, today, all it takes is someone to file a petition saying they think, in fact, it is endangered, and then the Fish and Wildlife or Forest Service, Park Service, whoever it may be, will have to make a massive study even though that species may never reside there. That is how this act has been misused.

The American people are willing to make sacrifices if those sacrifices make sense and accomplish the goal of protecting truly endangered or threatened species. However, the current law on species, subspecies, and small regional subspecies, is based only on the best currently available science. That means, even though a species or subspecies may be thriving and abundant in various areas around the Nation, one small geographic population can be listed and can be used to stop the property owners from using their land in that area.

This is not America. The number of frivolous lawsuits that have been filed under the ESA have exploded. These lawsuits result in friendly settlements between the Government and extremist groups. Then the Government can use the excuse of court orders to shut down entire industries, put thousands of people out of work, and deprive landowners of their rights.

Lawyers are making millions of dollars, paid for by the taxpayers, by filing these suits, since the ESA requires judges to pay lawyers from the Federal Treasury.

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The result is entire communities are devastated while environmental groups get richer. Who is filing these suits? Only environmentalists are allowed to file these suits in most of the country. If a private citizen may be harmed economically and wants to file a suit to protect their own land or job, the courts have closed the door in their faces. The ESA has been identified recently by a government commission as the worst unfunded mandate on States and local governments.

The Fish and Wildlife Service and the courts are imposing exorbitant costs on species protection and on small local towns and districts which they cannot afford. These small towns either pass on these costs to their taxpayers and property owners or reduce important public safety, health, and educational services. There are other serious problems with the way the Federal Government is using the law.

Now, do I, do we, does the committee support gutting or repealing the Endangered Species Act? Absolutely not. Contrary to what you may read in the paper or is being reported by this administration, we do not believe in eliminating or gutting ESA. But the American people are not going to continue to support and pay for our efforts to protect their wildlife unless we make the ESA work for the people and the wildlife. We need to make necessary repairs in a law that has become broken.

We spend hundreds of millions of dollars in this country for the protection of our great natural resources. Our good Secretary of Interior, Bruce Babbitt, has a $6 billion budget, a $6 billion budget, to protect our natural resources, but he says that is not enough. He wants more land under Government control, more money under Government control, and more power. Let us not forget that word, power.

We want to keep a good Endangered Species Act that truly protects our wildlife and our people, but we want to give more to do these good things back to the people who can do it best, the American public.

I trust the American people to be good stewards. They have in the past and will be in the future. When Federal action is needed to protect our wildlife that migrates across State lines, to protect our parks and refuges, to protect our waters and the air we breathe, we will continue to fund the millions to do the job, but we want to do it right.

Mr. Speaker, I take this time today because we need to make the Endangered Species Act work. We can only do that if we take up this important law and repair the damage that has been done.

Mr. Speaker, may I say, before I yield time to my colleagues, there is a case in California where a gentleman in fact is taking care of a small acreage of land and protects all species around it because he wanted to do so. Now he is under threat by the Fish and Wildlife Service saying because there are certain species on the small acreage of land, that he can no longer till the land around it. In fact, he is prohibited from making a living, without compensation. They would be taking his livelihood away.

Why do you think those species are there? It is because he has protected them. He has provided them shelter. He has provided them with food and the love that takes to maintain the species. But along comes this Government and says, ''Now, we know what is best. You must not disturb their habitat.'' He was the one who protected the habitat.

He is being told by this Government that no longer has the sensibility to get out of the rain, that they know what is best for species. And he has a very serious choice to make: Is he in fact going to continue to protect those species, as he has done in the past, or will he retain his livelihood and eliminate that species? He does not want to do that.

It is time we review this act and improve this act, to make it work for the people of America, and for the species.

Mr. Speaker, I yield 5 minutes to the gentleman from Utah, Mr. [HANSEN].

Mr. HANSEN. Mr. Speaker, I appreciate the gentleman from Alaska yielding me time.

Mr. Speaker, I agree with the gentleman from Alaska. This is probably a very worthwhile piece of legislation, and I think the gentleman did the right thing in voting for it in 1973. However, that was not carved in stone. That did not come from Mount Sinai by the hand of Moses or some other great prophet. It was just done by puny little legislators who got together, and from time to time we have to make changes. Now is the perfect time to make changes in a law that we see is not working.

The gentleman from Alaska gave some very good illustrations. In another life I used to be Speaker of the House of the State of Utah. I that situation, I had to go talk to the Governor of the State every week.

I remember one day going down and talking to Governor Scott Matheson, a very fine man. He was just fuming. He was mad as could be. He said, ''I am not going to let another blankety-blank person come into this State and find an endangered species, because what do they do, they tie it up in critical habitat, in endangered habitat, and all they are trying to do is get their master's or doctorate degree on this.''

I remember also debating a law professor, Professor Jefferson from the University of Utah Law School. He made an interesting statement. He said, ''Why is it that man, the Homo sapien, has more rights than the shark?''

I said, ''Well, professor, if you would like to read the 27th chapter of Genesis, it says the Lord created all these things, and then He put man ahead of them and said he was supposed to be in charge of them all and be a good steward.''

The professor said, ''That just is myth and folklore in that book.''

I said, ''Take it that way if you want, professor, but that is what happened over the years. Man does have control. He is in control of these things and should be a good steward.''

We find ourselves here today talking about are we a good steward with what is here upon the Earth, and we are bound to take care of? I think it is important to know, is the Endangered Species Act working as it is currently on the books?

My constituents and I have an extensive experience with ESA. One of the

most impacted areas is Washington County in the little State of Utah. There we have four fish and a desert tortoise in that area. In addition to those, there are also approximately 50 species on the candidate list, some of which under the current rules are likely to be listed in the near future.

Accordingly, Washington County has the unfortunate experience of being one of the most heavily impacted counties in the United States. It is in the best interests of everyone, including States, local government, private landowners and the Federal Government, to try and work in partnership to preserve biodiversity and recover savable species.

To this end, the good people of Washington County have undertaken a habitat conservation plan that represents over 5 years of gut-wrenching effort, including the expenditure of over $1 million by a relatively small county to get this HCP approved. Another approximately $9 million will be expended by Washington County to see the plan fully implemented.

In addition to the millions spent by the county, the Federal Government is obligated under this plan to provide approximately $200 million to justly compensate affected landowners. Notwithstanding the fact that the Federal Government has this obligation, to date not one, not one single landowner has received payment for their land that has been rendered worthless by this HCP.

Knowing that the preservation of species is a top priority for everyone, it is important to emphasize that the current ESA, as regulated and implemented by the Fish and Wildlife Service, makes it difficult, if not totally impossible, to achieve this goal. Conservation of endangered species is best accomplished in an atmosphere that promotes a healthy economy founded on the principles of respect for voluntary involvement of local communities and affected landowners.

Perhaps the biggest problem of the current act, as interpreted by the Fish and Wildlife Service, is the use of the ESA to take people's private property without compensation and in some cases to insist upon totally unreasonable mitigation that prevents a landowner from utilizing all or part of their property.

We all share the same goals of a clean environment and preservation of species, but in order to accomplish this, we must restore some balance in the ESA, and that is what the gentleman from Alaska and the gentleman from California are trying to do. In concept it is unflawed, but the actual implementation of the law has become a nightmare for hundreds of communities around the country that will only worsen unless we have the courage to amend this act.

Mr. Speaker, I would urge the Members of this body to carefully consider what we have done, the problems we have, and they all ought to look at the map that shows if everyone of these endangered species is brought forward and is listed as critical, and then endangered, the Homo sapien might as well walk out as Jefferson Fordham said, and just leave it up to other things, because there will be no room for the Homo sapien if everyone of these is implemented.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman for his comments. I hope the people watching and listening to this back in their offices understand that the gentleman from California and myself and the gentleman from Utah have tried to work out a solution to a very serious problem. When we passed this act, the regulatory law had come into effect. It is the regulatory law and the courts by extremist groups that have misinterpreted the law. We are trying to right this law so no longer can that occur, and keep our species and also recognize the importance of man and his right to participate on private property.

Mr. HANSEN. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Utah.

Mr. HANSEN. Mr. Speaker, I would like to point out the two gentlemen here have done an especially fine job in putting this together. All the criticism I have heard around America is in generalities. I wish these people would specifically point to the law and say this particular part is wrong or that particular part is wrong. Do not give us these generalities. Everyone can stand up and beat their chest. We want to have people tell us where we are wrong so we can discuss it. So far I have not personally had that opportunity. I wish the people of the House would take the time to look at the bill.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 10 minutes to the gentleman from Texas, Mr. SMITH.

Mr. SMITH of Texas. Mr. Speaker, I thank my friend from Alaska for yielding me time.

Mr. Speaker, I'm pleased to join Chairman YOUNG of the Resources Committee to discuss the critical need to fix the broken Endangered Species Act. The Endangered Species Act needs to be reformed because the current law harms people and the environment.

Today, the Endangered Species Act does not protect species. It violates the basic rights of hard-working, law-abiding, tax-paying Americans, the very people who ought to be empowered to protect our natural resources. While the Endangered Species Act is flawed in a number of ways, I'd like to focus on three of the most critical areas where the Endangered Species Act desperately needs to be reformed.

First, the Endangered Species Act needs to be operated in a way that respects the basic civil rights of all Americans. The fifth amendment to the U.S. Constitution provides: ''Private property shall not be taken for public use without just compensation.'' This amendment guarantees a basic civil right: that no citizen in society can be forced to shoulder public burdens which, in all fairness, the public as a whole should share.

The fifth amendment does not stop the Government from meeting important public objectives. It simply ensures that those who want certain public benefits do not obtain these benefits at the expense of particular individuals. The fifth amendment is about fairness.

Usually, this simple, common sense, rule of fairness is followed. If the Government wants to use private property for construction of a highway or to create a national park, the Government simply condemns the land and uses the private property.

The requirement that Government pay for this private property—rather than simply taking this land—has not impeded the development of our highways or national parks. To the contrary, we have the best and most impressive highways and national parks the world has ever known. The requirement that Government pay to acquire private property for use in these public endeavors simply ensures fundamental fairness.

But not all public uses are equal. When it comes to some public uses of private property, private landowners are denied compensation. Americans whose land is used to protect endangered species suffer condemnation without compensation.

One American whose fifth amendment rights have been violated by an unfair, and unconstitutional, application of the Endangered Species Act is Margaret Rector. A 74-year-old constituent, Ms. Rector purchased 15 acres in 1973 in order to plan for her retirement. Her retirement plans were destroyed when in 1990, the U.S. Fish and Wildlife Service decided that her property might be critical habitat for the golden cheeked warbler, even though no birds were found on her property.

Ms. Rector was denied any productive uses of her private land. Today, Ms. Rector's property has lost over 97 percent of its value. Even though Ms. Rector is denied productive uses of her private property under a public law, the Government denies her just compensation.

The same rule of basic fairness that applies to Americans whose land is used for a highway or other public benefit also should apply to Margaret Rector. Americans whose land is used for protecting endangered species are not second-class citizens, and it's time that their Government stopped treating them that way. It is simply unfair, and a violation of basic civil rights, to obtain this kind of public benefit by forcing only a few Americans to should the entire cost.

It is essential that we reform the Endangered Species Act to ensure that all Americans' fifth amendment rights are respected. Government must compensate private landowners when it

takes their land, or a portion of their property, for the public purpose of protecting and preserving endangered species.

Second, the Endangered Species Act must be reformed to encourage protection of endangered species. Today, it actually discourages resource conservation. Thousands of private landowners manage their lands as responsible environmental stewards. Unfortunately, in a classic example of unintended consequences of governmental action, the Federal Government's war on private property rights has actually undermined protection of endangered species, the very goal of the Endangered Species Act.

How did this happen? The Endangered Species Act imposes confiscatory regulations on private lands that contain valuable resources. It punishes ownership of vital or threatened natural resources. This discourages landowners from environmentally friendly land management practices, and deters the growth of wildlife habitat.

The story of Ben Cone is illustrative: Ben Cone is a North Carolina conservationist who carefully managed his 8,000 acres of timberland in North Carolina so as to develop natural resources and attract wildlife to his property. Mr. Cone was successful, so much so that Mr. Cone's property became the type of land that is habitat to the red cockated woodpecker. How did the Government reward Mr. Cone for his successful environmental management? It forced him to bear a $2 million loss for his hard work by prohibiting any development of a small portion of his property. His lesson: accelerate the rate of clearing the land to discourage the costly woodpecker.

The story of Mr. Cone is by no means the only evidence of the antienvironmental effects of the Endangered Species Act, as it is currently enforced. Officials at the Texas Parks and Wildlife Department contend that adding the golden-cheeked warbler and black-capped vireo to the endangered species list has encouraged the rapid destruction of their habitat. It is my hope that the Government end its counterproductive, and unfair, reliance on heavy regulation and instead encourage private environmental stewardship.

As in so many other areas, the goal of our policies should be results, not more power and more bureaucracy in Washington, DC. Whether we're talking about welfare, Medicaid, education, or protection of endangered species, the people of Texas, California, Wyoming, or Maine understand what needs to be done to serve important public goals. They don't need unelected officials in Washington—who have never visited their land—telling them what to do.

The goal of our Endangered Species Act should be protection of species and conservation of natural resources. The difference between Secretary Babbitt's approach and the reform model that we're discussing today is not the goal: both of us want to protect species. The question is how best to accomplish this goal.

We believe that landowners have an important role to play in resource protection. We believe that our resource protection laws need to work with landowners, not against them. And we believe that the kinds of disincentives that discouraged Ben Cone from protecting species must be eliminated.

The Endangered Species Act must be reformed to accomplish its goal: protection of species. Today it actually harms species.

Third, the Endangered Species Act should be used to protect species, not as a national land use planning device. When Congress enacted the Endangered Species Act, it did not intend to grant the Federal Government an easement over much of the private lands west of the Mississippi.

From the beginning, Congress realized the need to balance species protection with the rights and needs of people. Congress enacted this law to protect the bald eagle, to avoid direct harm to species whose numbers were low or depleted so as to avoid extinction. This is a laudable, and reasonable goal.

Unfortunately, too often what starts out as a reasonable and laudable Government program does not remain that way. Government officials at the Department of Interior have interpreted this reasonable law in an overbroad and unreasonable way so as to restrict activities on private property, regardless of whether an endangered species in threatened by this activity.

The Government has used the Endangered Species Act to impose ruinous restrictions on private lands regardless of whether the endangered species is on the land, will be harmed by the proposed activity, or has ever visited the land. According to the Department of Interior, as long as the land in question is the type of habitat that the endangered species tends to use, the Endangered Species Act applies. Most recently, Secretary Babbitt has discussed expanding this habitat to cover entire ecosystems.

It's time to return the Endangered Species Act to the original intent of its authors: to prevent harm to particular species. It's time to remind Government officials that private property is privately owned, and that the families and individuals who purchased the land, not the Federal Government, have dominion over it.

The Endangered Species Act is in critical need of reform. Our reform goals must be: Protect civil rights. Encourage private stewardship. Prevent Federal land control. Adoption of these simple, commonsense reforms, each of which was intended by Congress when it enacted the Endangered Species Act, will put some balance into the Endangered Species Act and should actually help preserve the environment.

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Mr. YOUNG of Alaska. Mr. Speaker, I want people to remember and visualize the lady, the widow in Texas. She purchased the land in 1973, basically as retirement, if I am not mistaken.

Mr. SMITH of Texas. That is correct.

Mr. YOUNG of Alaska. And the value of that land prior to the golden-cheeked warbler supposedly was, it was valued to—do you have the value of that land?

Mr. SMITH of Texas. It was a couple hundred thousand and it depreciated in value 97 percent.

Mr. YOUNG of Alaska. My understanding is, it was valued close to a million dollars for her retirement and now is worth $30,000, if that, and, in fact, if it can be used at all. Again, it is my understanding, if I am not correct, you may answer this, that they had not found the golden-cheeked warbler but it was possibly the habitat for the golden-cheeked warbler; thus they declared it an endangered area for the species; is that correct?

Mr. SMITH of Texas. Mr. Speaker, if the gentleman will continue to yield, that is absolutely correct. The golden-cheeked warbler had never been seen on her property, past or present. It just might someday tend to land there. For that reason the regulations were imposed.

Mr. YOUNG of Alaska. It is also the fact, I think, if I am correctly informed, that they have found golden-cheeked warbler in many other different areas but because of the so-called habitat is the reason they classified it, but they never looked at the other areas to find out if there was an abundance of them there or whether in fact they could be helped in another area. They have taken this widow, this 70-year-old widow, invested the money in 1973, and taken her retirement away from her. I say that for those that are interested in Social Security, Medicare, and Medicaid. This is your Government in action, with no science, only an agency's idea of how the act should be implemented. That is why I thank the gentleman for supporting my efforts to improve the act so that the American people can regain their faith in this Government and also protect the species. I thank the gentleman.

Mr. POMBO. Mr. Speaker, along the same lines with this particular lady, I had the opportunity to hear her testimony before the endangered species task force. One of the things that she brought up at that time, and I thought it was very interesting, was that this was not some pristine isolated location, that this was in the middle of an area that was zoned for industrial development.

Mr. SMITH of Texas. Mr. Speaker, if the gentleman will continue to yield, that is exactly correct. This is not an isolated incident. It is not the exception to the rule. This is very typically the rule where someone purchases property for investment purposes, for a retirement home in this case, and then sees the value of their lifetime savings, perhaps lifetime savings of two or

three generations, wiped out just because of the Government-imposed regulation. In this case, it makes no sense and does not have any connection to actually protecting or preserving any species.

Mr. YOUNG of Alaska. Mr. Speaker, this brings up another point in the gentleman's presentation.

Would you say that this is Government land management, Government land control, Government telling States and individuals what they have to do because the Federal Government says that is what you have to do?

Mr. SMITH of Texas. That is exactly right. I agree with the gentleman. Again, I appreciate his efforts and his leadership on this issue.

Mr. POMBO. Mr. Speaker, the gentleman also serves on the Committee on the Judiciary which has broad jurisdiction over constitutional issues.

Is it your understanding that there is any place for Federal land use policy in the Constitution?

Mr. SMITH of Texas. I think any Federal land policy of the kind that we are talking about, that means the way the current Endangered Species Act is being enforced, is in clear violation of the Constitution, particularly the fifth amendment. Until the Government decides to engage in some just compensation to compensate landowners for the lost value of their property, in my judgment they are in violation of the Constitution.

Mr. POMBO. So in essence what happened with your constituent in this case was you had someone who lost basically nearly all the value of her property, which she was going to use for retirement, but it could have been my property or anyone's property that lost the value of their property, based upon a decision that came out of fish and wildlife, which was, this is an industrial area, it is zoned for industrial use. It is not an isolated area. It is not a pristine habitat area. It is an industrial use that has industrial developments all around it. It borders on a major roadway, a major thoroughfare. But they were going to control any type of development on her property, not because there were endangered species on the property but because it was suitable habitat. If one wanted to live there, it could. It was suitable habitat.

Mr. SMITH of Texas. Right.

Mr. POMBO. You are telling us that that is what they were basing their decision on.

Mr. SMITH of Texas. The gentleman is absolutely correct. It is not the fact that the golden-cheeked warbler had ever landed in any of the foliage on that particular piece of property. It is not that they had at any time in the past. It is just that they some day might. There is no current use of the endangered species. That to me is out of balance. That is why we need to amend the Endangered Species Act.

Furthermore, I want to say to the gentleman, he makes another good point which is to say that this type of overzealous regulation enforcement by the Federal Government can hit anybody at any time. We are not just talking about an isolated landowner that may have a large ranch or farm in a rural area. We are talking about anyone who lives anywhere close to habitat that might be considered by the Federal Government to be a critical habitat.

Mr. POMBO. As chairman of the task force, I had the opportunity to take the task force to your district to hold a hearing earlier last year. One of the good fortunes that we had while we were in your district is we had the opportunity to visit a cattle ranch, a very well-managed cattle ranch in that area, and the gentleman took us out and explained to us how he was managing it to get the highest return from the property.

One of the issues that came up when we were out there was what would happen or how cattle ranchers would respond to the listing of the golden-cheeked warbler; in fact, how they would destroy habitat so that they would not have a problem with the fish and wildlife coming in and tell them they could not run cattle or could not run goats on their property.

Mr. SMITH of Texas. I remember well that day you and I were together on that Texas ranch. When you tell someone that they may lose the right of use of their property, it does not take long for that rancher or farmer to decide they are going to clear the brush that might be that critical habitat. Why wait for the Federal Government to, in effect, take over your property. The gentleman is absolutely correct. unfortunately these regulations force individuals not to be good stewards, it forces them to perhaps take some action that actually hurts the habitat in order to try to protect themselves.

Mr. POMBO. So if the golden-checked warbler were truly an endangered species and we were truly trying to recover that species, is not the Endangered Species Act working in the exact opposite direction? Is it not giving people the perverse incentive to destroy habitat so that they do not have a problem?

Mr. SMITH of Texas. I agree with the gentleman. I do not think the Endangered Species Act is being enforced as originally intended and, quite frankly, it has gotten out of balance. The balance is too great on the side of the regulations, and they do not take, in their enforcement, enough consideration of the adverse economic impact on the real people, hard-working individuals that may have spent their lives working to cultivate the land, spent their lives investing in the land, spent their lives working from daylight to dark pouring everything they have into the land and then all of sudden they find they cannot use it in the way they intended. Clearly, the Endangered Species Act is not being enforced as it should be enforced. We need to get back to a better balance.

Mr. POMBO. So what we are faced with today is that the Endangered Species Act as it is being implemented today is not good for species, is not recovering species, is not helping out with wildlife, and at the same time it is causing severe economic and social hardship across the country?

Mr. SMITH of Texas. The gentleman is correct, absolutely correct.

GENERAL LEAVE

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the subject of my special order?

The SPEAKER pro tempore (Mr. EWING). Is there objection to the request of the gentleman from Alaska?

There was no objection.

Mr. YOUNG of Alaska. Mr. Speaker, I yield to the gentleman from Louisiana [Mr. TAUZIN] newly acquired great Member of this side.

Mr. TAUZIN. Mr. Speaker, I thank the gentleman from Alaska [Mr. YOUNG] not only for yielding time but for having this special order. It is important because I think all Americans love and appreciate the great outdoors. We appreciate the diversity of animal and plant life not only in America but on the planet. We all have an interest in preserving it and making sure that we do not lose it.

□ 1530

When you come to areas like Alaska and Louisiana, you have a special appreciation for it, because of the land, the water, the species that inhabit them are special to us. I grew up in the bayou country of south Louisiana where we are extremely close to nature. Nature was not just something we experienced by watching the Discovery Channel. It was part of our lives every day. To see anything go extinct is nothing that is very pleasant and certainly something we all want to avoid, not simply for the esthetics of it, but for the importance of it in terms of life on this planet.

Life should be precious to all of us. The life of a species ought to be one of the things we deeply cherish and want to protect.

Mr. Speaker, the question is not whether we love the great outdoors and whether we appreciate the great outdoors. The real question is whether the great indoors is working well enough to preserve the great outdoors. The great indoors is the Interior Department, and so great indoors is where bureaucrats work night and day turning out the regulations we all have to live with that most concerns us.

Mr. Speaker, what I think we are about is asking for reforms that bring common sense and effectiveness, user friendliness, to the environmental laws, the endangered species laws, of this country, not simply because we do not like bureaucrats, but, Mr. Speaker, more importantly, because rules and regulations ought to, No. 1, make common sense, because we will understand

them better, appreciate them more, and they will work better; No. 2, they ought to be user friendly. That is, the people they affect ought to be taken into the equation. They ought to be considered. Public hearings, good science behind the decisions, explanations and a chance for people to have an understanding of why this rule is important to protect a species and perhaps change the way somebody is using and enjoying their property, for example.

The rules in the end ought to be not only good common sense and user friendly, but they ought to be effective, to carry out the purposes they intend.

A good example in Louisiana right now is a thing called the black bear conservation effort going on in our State. It is a voluntary land management plan that landowners have entered into voluntary agreements with conservationists to help propagate the species of black bear that resides in Louisiana. The results have been dramatic.

Without Government intervention, without the Government coming in and declaring critical areas and coming down with all kind of rules about what you can do or not do with your property, landowners and conservationists are working cooperatively today to bring back a species, a subspecies of bear, that some said was threatened or perhaps endangered. The result is that we are getting an effective recovery.

Part of our commonsense plans to reform endangered species is to do just that, to put some good science into the equation that makes sure public hearings, that people have a chance to see and know what is going on, to make sure the regulations make common sense, that they are tested on the basis of effectiveness and cost benefit to make sure that we stress voluntary agreements first before we talk about command and control decisions out of Washington, DC, and then to test the bottom end result. Is it working? Is it recovering the species? Are we happy as a user family of American citizens who use this planet alongside the other species that inhabit this Earth? Are we happy together? Is it working out?

If we test it on that scale, the current law fails us pretty badly. If we test it on a scale of what we could accomplish, if we change the law in those respects, if we brought commonsense environmentalism to this Chamber, if we made our rules and regulations user friendly, and if we test it on the basis of how well they are recovering species, what good effect they are having, then I can guarantee you folks like the gentleman from Alaska [Mr. YOUNG] and the gentleman from California [Mr. POMBO] and I would not only be happy with the results, but Americans generally, whether you call yourself an environmentalist, conservationist, or whatever else you want to call yourself, we would all be happy to know that the laws are working, that they are appreciated, and that landowners and other effective groups are partners and friends of the act rather than having made enemies of the act and, therefore, fighting its effect instead of working with it.

Mr. Speaker, it is the kind of goal we hope to achieve. I think special orders like this, where we talk about the value of changing the law and making it better, are extremely important if we are ever going to get to that point, and we get past the politics and all the demagoguery, and we talk realistically about how we can build a better environmental law for America that protects species, and does make common sense, and takes people into account, and landowners, and values of their property, into account as we go about recovering their species.

Mr. YOUNG of Alaska. Mr. Speaker, the gentleman was speaking about his bear and the cooperative effort. This is the one thing, I know, in 1973, when we voted for this act, we thought we were doing, but for some reason we have lost track of the agency, that they have decided without looking at Federal lands, which we have 835 million acres of, we find out with the species residing in those areas they do not do that unless it is multiple-use land. They will come after the individual and say, you must do this. We lose this cooperation, we lose this partnership.

Mr. Speaker, I have said all along that we must be partners in this law in order to protect the species. You cannot expect the Government to protect the species by itself. The partners who should be part of it will in fact extinguish the species because they have no other choice.

Mr. TAUZIN. Mr. Speaker, a perfect example, this black bear deal in Louisiana. Not only was the conservation program working without any mandates from the Federal Government, not only was the black bear recovering nicely, but, believe it or not, the Department of the Interior was not happy with that. They instead came in and proposed a $3 million critical habitat area. They were going to impose it without any public hearings. They would not tell landowners what it would do to affect the use of their property. In fact, they could not explain what the differences were going to be when they mandate this critical area.

Well, we insisted on some public hearings. We finally got a couple, and we literally brought to light the fact that the program was working without the Federal Government mandating and controlling and creating critical areas. Landowners were volunteering. The partnership, Mr. YOUNG, was working.

Mr. YOUNG of Alaska. Can I bring an example up that I ran into recently in the State of Florida down around Gainsville?

There was a sighting of a puma, or a mountain lion or a puma, whatever you like to call it, by farmers, and they made up their mind they were going to protect this puma if, in fact, it was. The Fish and Wildlife from the Federal Government said there is no such thing in Florida and this area. Well, they found tracks, they being the farmers, saying, all right, we know it is here. They took costs of the tracks. They named him Toby, by the way. They cast the track, took it to the Fish and Game Department, our Government in action, and they had to say, lo and behold, there is a puma. So they set out, and they finally zapped him with a tranquilizing gun, and then did a DNA on the puma and decided the puma was a western puma from New Mexico. Now how he got—unless they are doing the Amtrak or a 747 plane.

Mr. TAUZIN. on vacation.

Mr. YOUNG of Alaska. Or on vacation. How he got all the way to Florida, I do not know.

Remember now the farmers wanted to keep the puma. This is a Florida puma, in their minds. But Fish and Wildlife said in their minds, and in fact made an edict; they got him in a cage now, said that he is not indigenous to the area, he is a western mountain lion, or a puma, and thus they are going to transfer him via air to New Mexico because he does not belong and because they decided he did not belong there.

Now keep in mind, if I am sure how ridiculous this is under the Endangered Species Act, and in the meantime this same thing, Mr. Babbitt and the Fish and Wildlife Department saying in fact the wolves are endangered in Yellowstone Park, and in Idaho and Utah. And they go to Canada, get a foreign wolf, and tranquilize those foreign wolves, and, by the way, they killed five of them in doing so at a cost of $7 million and transferred foreign wolves down into the United States, which are not the same DNA.

Mr. TAUZIN. They were not French speaking; were they?

Mr. YOUNG of Alaska. They were not French speaking, saying this is perfectly all right. This is our Fish and Wildlife in a position of making absolutely outrageous decisions under this act, and that is where we have to——

Mr. TAUZIN. Mr. Speaker, one of the things the gentleman from California [Mr. POMBO] has talked about at a number of our hearings was the fact that, overall, there are 4000 species waiting to get listed right now under the Government command and control system. Most of them are bugs. While we talk about the Endangered Species Act protecting beautiful animals, like pumas and bears and eagles, that actually the next listings, the next big round of listings, will be all kinds of insects. People's properties and values and their lives are going to be affected now dramatically because of the presence or absence of an insect anywhere near their home.

Mr. Speaker, this law is beginning to have effects that nobody calculated. If we do not somehow restore some common sense to it so that we can get more cooperative agreements in here

and more good science behind some of these decisions, we are going to have some real problems in this country.

Mr. YOUNG of Alaska. Mr. Speaker, the gentleman says 3,000 are going to be bugs. Let us stress that, bugs, things that you squish if they get on you. You mean to tell me, if they decided that the red tick, the Mississippian tick that is awfully prevalent in the woods, and some places it is not because they are eradicated; if they decided that tick was—by the way, the tick carries diseases—was an endangered species, and I happened to get one of those ticks on my body as I was walking through the woods enjoying this beautiful flora and fauna, and that tick was on my body, I could not destroy it because of endangered species?

Mr. TAUZIN. You could if you wanted to pay——

Mr. YOUNG of Alaska. I would have to pay a $3,000 fine. Would I have to declare it with the Fish and Wildlife Department?

Mr. TAUZIN. I think you would probably find a way to hide that tick.

Mr. YOUNG of Alaska. Got to be one of those SSS's.

Mr. POMBO. Mr. Speaker, if the gentleman would yield on that. He is correct in his assumption of the 4,000–4,200 candidates, species. The vast majority of those are insects that they have on the species list. That is one of the major reasons why it is so critical that the Endangered Species Act be reauthorized and reformed in doing so.

Mr. Speaker, if they were to declare the gentleman's tick an endangered species, and it would not have to be endangered across the country, just in specific regions of the country, unique species, localized species, subspecies of the major tick species, they could list that as an endangered species. Not only would you get in trouble for smashing that, on the other side of that, under the current law in the way it is being implemented, they would have to import them from other areas of the country to reintroduce them into the areas where they had become endangered in order to maintain a viable population of them.

That is the absurdity of the act in the way that it is currently being implemented.

Mr. TAUZIN. Mr. Speaker, the biggest absurdity in my mind though, it is a fact that all of these decisions are being made without the benefit of good science. The law right now says that a listing can occur with what is called best available data, B-A-D. Bad science, whatever is available. If you only know a little bit, and that tells you it is endangered, then you have to list it under the current law. You do not need to do the research and find out whether or not, in fact, there are other populations of this animal or plant or insect somewhere else.

Mr. Speaker, we are driving, in effect, the whole body of regulations that are becoming increasingly difficult for Americans to live with on the basis of bad science. We do it without public hearings in many cases. We do not consider cost-benefit ratios. We do not consider whether the regulations we impose make common sense. We simply must impose them once that listing occurs on the basis of bad science.

Now, you cannot tell me that kind of a law makes good sense, to say that you are going to list something with bad science. Then you are going to have rules and regulations made without the benefit of public hearings and that in the end you are going to make a regulation that impacts dramatically the lives of people without ever considering the cost, without looking for the least-cost alternative, to find the best way to save that plant or animal without putting people out of work, or taking their property away from them, or putting in jail, as the gentleman from Alaska [Mr. YOUNG] said, smashing a bug.

Mr. POMBO. Mr. Speaker, the gentleman is absolutely correct. Current law does not require them to use good science. If he went out and did a biological study on his black bear in Louisiana, and he wanted to print that in a scientific magazine, it would have to stand up to peer review before they would ever allow you to even print it in a scientific magazine. But it could be listed as an endangered species based on that biological data without ever being peer reviewed, without another scientist, biologist, in this entire world verifying that you——

Mr. TAUZIN. You mean a biologist could nominate a species, and on the basis of his information could get listed and impact millions of Americans?

Mr. POMBO. Absolutely, and it does have to be a biologist. It can be a college student doing their senior thesis on the disappearance.

Mr. YOUNG of Alaska. Mr. Speaker, if I can, the gentleman has to understand one thing. We had a case in my great State of Alaska where there was a petition filed by two students from New Mexico saying that the archipelago wolf possibly could live in this forest and, by even filing the petition, 535,000 acres were put off limits for any man's activities until they can study if the archipelago wolf was, in fact, a reality.

Mr. TAUZIN. Mr. Speaker, the gentleman is saying that the land was put off limits even before the listing?

Mr. YOUNG of Alaska. Before the listing.

Mr. TAUZIN. Just because somebody—

Mr. YOUNG of Alaska. No scientist, and on top of that, the Fish and Wildlife, I have to give them some credit, says there is no way that the archipelago wolf would ever be there.

□ 1545

But Mr. Speaker, the Forest Service said we have to follow through with the studies. Consequently, the impact upon people in that community has been devastating. We have lost employment, we have put people on welfare, and still, there is no wolf and there never was a wolf and there never will be a wolf in that area, but because two people out of New Mexico filed a petition, that is why this act must be reformed.

Mr. TAUZIN. Mr. Speaker, I thought of something else that really does not make any common sense. Under the law, the way it is written today, interpreted by the Supreme Court, if I own a piece of property that may harbor some endangered species and I want to alter that property to enhance its capacity to hold that species, I cannot do it.

Mr. YOUNG of Alaska. You cannot do it. You cannot even develop a wetland for species that would reside in a wetland. You cannot do it.

Mr. TAUZIN. If I own a piece of property that I thought was mine and I want to enhance it for wildlife conservation, if there is an endangered species on it, I cannot even do that. The Government will not let me even enhance my property.

Mr. POMBO. Under current law, Mr. Speaker, they will not allow you to even enhance the current population of endangered species on your property.

Mr. YOUNG of Alaska. But they can. The Government can introduce a species, they can go to Canada and get a foreign wolf and bring it down, but you yourself cannot do it on your own property.

Mr. TAUZIN. I want you to think with me, if we were able to change the law, if we could get something past this Congress and signed by the President to bring some commonsense environmentalism to endangered species laws, and we had a situation where landowners would be encouraged to invite endangered species on their property and encouraged to enhance the conservation capabilities of their properties so these species could grow and actually enhance the population significantly, if had that kind of law in place, instead of the one that tells the landowner, ''You had better not find an endangered species on your property or we will shut you down; you had better not invite one on, because we will shut you down; you had better not even try to improve your property for species because we will shut you down,'' if we have that kind of law, which we do today, and we had the chance to build a better law that encouraged landowners to do the right thing, why would we not do that?

Mr. POMBO. If the gentleman will yield, Mr. Speaker, why we would not do it is because so many people have so invested in the current system. If we look at those that are protecting the status quo who do not want commonsense changes, it is because they would have to give up power, if you empowered people. They would have to give up money, the tens of millions of dollars a year in Federal grants that these extremists get in order to maintain the current system. They want to protect

the system that is in place right now because they have a pretty good thing.

Mr. YOUNG of Alaska. But they do not want to protect the species. They have not protected the species.

Mr. POMBO. The species has become secondary.

Mr. YOUNG of Alaska. They say it is a great success. In reality, there have been no species protected. They claim the eagle. The eagle was very viable in my State. The eagle's problem was DDT. It was not the Endangered Species Act. Once we stopped using DDT, we have eagles now in the majority of the United States today, and we have an abundance of them in Alaska, so it was not the act; but they keep waving it because it was the American bird. They keep saying, ''This is what we did with this act.''

Mr. POMBO. Mr. Speaker, if the gentleman will continue to yield, we talk about reversing the incentives so people have a positive incentive, a positive goal to create endangered species habitat, maintain endangered species habitat on their property, so we are using the carrot instead of the stick. People will respond to that.

The other side of this is the regulatory process. This right here represents what a developer goes through if he wants to develop a house on a piece of property. These are the steps that he has to go through just in case he has an endangered species problem. You wonder why houses cost so much money in this country. You wonder why the average working couple, the young couple my age, has such a difficult time purchasing a piece of property to follow the American dream. This is what has to happen before one shovel of dirt is turned, before one permit is issued.

Mr. TAUZIN. In fact, Mr. Speaker, not only are we not doing the right things, the law encourages landowners to do the wrong things, as the chairman of the committee pointed out.

We heard the testimony of one landowner whose father left him this beautiful property that they had develop over years, and all of a sudden, a woodpecker arrived. They discovered woodpeckers on the property they had enhanced. Now he is clear-cutting the rest of his property to avoid what he calls an infestation of an endangered species. Instead of doing the right thing, as his father had done for many years, he is clear-cutting now.

Mr. YOUNG of Alaska. Because he had to do it.

Mr. TAUZIN. He had to do it to protect his value.

Mr. YOUNG of Alaska. Mr. Speaker, I yield to the gentleman from Washington, ''DOC'' HASTINGS.

Mr. HASTINGS of Washington. Mr. Speaker, I thank the gentleman for yielding, and I thank him for having this special order. The discussion that we have here has been, frankly, very interesting. What I would like to bring to this is the kind of a discussion from a macro standpoint. You have been talking about a micro standpoint.

When I look at reforming the Endangered Species Act, I look at bringing good science in as being very important, as the gentleman from Louisiana, Mr. TAUZIN, has said, and also protecting private property rights. But in my area in the Northwest, I want to talk about it from a macro standpoint, because it has a huge impact beyond what we talked about.

For example, the power in the Northwest comes from falling water. About 90 percent of our power comes from water over dams. Whenever we deal with water, of course, what are we dealing with? We are dealing with fish. We have a potential listing of several species of salmon, as the chairman knows, in the Pacific Northwest, Snake River salmon, Columbia River salmon.

I can tell you from a scientific standpoint, and this is the important part, from a scientific standpoint there is little difference between the Snake River salmon or the Columbia River salmon. One kind goes up to the tributary, and the other continues on up. Yet, because of that potential listing and because, in part, of the bad science, that has been part of what is being suggested by NMFS we have drawdowns not based on science, where it simply has not worked. I think what the committee has done as part of a reform to this plan is to bring the local community, the State, the local counties, whatever the case may be, into saving those species.

We have, for example, in place in the big Columbia system an agreement that was brought about some 8 years ago by local entities, we call them the big Columbia PUD's, the public power systems that we have there, it is called the Bernita Bar agreement. What it has done is enhanced the spawning grounds on the last free-flowing stretch of the river.

This is precisely what people thought needed to be accomplished earlier on, and it was done on a local level. The way the act is written now, those sorts of things are not encouraged. What the committee has passed out, that is encouraged, so I congratulate the chairman of the committee for taking the lead on this. Hopefully, we can get something passed.

I also want to commend him for his leadership in introducing a comprehensive proposal that makes common sense reforms to the ESA. As a member of Representative RICHARD POMBO's House ESA Task Force, which held a series of field hearings throughout the country last year on this issue, I am quite pleased that he included so many of our recommendations in his bill, H.R. 2275.

Reforming this well-intentioned but out-of-control law has been one of my top priorities in the 104th Congress. The problem with the current version is that it does not properly balance our environmental needs with our economic realities. I strongly believe these goals are not mutually exclusive.

The Endangered Species Act is having a devastating impact on our local economy throughout the Pacific Northwest. Whether it be loggers, farmers, water users, or any other hard working man or woman dependent on our natural resources, the ESA is in desperate need of reform.

My own area of central Washington is certainly no stranger to the existing problems of the ESA. As the location of many large dams and irrigation districts along the Columbia and Snake Rivers that generate power and provide water for our farmers, we have been faced in recent years with an ESA mandated National Marine Fisheries Service [NMFS] Plan to protect several species of salmon that will bring the total cost for salmon protection for our region to $500 million. Since 1982, our region has already spent $1.5 billion for salmon restoration. If we do not reform the ESA soon, the Pacific Northwest is likely to spend close to $1 billion annually on salmon recovery alone by the turn of the 21st century.

The NMFS proposal recommends depleting the storage reservoirs on the Columbia/Snake mainstem by 13 to 16 million acre feet [MAF]. Up to 90 percent of the total storage capacity will be used for flow augmentation at the annual cost of $200 to $300 million.

Worst of all, the best and most current science on this subject developed at the University of Washington indicates that in-river survival is better than previously expected, in the 90 percent survival range. That information, when included in current modeling, such as the University of Washington's CRiSP, Columbia River Salmon Passage Model, report indicates that reservoir depletion beyond some 5 million acre-feet will not increase survival.

Clearly, the science upon which NMFS is basing its recommendations is highly suspect. However, NMFS seems to have ignored this evidence and concluded that only dam operations are the problem. The point is we are about to enter into a process that will further restrict the economic opportunities of thousands of hard working men and women in our area with little or no scientific evidence that this plan will enhance or even protect existing salmon populations.

There are many factors behind the recent decline in salmon runs including the increase in ocean temperatures off the coast of Oregon and Washington, better known as El Nino. This increase in temperatures off our coasts has even caused declines in salmon runs and populations in rivers and streams where no dams exist. At the same time, as I understand it, salmon runs in Chairman YOUNG's home State of Alaska remain much stronger due in part to significantly lower ocean temperatures.

Let me be clear, my constituents and I are committed to protecting our precious salmon resource in the Northwest. However, we must do so in a common sense way that assures that these runs are protected for future generations to enjoy at minimal cost to our rural communities that depend on our dams for their economic survival.

One of the problems with the current law is that it mandates that all listed species be restored to original numbers. In some cases, this is a worthy and realistic goal. However, in other instances, this is counterproductive to the goal of species recovery.

For example, in my area of the country, there is the Snake River Sockeye salmon run that we are spending tens of millions of dollars in an attempt to restore to original numbers. Almost everyone admits that it is virtually impossible to completely recover this run.

However, under the current ESA, we are being forced to do just that when we could be

spending this money more wisely on improving salmon runs that are genetically indistinguishable from the Snake River Sockeye but have a far better chance of complete recovery.

Under H.R. 2275, the ESA is amended so that salmon runs like the Snake River Sockeye are protected. At the same time, the bill gives greater consideration to enhancing healthier runs that have a better chance of full recovery. This change in the law will lead to a much larger and healthier salmon supply for our entire region.

When one considers the ESA's current problems with the fact that only a handful of species nationwide have fully recovered to the point where they could be removed from the list since the act was first enacted in 1973, it is quite evident that the current law is neither protecting species nor families that depend on our natural resources for their livelihoods.

One of the major reasons for the act's failure to fully recover species is the set of perverse incentives that it encourages. The current law punishes people for protecting habitant on their property and rewards those who develop their land with no consideration for wildlife. These perverse incentives were mentioned over and over again by witnesses at our task force field hearings. That is why I am delighted that Chairman YOUNG has included a number of our recommended reforms in his bill.

First and foremost among our task force's concerns was the issue of compensation. H.R. 2275 encourages property owners to cooperate with the Federal Government in our efforts to protect species by compensating them when restrictions imposed by the ESA diminish their property's value by 20 percent or more.

This much needed reform will not only encourage greater cooperation between the public and private sectors in protecting species but will also force the Federal Government to prioritize our limited financial resources on species that are most in need of recovery. Rather than scattering our current resources on fully recovering all species, as the current act calls for, H.R. 2275 will lead to more recoveries and many more ESA success stories.

Equally important, our bill also encourages stronger science by requiring that current factual information be peer reviewed. In addition, the bill makes all data used in the decision process open to the public.

Mr. Chairman, I have barely scratched the surface in my limited time here this afternoon of all the improvements H.R. 2275 makes to the Endangered Species Act. Our task force continues to work hard in support of passing H.R. 2275 which addresses so many of our people's concerns.

I am pleased that Chairman YOUNG and Congressman POMBO have taken the lead on this legislation and look forward to continuing to work together on reforming this act so that it will better protect species and communities had hit by the current law.

Mr. YOUNG of Alaska. Mr. Speaker, I thank the gentleman for his support and information. He brings up a very valid point. If we had listened to the localities, the States, and the communities, we could have solved the problem on the river. I would suggest another thing, though, as long as the gentleman brought it up, because I brought it up myself about importing the Canadian wolves down to reintroduce wolves.

I have also suggested we can rebuild the Columbia River fishery by the enhancement with Alaskan stock. The answer I get from NMFS and the Fish and Wildlife: ''We cannot do it because they are not indigenous to the area. They are not part of the stream.'' To them I say, ''I thought you wanted to bring the fish back. We can help you do that.'' They say, ''We cannot do it.''

But it is all right for them to bring the wolves down, against everybody's wishes and beliefs, and they are Canadians; because our fish come from Alaska, a State of the United States, they are saying, ''They are not part of the system.'' It is the mindset that we are dealing with today that is not working.

Under our bill, we will bring the people in and it will be part of the State, part of the community, and we will solve the problems and bring the species back. I am very excited about that concept, and I hope those that might be listening to this program will think about what we are trying to do, not gut it, not repeal it, but to improve upon it. That is what our bill does. I thank the gentleman.

Mr. HASTINGS of Washington. One last thing I would mention, if I may, Mr. Speaker. That is that we had a meeting of some local people from our State, talking about the need to amend this act.

One local farmer made a very profound statement. I think it is indicative of probably all of us across the West that have private property, where the treat would come by having an endangered species found on our private property. This particular farmer said, ''If I saw a potential endangered species walk across my property, my first reaction would be to shoot it and kill it and not tell anybody.''

Mr. HASTINGS of Alaska. They belong to the ''Three S Club,'' ''Shoot, shut up, and shovel.''

Mr. HASTINGS of Washington. That is right. If we look at what the intention of the act was 23 years ago, and you voted for it because the intention was good, that action by this farmer would do nothing at all to enhance the species. It is counter to what we are trying to do. Why? Because of the heavyhanded administration coming from the Federal Government, because that is what this act says should be done. So it needs to be reformed, it needs to be reformed to bring the local people involved in this sort of stuff, but more important, common sense, and let us protect private property rights, because after all, that is a constitutional requirement.

Mr. PACKARD. Mr. Speaker, for decades the liberals in Congress have distorted the original intent of the Endangered Species Act to further their extreme agendas. In November, the voters cried foul and asked Republicans to restore rationality to our environmental laws.

Our reform proposal stops the radical environmentalists in their tracks. They will no longer ride roughshod over our property rights. Instead, Republicans will protect our natural resources as well as our freedoms.

In its current form, the Endangered Species Act creates perverse incentives for landowners to destroy habitat which could attract endangered species. Once these animals migrate there, landowners lose their property rights to the snails, birds or rats who happen to move in. In essence, the ESA, as currently written discourages the very practices which will ultimately protect endangered species habitats. Instead, we need to ask landowners to participate in preserving our natural resources. Property owners are not villains. Everyone wants to preserve our resources.

In addition, Federal bureaucratic administration and enforcement of the Endangered Species Act is tantamount to Federal zoning of local property. State and local officials have no say in how the ESA is implemented and enforced in their States and communities. State and local officials need to have greater control. They know what is best for their communities.

In my district I can give you several recent examples of government violating the rights of private property owners. One hundred twenty-one acres of the most beautiful property in Dana Point valued at over $1.5 million an acre was devalued because of the discovery of 30 pocket mice, an animal on the endangered species list. Years of planning for the use of this land had to be abandoned. The owner even offered to set aside four acres of his land just for the mice, about $150,000 per mouse, but the government said that was not enough.

In another instance, a property owner had a multimillion dollar piece of property in escrow when the city declared it as wetlands. He was then offered $1 an acre for this useless ''wetland''. This is a travesty.

Mr. Speaker, Congress passed the Endangered Species Act more than 20 years ago. Originally intended to protect animals, this act hurts humans. It is time to give human needs at least as much consideration as those of birds, fish, insects, and rodents. The time has come for a change. Private, voluntary, incentive-driven environmental protection is the only effective and fair answer to this controversial law.

RESTORING REASON TO ENVIRONMENTAL PROTECTION LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DOOLITTLE] is recognized for 5 minutes.

Mr. DOOLITTLE. Mr. Speaker, I will only use a minute or two, because I know the gentleman from California, [Mr. RADANOVICH] would like to comment on this. I would just commend the gentleman from Alaska [Mr. YOUNG] and the gentleman from California [Mr. POMBO] for their leadership efforts in doing something to restore some reason, I think, to the laws of our country pertaining to this area.

The ESA is something that has a legitimate purpose. We need to have a law, however, that is balanced and reasonable and effective. I would submit that we have a number of stories heard in testimony around the country and I

have heard many of these myself as I have sat on the task force, on the committee, and we have held hearings, we have had a number of instances where this has proven not to be the case.

It is one thing to talk about it in theory. It is another to be the private property owner and to have the big hand of Government holding a gun pointed at your head. That is what we heard time and time again from these private property owners who all of a sudden are forced with mandates from the EPA or the Corps of Engineers, or any other number of State and Federal agencies. It is just nearly overwhelming.

Let me just express strong support for the efforts of the chairman of the committee, and indicate to the American people that there is a real need to make sure that we are reasonable and responsible in dealing with our species, but there is also an obligation to protect our private property rights, and there is an obligation to make sure we have a balanced, reasonable, and effective approach on this.

Mr. Speaker, I yield the balance of my time to the gentleman from California [Mr. RADANOVICH].

Mr. RADANOVICH. Mr. Speaker, I thank the gentleman. I wanted to add my comments into the RECORD regarding this legislation. I think anybody here on this floor is in favor of protecting endangered species, is in favor of protecting the environment, is in favor of good stewardship. The question remains, though, is it a responsibility of the private property owners, is it a responsibility of local government, is it a responsibility of State government, or is it a responsibility of the Federal Government, and where do those responsibilities lie?

I think the folly of the endangered species over the last year has demonstrated that the heavy hand of Federal Government in care of the environment can produce some pretty crazy results. For instance, there was the arresting of a farmer in California for disking up five kangaroo rats and being sent to trial in Federal court. My hope is that in the adoption of the Endangered Species Act, according to the Pombo-Young bill, that that responsibility begins to be returned away from Federal bureaucrats and back down to the State, local, and private property owner level, because that is where good stewardship begins in this country.

Mr. POMBO. Mr. Speaker, will the gentleman yield?

Mr. DOOLITTLE. I yield to the gentleman from California.

Mr. POMBO. Mr. Speaker, the gentleman happens to come from a part of the country that has probably been impacted as greatly as any other region of the country in the central valley in California, with the multitude of species that are directly in the area that have been listed, as well as the aquatic species that survive within the natural river system in California, which has impacted the delivery of irrigation water to a number of the gentleman's constituents.

Is it his opinion that if we went to an incentive-based system that operated where the individuals were rewarded for their stewardship or rewarded for being good stewards of the lands and, quite frankly, had more of an impact on what recovery plans were adopted, what they look like, what best worked, would that work better for your constituency?

Mr. RADANOVICH. Yes, it would. I have a number of cases where people have gone the extra mile to provide habitat on their farms, to provide for the environment, things that they would like to see on there, and then being further penalized because of the fact that they have done that. Current law penalizes any initiative like that that is out there and currently exists.

This country will not survive unless stewardship is brought down to the local level and people are given incentives to take care of their private property and the environment, because that is really a natural thing for people to want to do. I think that natural tendency ought to be encouraged through legislation.

Mr. POMBO. If the gentleman will continue to yield, being a farmer himself, could the gentleman describe the fear that his constituents feel when they may or may not have an endangered species on their property?

Mr. RADANOVICH. I can tell you from personal experience where there were times when we would allow onto our property certain environmental groups to catalog certain species of flowers and different things. There is no way in God's green Earth we would be allowing that right now, simply because what it does is it leads to stealing of your private property rights. So under current law, there is a disincentive. The gentleman earlier mentioned the term ''shoot, shovel, and shut up.'' That is very, very clear in response to current legislation.

□ 1600

REPUBLICAN ENVIRONMENTAL SWAT TEAMS OUT IN FULL FORCE

The SPEAKER pro tempore (Mr. EWING). Under the Speaker's announced policy of May 12, 1995, the gentleman from Michigan [Mr. BONIOR] is recognized for 15 minutes as the designee of the minority leader.

Mr. BONIOR. Mr. Speaker, the Republican environmental SWAT teams are out in full force today.

Speaker GINGRICH is advising his colleagues to do photo-ops at local zoos to counter the image that the Republicans are extremists on the environment.

And over the past few weeks, a number of our Republican colleagues have come to this floor to defend their record on the environment.

Every time I hear one of them, I'm reminded of the story about that man who was arrested for eating a California condor.

He was dragged into court and the judge said, ''before I lock you up, what do you have to say for yourself?''

The man said, ''Judge, you don't understand. I was out hiking when I got caught in a terrible avalanche. I was trapped for days without food or water. When I was near death, a bird flew over my head, so I shot it down. I didn't know it was a California condor. But judge, if it wasn't for that bird, I would have starved to death.''

The judge was so moved that he decided to let the man go free.

As he was walking out of the court, the man was stopped by reporters and they said, ''Before you leave, we have to know one thing. What did the bird taste like?''

The man said, ''Oh * * * it's kind of a cross between a bald eagle and a spotted owl.''

It seems to me that the Republicans have the same problem on the environment. They don't have any credibility.

On one hand they come to this floor to talk about the environment. But on the other hand, they're working in the back room with the polluters lobby to destroy 25 years worth of progress on the environment.

Don't just take my word for it, Mr. Speaker. Listen to what others have said.

The Sierra Club says that the GOP agenda ''breaks faith with the American public.''

The Natural Resources Defense Fund calls the first session of the Republican Congress ''the year of living dangerously.''

The nonpartisan National Journal says that a conservative Republican tide is threatening to wash away 25 years of progress on the environment.

And just today, the lead editorial in the Washington Post reads, and I quote, ''Republican leaders began to complain last fall that their party has been misunderstood on the environment. They said they intended to moderate their position. But the persistence'' of the legislative riders that they are continuing to push even this week ''suggests that there's been no moderation.''

In other words, they're just as extreme as they were a year ago.

And most telling of all in a recent poll: 55 percent of Republicans say they don't trust their own party on the environment.

Mr. Speaker, all over America today, people are wondering: how did this happen?

How did things go so wrong so fast?

For 25 years, Democrats and Republicans have worked together to protect the environment.

And we are rightfully proud of all that we've been able to accomplish.

Working together, we've made tremendous progress. Today, 60 percent of our lakes and rivers are clean. Major rivers no longer catch on fire. Millions of Americans are breathing cleaner air.

Hundreds of toxic dump sites have been cleaned up. And tens of millions of Americans all over this country are reusing and recycling.

Together, we've banned DDT. We've protected millions of children from lead poisoning. We cut toxic emissions from factories in half. And in the process of keeping our environment clean, we've helped create millions of jobs.

This is a proud record of progress shared by both parties. But at the same time, we all know: the job is not done.

Despite all the progress we've made, 40 percent of our lakes and rivers are too polluted for swimming or fishing. One in three Americans still live in an area where the air is unhealthy. Ten million children under the age of 12 live within 4 miles of a toxic waste dump.

And as recently as 3 years ago, 104 people in Milwaukee died and 40,000 got sick when a toxin called cryptosperidium got released in their drinking water.

We've got a lot of work left to do. Yet, at the very moment when we need national leadership most the Republicans have mounted the most aggressive anti-environmental campaign in our history and are busy right now taking the environmental cop off the beat.

To understand how it happened, Mr. Speaker, you don't have to do an extensive search.

All you have to do is understand the environmental journey of one man.

One man who went from the hilltop of environmental protection to the sludgepit of environmental waste.

One man who went from having a 66-percent League of Conservation Voters approval rating all the way down to zero today.

And Mr. Speaker that one man is NEWT GINGRICH himself.

Long before House Republicans ever signed the Contract With America, NEWT GINGRICH signed a different contact, a contract with every polluter and anti-environment special interest in the land.

To understand his journey is to understand the extremism of House of Republicans.

You know, there are a lot of people who like to joke that Speaker GINGRICH is the kind of man who would jump up on a tree stump to give a speech on conservation.

But it wasn't always that way, Mr. Speaker.

In the early 1970's, before he was ever elected to Congress, NEWT GINGRICH actually taught a course on the environment.

In 1982, he earned a League of Conservation Voters approval rating of 66 percent.

In 1987–88, his approval stood at 50 percent.

That's not a stellar rating, but it's not bad.

But in 1989, something happened, Mr. Speaker. Something began to change.

People concerned about the environment began to notice that NEWT GINGRICH would no longer return their phone calls. He no longer spoke out on environmental issues.

And his voting record began to change.

In the 101st Congress, he sided with the oil industry and voted against States' rights to set their own oil spill laws. In 1989, he sided with the timber industry and voted to allow unchecked logging in the Tongass National Forest in Alaska.

In the 102d Congress, he sided with the mining and grazing industry and voted to sacrifice nearly two-thirds of the California Desert to industry. In 1991, he sided with the chemical industry and voted against communities' right to know when toxic waste was being dumped in their neighborhoods.

During this time, his voting record did more somersaults than Mary Lou Retton.

He flip-flopped on a bill to allow oil drilling in the Arctic Refuge. In the past, he sided with environmental protection. But now, he sides with the oil industry.

He's flip-flopped again and again on a bill that would protect endangered species. In the past, he sided with animals and voted yes. Today, he sides with industry.

And through it all, the man whose League of Conservation Voters approval rating stood at 50 percent in 1988 began to take a nosedive.

In 1989, it went down to 10 percent.

In 1990, it stood at 13 percent.

In 1991, it dove to 8 percent.

In 1992, it dropped to 6 percent.

In 1993, he felt guilty, so it went back up to 30 percent.

In 1994—zero percent.

In 1995—zero.

In 1996—zero.

The man who once taught a course on the environment was teaching us all how to sell out on the environment.

How did this happen, Mr. Speaker? What happened in 1989 to change things?

Well, its a simple answer. In 1989, NEWT GINGRICH was elected to his party's leadership. He was elected Whip of the Republican Party.

From the day he was elected whip, Mr. GINGRICH's campaign coffers began to bulge with contributions from the biggest polluters and special interests in America.

I would submit to you, Mr. Speaker, that this is the same exact pattern we see repeating itself in the Republican Party today.

From the minute the Republicans took over last year, a small army of very powerful industry lobbyists descended on Capitol Hill as if they owned the place.

As NEWT GINGRICH's own newspaper, the Atlanta Journal-Constitution wrote last May, these people have been, and I quote, ''flooding the campaign coffers of friendly congressmen with hundreds of thousands of dollars in contributions.''

Together with their friends in the Republican leadership the polluters lobby has mounted an all out assault on our environmental laws and public health protections.

In one documented case, an industry lobbyist actually sat at the dais during a committee hearing and helped rewrite the environmental laws of this Nation.

The polluters lobby is getting special favors, and the American people are paying the price.

Just listen to the parade of horribles that Speaker GINGRICH and his special interest friends are trying to pass today.

Just listen to what the Republican environmental agenda does in 1 year's time:

It cuts the Environmental Protection Agency by 21 percent.

It cuts pollution enforcement 25 percent.

It denies local communities $712 million in funding to protect drinking water, which is 29 percent below the President's request.

It cuts the land and water conservation fund 25 percent.

It even tried to kill the bipartisan Great Lakes initiative.

Because of all these budget games, 40 percent of all EPA health and safety inspections so far this year have been halted or canceled.

And that's not all.

Their budget cuts Superfund cleanup by 25 percent, which has forced the EPA to halt cleanup at 68 Superfund sites so far this year, including 4 in Michigan.

It rolls back local communities right-to-know about toxic waste.

It cuts Superfund research by 75 percent.

It cuts the Endangered Species Act 38 percent below the President's request.

It bars the listing of any new species as endangered.

It allows oil drilling in the Arctic Refuge.

It delays new meat inspection standards.

It weakens enforcement of the wetlands provisions of the Clean Water Act.

It accelerates—by 40 percent—logging of America's old-growth rain forest.

It eliminates funding for the National Park Service at Mojave Desert.

It terminates the Columbia Basin Ecosystem Management Project.

It delays approving pesticides with lower health risks to farmers.

It even delays new standards for toxic industrial air pollutants.

Under the present system, polluters pay. Under the Republican system, taxpayers would be required to pay the polluters to stop polluting.

No wonder Speaker GINGRICH is advising his colleagues to be seen at zoos. If they have their way zoos are the only place we'll be able to see animals.

And just as important as what they're trying to do is how they're trying to do it.

They knew the American people would never put up with the outright

repeal of these bills so they're trying to sneak through the back door.

They knew they couldn't pass a bill to allow oil drilling in the Alaskan wilderness. So they snuck a provision into the reconciliation bill that allows drilling in Alaska.

They knew they couldn't just repeal the Clean Water Act. So they've attached legislative riders to gut environmental laws in 17 different ways.

They knew they couldn't pass a budget that cuts environmental protection. So every week, we get another stop-and-go budget that quietly keeps the EPA from doing its job.

I think the Republican Whip, TOM DELAY, said it best. He stood on this floor in defiance just a few months ago, and he said: ''We are going to fund only those programs we want to fund. We're in charge. We don't have to negotiate with the Senate. We don't have to negotiate with the Democrats.''

And apparently, they don't care much what the American people think either.

Thankfully, the American people are seeing right through the Republican agenda.

And thankfully, the veto pen of the President is more powerful than the axe of the GINGRICH Republicans.

Time and time again, the President has stood tall against the extreme cuts and we will continue to fight them every step of the way. Because we are a better nation than this and we are a better people than this.

We have come too far as a nation and we have sacrificed too much to turn the clock back now.

For 25 years, Democrats and Republicans worked together to protect the environment.

We have done so because we've always realized that despite our difference in the end we all drink the same water, we all breathe the same air, and we all depend on the same environment for our survival.

We can never forget. We don't just inherit this land from our parents. We borrow it from our children.

Speaker GINGRICH may have made a deal with polluters. But we were elected to what's right for the American people.

And if this Congress isn't going to work to protect the environment for our families and our children, if they aren't going to work to keep our water clean and our air safe, then come November the American people will elect a Congress that will.

□ 1615

THE URGENT NEED TO IMPROVE OUR EDUCATION

The SPEAKER pro tempore (Mr. EWING). Under the Speaker's announced policy of May 12, 1995, the gentleman from New Jersey [Mr. PALLONE] is recognized for 45 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, I yield first to the gentlewoman from North Carolina [Mrs. CLAYTON].

Mrs. CLAYTON. Mr. Speaker, I thank the gentleman for allowing me to share some of his special order time.

Mr. Speaker, today is the last day of the National Education Summit that is being held in New York.

Governors and business leaders from across the Nation recognize the urgent need to deal with America's education dilemma.

Most Americans, too, recognize the need to improve our education system so that every child can have a chance to learn, develop, and to realize his or her full potential, and in doing so, to be able to make a contribution to society. Yet, many Americans understand, regrettably, that there are too many of our Nation's students who are not being prepared for success later in life, but are doomed to failure.

They are in overcrowded classrooms, schools with poor curriculums, limited equipment, and low educational standards. Their teachers are underpaid and overworked. Too many of our students will drop out before completing high school if they are not challenged.

Mr. Speaker, we are at an important crossroads in education. All levels of government, and the private sector, should be working together and investing more resources in education, not less resources.

Again, most Americans are committed to investing more to improve our education system. Most Americans want to support our children and to ensure our Nation's future. And, if we understand the economics of education, we would know that quality education is a good investment.

Too many of my Republican colleagues want to invest less in education—25 percent less in some cases. Others question whether the Federal Government should even have a role in education.

But, the question should be which programs justify higher investment because they provide a sound economic payout? Which programs have worked and have proved their effectiveness? And, how can we insure quality performance and accountability?

The Federal Government supports educational programs and opportunities that the States and local communities are unable to provide. Let me briefly mention three examples of such programs.

The first is Head Start, Healthy Start, and other preschool programs—they have also proven their worth. These programs enable all children to be ready to learn when they enter school.

These programs have been studied, researched, and assessed to determine their value, and the results prove that if they are of high quality, they dramatically increase the educational performance of participants throughout their lives.

Investing in these programs gives back great payoffs for our society.

Title I compensatory education funds is another proven program. Last year, the First Congressional District of North Carolina received $46,267,400 in title I funds. These funds provided support to 30 school districts.

These funds provide for valuable teaching personnel and technology to disadvantaged school districts throughout the Nation.

This program addresses critical needs, identified by local school systems and has an outstanding record of performance where the right staff ratio and application of resources have been made.

The third example, Summer Youth Projects also have proven their value in addressing the need to give young people training and work experience during the summer.

These projects oftentimes provide the first real work experience, a disciplined environment, and the programs teach responsibility for the tasks assigned and how to work cooperatively with others.

Summer Youth Projects are effective in engaging young people in a constructive environment which contributes to their behavior and skill development.

Moreover, these projects are insurance against violence and disruption in our neighborhoods when young people are unsupervised and idle.

The three programs I have cited—the Pre-School Programs, Head Start, and Healthy Start; the Title I Program; and Summer Youth Employment—are all good educational programs that are provided by the Federal Government and deserve continued and increased investment.

These educational programs are a great payoff for our society. The programs can, certainly, be improved, can be made more effective. We should always seek to improve and to require full accountability for all resources. But, we should amend or reform our investment in the programs—not cripple or end them.

Mr. Speaker, We are at a crossroads. We must make required reforms, improvement, and sufficient investment to provide a quality education system where every child—every child has a chance to learn, develop, and contribute.

HEALTH CARE REFORM LEGISLATION

Mr. PALLONE. Mr. Speaker, I am here today, because I wanted to discuss the health care reform legislation that we expect to come to the House floor tomorrow. I was at the Committee on Rules earlier today, and at some point today this afternoon or this evening I would expect that they would report out a rule on the health care reform. My concern is that the bill that will come to the floor tomorrow, rather than being the very simple legislation that was called for and endorsed by President Clinton during his State of the Union Address, instead it would be a much more controversial bill loaded up with many provisions that cannot be agreed upon on a bipartisan basis in this House and in the Senate and that

the rare opportunity that we have in this session in the next few weeks to pass meaningful health care reform essentially would be scuttled because of the language and because of the nature of the bill that Speaker GINGRICH and the Republican leadership would bring to the floor tomorrow.

Let me start out by saying that many of the Democrats that I work with were very pleased with it when the President, in his State of the Union Address, indicated that he would like to see brought to his desk and signed into law legislation that was initially sponsored in the Senate by Senator KASSEBAUM and also by Senator KENNEDY on a bipartisan basis. The hallmark of this Kennedy-Kassebaum bill, if you will, is to address the issue of portability and the issue of preexisting conditions.

Portability means your ability to take your health insurance with you, in other words, if you lose your job or you change jobs, that you would not lose your health insurance, that you would be able to carry it with you.

In addition, when we talk about preexisting conditions, we are talking the fact that in many cases in many States, if an individual has a preexisting condition, health condition, where they are disabled or they were hospitalized for a period of time, that they find it difficult to buy health insurance because the insurers simply do not want to cover them because they think it is too much of a risk. It is estimated that something like 30 million Americans are impacted in some way because of problems associated with portability or preexisting conditions and that if this legislation, as originally introduced in the Senate by Senators KENNEDY and KASSEBAUM, or here in the House, legislation that was introduced by the gentlewoman from New Jersey, Mrs. ROUKEMA, who is my colleague, a Republican from the State of New Jersey, that if their bill were to become law, addressing these issues of portability and preexisting conditions, that about 30 million Americans would benefit in some way because they would be able to carry their insurance with them from one job to another or would be able to get health insurance even though they might have a preexisting condition.

So when the President said that he was willing to sign this bill and urged the Congress in his State of the Union Address to move forward in passing this legislation, many of the Democrats were heartened, because we figured that even though this was a very small part of the health insurance reform, that it was something that was positive and we would like to see it moved.

We had about, I think it is, up to 172 Democratic Members in this House who signed on as cosponsors to Congresswoman ROUKEMA's bill and urged that the bill come to the floor exactly the way she had drafted the legislation. I should point out that I am actually the cochair, along with the gentlewoman from Missouri, Ms. MCCARTHY and the gentleman from California, Mr. DOOLEY, of the Democratic health care task force. We have two goals with our task force. One is to increase coverage, because we know a lot of Americans do not have health insurance coverage and the number that do not have coverage continues to grow. And a second goal is affordability. We know that health insurance is increasingly becoming more expensive and out of the reach of a lot of Americans. And so we would like to do what we can legislatively to make health insurance more affordable.

Well, the Kennedy-Kassebaum bill, the Roukema bill here in the House, achieves the purposes of increasing coverage, because more people would be able to obtain coverage through the portability and preexisting conditions provisions, and it certainly does not do anything to make health insurance less affordable. It might even help with the issue of affordability.

So we were very happy with the legislation. Our task force endorsed the legislation. We had 172 Members of the House on the Democratic side that supported the legislation; very optimistic until we found out what the Republican leadership had in mind. We started to hear, a few weeks ago, that they were going to put this bill in various committees, that the various committees were going to come up with all sorts of approaches, some maybe which make sense, a lot which did not make any sense, that would be ideas or legislative provisions that would be added to the Kennedy-Kassebaum bill, in an effort to try to load it up, if you will, with all kinds of controversial provisions that would make it more difficult to pass.

Well, I believe that is what is happening. I believe, Mr. Speaker, that based on what the Committee on Rules is likely to do today, even though myself and other urged them not to, that the bill that comes to the floor tomorrow is going to be a lot more controversial and a lot more complex and a lot more loaded down with provisions that are not necessarily good for the American people and that the bill tomorrow is likely to have provisions providing for MSA's, which are medical savings accounts, it is likely to deal with malpractice issues, it is likely to deal with antitrust issues, it is likely to deal with a myriad of issues that have nothing to do with the original Kennedy-Kassebaum.

What that means is the Republican leadership is bringing this bill to the floor loaded down with all of these controversial provisions and essentially will kill the bill, because it will not pass. Even if it does pass here, it will not pass with Democratic support, it will not pass the Senate, and the President will not sign it.

The worst part about this is the provisions that they intend to put in with regard to medical savings accounts, because there, unlike the original Kennedy-Kassebaum bill, which expands coverage and which at best leaves the question of affordability the same, this will make health insurance more costly and less affordable to the average American.

The principle of MSA's, or medical savings accounts, basically says that if you are a fairly healthy individual or if you are a fairly wealthy individual or if you happen to be both, then you basically put your money aside in a savings account that is not taxable, essentially, somewhat like an IRA.

□ 1630

You only have coverage for catastrophic illness. So therefore, since you do not really need to pay for a lot of health-related activities, because you are healthy or whatever, or because you can afford to pay when you do go to a doctor out of the medical savings account that you have been accumulating, that you enter into this sort of IRA, and at the end of the road, 10, 20 years down the road, you can simply take the money out of this MSA, like an IRA, and use it for other purposes unrelated to health.

The problem is that it damages the risk pool. Health insurance is based on the notion of a risk pool. The idea is that both the healthy people and the people who are not as healthy are all part of the same pool. If you take out the ones that are the healthiest and leave the ones that are less healthy in the pool, the end result is that more money has to be paid out to cover their health care-related expenses, and therefore the premiums will go up for the people that remain in the pool and who have not opted for the medical savings account.

So what we believe will happen is that if MSA legislation goes into effect, the cost for people who still buy the traditional health insurance and do not enter into a medical savings account will actually rise. Their premiums will go up, and therefore insurance for the average person becomes less affordable instead of more affordable.

So we cannot, those of us who believe that we should be expanding coverage and making insurance more affordable, health insurance, simply cannot support the medical savings account. I am sure there are going to be people that do not support the malpractice changes and the antitrust changes, and all this good effort over the next few weeks to try to pass a clean bill that will simply address the issues of affordability, portability and preexisting conditions, as Kennedy-Kassebaum would do, simply goes down the drain because this bill is loaded up with all the other things that are controversial and make it difficult for the bill to pass and ultimately be signed into law.

I just wanted to make the point, if I could, in some commentaries that have come up over the last few weeks, to sort of back up some of the points that I just made on why we should have a

clean health care reform bill, rather than have it loaded up with all these other extraneous provisions.

If I could just briefly read part of the editorial that was in the Washington Post on March 18 that says ''Bad Move on Health Care.'' It says exactly the way I and many of my colleagues on the Democratic side have felt, that:

> Not too many weeks ago it seemed as if Congress was about to pass, and the president to sign, a modest bill to help people keep their health insurance while between jobs. Not even the principal sponsors, Sens. Nancy Kassebaum and Edward Kennedy, describe the bill as more than a first step. It would not help people to afford the insurance, just require insurance companies to offer it to them. Still, it would be an advance.
>
> Now, however, House Republicans are threatening to add to the bill some amendments from their health care wish list that could derail it. If some of these amendments are added, the bill ought to be derailed. The worst is a proposal to begin to subsidize through the Tax Code what are known as medical savings accounts. The underlying bill seeks to strengthen the health insurance system, if not by making it seamless, at least by moving it in that direction. The savings accounts would tend to fragment and weaken the system instead. The Republicans in 1994 accused the President of overreaching on health care reform, in part to satisfy assorted interest groups. He ended up with nothing to put before the voters on Election Day. They risk the same result.
>
> Under current law, if an employer helps buy health insurance for his employees, he can deduct the costs.

I do not need to get into all of this. The Washington Post is recognizing what we all know once again, which is that we have a good bill here as Senators KASSEBAUM and KENNEDY have put forward, along with my colleague the gentlewoman from New Jersey [Mrs. ROUKEMA] and it should not be loaded down with MSA's and all these other provisions.

In fact, when this legislation went before the House Committee on Ways and Means, there were a number of Democrats who essentially expressed the same concern that I have, and they put out a dissenting view on the Kennedy-Kassebaum bill. They referred to the bill that it should be the ''sink the good ship Kassebaum-Kennedy bill,'' because it was designed in every way to torpedo the passage of the modest helpful provisions of Kennedy-Kassebaum-Roukema.

The bill as reported by the Committee on Ways and Means, according to the Democrats in dissent, is not health insurance reform. It includes only a weakened version of the group nondiscrimination provisions of Kennedy-Kassebaum-Roukema. Of course, they again go into the whole problem with the MSA's and the problems that I have outlined before with the medical savings accounts and what they would mean in terms of the average person's health insurance costs or premiums going up.

In fact, we estimate that the proposal to include the medical savings accounts could end up costing taxpayers $2 to $3 billion overall, because essentially what the MSA's do is to encourage skimming or cherry-picking. The healthiest and wealthiest will leave traditional health insurance, thereby raising costs on everyone else. The large out-of-pocket costs and high deductible insurance costing thousands of dollars that result from the MSA's are especially unaffordable for middle-class families or for the recently unemployed, the very people who most need insurance reform.

One of the things that many of the Democrats have also been pointing out about this legislation and the inclusion of the medical savings accounts is that it basically has been included by the Speaker and the Republican leadership in order to placate, if you will, one insurance company, the Golden Rule Insurance Co., and the person who is the leader of that by the name of J. Patrick Rooney. He and the Golden Rule Insurance Co. have actually given $1.2 million to Republican candidates and campaign committees, $157,000 to GOPAC, the Speaker's political action committee, and $45,000 to Speaker GINGRICH's own reelection campaign.

So essentially what we are seeing here again is special interests ruling the day, because the Golden Rule Insurance Co. felt that they would like to see the medical savings accounts proposal included in health insurance reform, because they have a lot to gain, because it is included, it is now in the bill, even though all the Democrats and probably most of the Republicans do not really want to see it there, because they know it will kill any real proposal for reform.

The other thing I wanted to say is that many of the consumer groups have come out very much opposed to this larger grab-bag legislation, and most of the groups, whether it is the American Medical Association, the Independent Insurance Agents, or a number of other health care organizations, have indicated strong support for the Kennedy-Kassebaum bill and have indicated that they would like it brought to the floor as a clean bill, because it will work.

I just wanted, Mr. Speaker, if I could for a minute, to talk about some of the things that the Consumers Union says about this legislation tomorrow and the fact that it has been loaded up with all these other provisions.

They mention with regard to the medical savings accounts that the medical savings accounts disrupt the health insurance market by creating financial incentives that encourage division of health care risks. Actuarial studies conclude that MSA's would appeal to relatively healthy and wealthy individuals. The American Academy of Actuaries estimates the selection process could result in higher premiums, as much as 61 percent, for those remaining in traditional health insurance plans. The Joint Committee on Taxation also estimates that a deduction for MSA's would drain $1.8 billion from Federal revenues, compounding the national debt.

So not only are the medical savings accounts a problem because they are going to take the healthiest and the wealthiest out of the insurance risk pool, not only are they bad because they are going to increase premiums for the average American, but they also have the real possibility of draining Federal revenues and actually compounding the problems that we have with the national debt.

The Consumers Union also opposes the relaxed antitrust provisions for provider networks, it opposes the limitations on medical malpractice, it opposes the private health insurance duplication, and, again, on the issue of malpractice reform and antitrust, a lot of people disagree. I am not saying that the Consumers Union is right when they say that these provisions are necessarily bad, but why include them in this bill? Why go this route? When right now we know that we have an unbelievable consensus on a bipartisan basis for Democrats and Republicans to move forward with the Kennedy-Kassebaum-Roukema bill, why are we loading it up with all these other provisions that are controversial and in many cases are going to actually increase the cost of health care for the average American?

It is nothing more than another example of how the Republican leadership in this House has put special interests first, has taken the interests of the wealthy and juxtaposed them against the interest of the average American. Hopefully some sense will prevail tomorrow. There will be a Democrat substitute offered that is essentially the Kennedy-Kassebaum-Roukema bill in its clean form.

I am hopeful that not only Democrats but Republicans will also support that substitute, and that we can get a clean bill passed here that deals with the issue of portability and also deals with the issue of preexisting conditions and has a good chance of passing in the Senate and ultimately going to the President. But we need to continue to speak out, Mr. Speaker. We have to continue to point out that that is the proper vehicle for this House to consider tomorrow, and not this larger piece of legislation that addresses all these controversial issues and makes it much more difficult for us to get rational health insurance reform in this session of Congress.

RECESS

The SPEAKER pro tempore (Mr. EWING). Pursuant to clause 12 of rule I, the Chair declares the House in recess until 5 p.m.

Accordingly (at 4 o'clock and 41 minutes p.m.), the House stood in recess until 5 p.m.

□ 1700

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. ROGERS] at 5 p.m.

SENATE AMENDMENTS TO H.R. 1833, PARTIAL–BIRTH ABORTION BAN ACT

Mrs. WALDHOLTZ. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 389 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That upon adoption of this resolution it shall be in order to take from the Speaker's table the bill (H.R. 1833) to amend title 18, United States Code, to ban partial-birth abortions, with Senate amendments thereto, and to consider in the House a single motion to concur in each of the Senate amendments. The Senate amendments and the motion shall be considered as read. The motion shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. The previous question shall be considered as ordered on the motion to final adoption without intervening motion or demand for division of the question.

The SPEAKER pro tempore. The gentlewoman from Utah [Mrs. WALDHOLTZ] is recognized for 1 hour.

Mrs. WALDHOLTZ. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. BEILENSON] pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 389 provides for consideration of the Senate amendments to the Partial-Birth Abortion Ban Act, H.R. 1833. The rule provides for 1 hour of debate on a single motion to concur in each and all of the Senate amendments. The rule further provides that the previous question is considered as ordered on the motion for final adoption.

Mr. Speaker, this rule will allow the House to consider amendments adopted by the Senate to the partial-birth abortion ban including an amendment offered by Senator DOLE that ensures doctors will be able to use this procedure when the life of a woman is in danger.

During consideration of this bill by the House last fall, serious concerns were raised about the affirmative defense provision included in the House bill that said that a doctor could not be convicted of using the partial-birth abortion procedure if the doctor can prove that the procedure was necessary to protect a woman's life. The affirmative defense, however, would not have protected a doctor from being arrested and prosecuted for using the procedure.

The Dole amendment adopted by the Senate addresses and ameliorates this concern. It clearly states that, without fear of prosecution, a doctor may use this procedure, when no other procedure is adequate, in order to protect the life of a woman.

Mr. Speaker, the rule is narrowly drawn so that we can adequately work with the Senate on changes that they have adopted to the bill and to expeditiously move the bill for final action. It is appropriate, Mr. Speaker, to limit debate on the measure to amendments that have been adopted in the Senate and not to use this bill as a vehicle for debating the enormous range of contentious issues relating to abortion.

Abortion is clearly one of the most emotionally charged issues that our Nation faces. People with the best of intentions who have carefully considered this issue come to opposite conclusions, and it is difficult to find areas of common ground. I would hope that this particular bill is an area where we can find that elusive common ground and prohibit a procedure that partially delivers a live child before killing it and completing the procedure, a procedure that one practitioner admits he uses for purely elective abortions about 80 percent of the time he uses this procedure.

Mr. Speaker, the procedure that we are talking about today is one that is gruesome and horrific. Without wishing to offend other Members or the people who may be watching these proceedings, I think it is critical, Mr. Speaker, that we describe exactly what it is we mean by a partial-birth abortion so that people will understand that we are not talking about a series of other issues that are related to the abortion debate, but we are talking in this bill about one very clearly described procedure that should be banned.

In this procedure, which is used during the second and third trimesters of a pregnancy, the practitioner takes 3 days to accomplish the death of the child. For the first 2 days the woman's cervix is dilated so as to promote the ease with which the doctor will perform the abortion. On the third day the woman goes into the doctor's office and through the use of ultrasound the physician locates the legs of the child. Using a pair of forceps, the physician then seizes one of those legs and drags that leg through the birth canal. The doctor then delivers the rest of the child, legs, torso, arms, and stops when the head is still in the birth canal. One practitioner who uses this procedure says the child's head usually stops before being delivered because, of course, the cervix has not been dilated to the point that a regular vaginal delivery would occur because that is not the point of this exercise.

So, once the child's head is stopped in the birth canal, the doctor reaches down to the base of the child's skull, inserts a pair of scissors, ending the child's life, yanks those scissors open to enlarge the hole and uses a vacuum catheter to suck out the contents of the child's cranium.

That is the procedure that we are talking about in this bill, Mr. Speaker, the partial delivery of a living fetus whose life is ended with its head still in the birth canal by the deliberate insertion of a pair of surgical scissors so that an abortion may be accomplished.

That is what we are talking about in this bill, Mr. Speaker. We are not talking about any other type of abortion. We are not dealing with Federal funding. We are not talking about any of the other issues with which we have to grapple in the abortion debate. But we are talking about a so-called procedure that measures life in inches, and we need to agree with the Senate amendments and move this legislation forward, hopefully for signature by the President.

Mr. Speaker, the rule that this bill has attached to it allows for fair consideration of the amendments adopted in the Senate, and I urge my colleagues to support this rule.

Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentlewoman from Utah [Mrs. WALDHOLTZ] for yielding to me the customary half hour of debate time.

Mr. Speaker, we oppose the closed process that would make in order consideration of the Senate amendments to H.R. 1833, the so-called and misnamed partial-birth abortion ban. This is a bill that on the pretense of seeking to ban certain vaguely defined abortion procedures is, in reality, an assault on the constitutionally guaranteed right of women to reproductive freedom and on the freedom of physicians to practice medicine without Government intrusion.

Those of us, Mr. Speaker, who fought for many, many years to secure, and then to preserve and protect, the right of every woman to choose a safe medical procedure to terminate a wanted pregnancy that has gone tragically wrong, and when her life or health are endangered, are deeply troubled by the legislation before us today and by the rule under which it is being considered.

We say at the outset that the other body improved the bill by agreeing to the Smith-Dole amendment which does shield doctors from prosecution if they perform the procedure when the life of the mother was in danger, but only under certain circumstances. However, this is an extremely narrow so-called life exception that requires that the woman's life be endangered by, quote, a ''physical disorder, illness or injury,'' end of quote, and it requires, further, that no other medical procedure would suffice.

It appears that if the mother's life is threatened by the pregnancy itself, then the procedure would still be illegal. And it does not take into account the fact that doctors do not use other procedures because they pose greater risks than does this method of serious health consequences to the mother, including the loss of future fertility.

And of course the Senate amendment does not provide an exception to preserve the mother's health no matter how seriously or permanently it might be damaged.

For those reasons, Mr. Speaker, we feel strongly that a true life and health exception amendment should have been made in order.

It is bad enough, we feel, that we are being asked to vote on this irresponsible piece of legislation. To make matters worse, we are being required to consider it under an unfair rule, and it is one that should be defeated. Once again the majority has brought this most controversial of bills to the floor under a totally closed rule. That we would again be forced to consider a bill of this importance and of this complexity under these restrictions is offensive, to begin with.

Once again, Members are being denied a vote on an amendment that would allow an exception to protect a woman's life under all circumstances or to prevent serious adverse consequences to her health and future fertility.

The Committee on Rules heard very compelling testimony from the gentlewoman from New York [Mrs. LOWEY], the gentleman from Massachusetts [Mr. FRANK], and the gentlewoman from Colorado [Mrs. SCHROEDER] on their request to offer a true life and adverse health exception amendment to the Senate language.

We believe Members should have had the opportunity to vote on allowing those exceptions to the ban.

This is obviously a basic and fundamental concern to women and to their families. Without that exception, the bill will force a woman and her physician to resort to procedures that may be more dangerous to the woman's health and to her very life and that may be more threatening to her ability to bear other children than the method that we seek to ban. Making this amendment in order would have meant that Members could cast a vote that shows respect for the importance of a woman's life, health, and future fertility.

Mr. Speaker, the truth is we have absolutely no business considering this prohibition and criminalization of a constitutionally protected medical procedure. This is, we believe, a dangerous piece of legislation. We oppose it not only because it is the first time the Federal Government would ban a particular form of abortion, but also because it is part of an effort to make it virtually impossible for any abortion to be performed late in the pregnancy, no matter how endangered the mother's life or health might be.

What is at stake here is whether or not it will be compassionate enough to recognize that none of us in this legislative body has all the answers to every tragic situation which confronts a woman and her family. We are debating not merely whether to outlaw a procedure but under what terms.

If we must insist on passing legislation that is unprecedented and telling physicians which medical procedures they may use despite their own best judgment, then we must also, it seems to us, permit a life or adverse health exception. It is the only way we can ensure that the bill might possibly meet the requirements that have been handed down by the U.S. Supreme Court.

Mr. Speaker, this is a very personal matter to the people involved. I would hope that everyone can, but obviously not everyone has had the chance to, read the very moving testimony of one of my own constituents, Mrs. Coreen Costello of Agoura, CA, in opposition to this bill. Mrs. Costello described herself as a conservative pro-life Republican who always believed abortion was wrong until she was faced with the choice that she was in this case faced with.

She recounts in detail the events that have led to confronting the painful reality that her only real option was to terminate her pregnancy. The bill before us would ban the surgical procedure Mrs. Costello had about which she wrote, and I quote her:

''I had one of the safest, gentlest, most compassionate ways of ending a pregnancy that had no hope. Other women, other families, will receive devastating news and have to make decisions like mine. Congress has no place in our tragedies.''

Mr. Speaker, if I may add a personal note, in 1967, then-Governor Ronald Reagan signed California's Therapeutic Abortion Act, which I authored and which was one of the first laws in the Nation to protect the lives and the health of our women.

□ 1715

When the U.S. Supreme Court subsequently ruled in Roe versus Wade that the government cannot restrict abortion in cases where it is necessary to preserve a woman's life or health, I thought that we have come to at least accept the precept that every woman should have the right to choose with her family and her physician, but without government interference, and when her life and health are endangered, how to deal with this most personal and difficult decision.

I see now that obviously I was wrong, and that this Congress is willing even to criminalize for the first time a safe medical procedure that is used only rarely, and almost always to end the most tragic of pregnancies.

Mr. Speaker, as I said, we believe this legislation is unwise, it is unconstitutional, and it is bad public policy to return to the dangerous situation that existed about 30 years ago and more. This legislation is not a moderate measure, as its proponents argue. It is, instead, likely the first step in an ambitious strategy to overturn Roe versus Wade, and we believe it would be a tragedy for all women and their families.

Mr. Speaker, it should be emphasized that what we are talking about making a crime is a medical procedure that is used only in very rare cases, fewer than 500 per year. It is a procedure that is needed only as a last resort, in cases where pregnancies that were planned and are wanted have gone tragically wrong. Adoption of the bill would have these results.

In cases where it is determined that an abortion is necessary to save the life of the women, the Senate amendment would force her to choose a method that may leave her unable to bear children in the future. The language of the Senate amendment will not protect women whose lives are threatened by their pregnancies, and doctors will be forced to choose other procedures, even if they are more dangerous.

Mr. Speaker, choosing to have an abortion is always a terribly difficult and awful decision for a family to make, but we are dealing here with particularly wrenching decisions in particularly tragic circumstances. It seems to us that it would be fitting if we showed some restraint and compassion for women who are facing those devastating decisions.

Let me end, Mr. Speaker, by quoting again, if I may, from Mrs. Costello's testimony before the Senate Committee on the Judiciary, just a very brief amount:

> Due to the safety of this procedure, I am again pregnant now. Fortunately, most of you will never have to walk through the valley we have walked. It deeply saddens me that you are making a decision having never walked in our shoes. When families like ours are given this kind of tragic news, the last people we want to seek advice from are politicians. We talk to our doctors, lost of doctors. We talk to our families and other loved ones, and we ponder long and hard into the night with God.
>
> What happened to our family is heartbreaking and it is private, but we have chosen to share our story with you because we hope it will help you act with wisdom and compassion. I hope you can put aside your political differences, your positions on abortion, and your party affiliations and just try to remember us. We are the ones who know. We are the families that ache to hold our babies, to love them, to nurture them. We are the families who will forever have a hole in our hearts. We are the families that had to choose how our babies would die. Each one of you should be grateful that you and your families have not had to face such a choice. I pray that no one you love ever does. Please put a stop to this terrible bill. Families like mine are counting on you.

Mr. Speaker, we do, as I have said before, strongly oppose the rule before us and the bill that it makes in order. We urge defeat of the rule so we can sent it back to the Committee on Rules and at least ask for a rule that would allow us to vote on an amendment to preserve the life, under all circumstances, and the health of the mother.

Mr. Speaker, I reserve the balance of my time.

Mrs. WALDHOLTZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before I yield to the next speaker, I think it is important that we recognize that the procedure

that we are talking about today is not a legitimate medical procedure recognized by experts of the American Medical Association. With all respect to my colleague on the Committee on Rules, for whom I have great respect and affection, there is no question but that the experience that his constituent had is one that none of us hope we have to share. But, Mr. Speaker, the American Medical Association's Council on Legislation, made up of 12 physicians, voted unanimously to recommend that the American Medical Association board of trustees endorse this partial birth abortion ban.

A member of the council, after they had discussed this procedure, said that they felt that this was not a recognized medical technique, and that the council members had agreed that the procedure was basically repulsive. We are not criminalizing an accepted medical technique, Mr. Speaker. It is unfortunate that we are having to debate what has become medicalized infanticide.

Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Speaker, I thank the gentlewoman for yielding time to me, and I commend her and the Committee on Rules for bringing forth this rule, and the members of the Committee on the Judiciary for originally introducing this legislation.

Mr. Speaker, I was sitting in my office at the time, still practicing medicine in 1993, when I got my copy of the American Medical News in which this procedure was first described where a baby is identified under ultrasound, the abortionist, using a forcep, reaches up into the birth canal and grabs the baby by the feet, dragging the baby out of the birth canal up to the level of its head, and then there, dangling outside the mother, typically with its arms and legs moving, a forcep is inserted into the back of the skull, an opening is created, the brains are sucked out, and the dead baby is then delivered.

I was amazed to read in this article that somebody could actually concoct a procedure this gruesome, and I was further shocked to read that the physicians who developed the procedure then went on to report that in 85 percent of the cases within which they do this procedure, there are no significant birth defects, and some of the defects that they cited, where they justified doing this procedure, included cleft lip and cleft palate.

Mr. Speaker, I was shocked, and frankly I was amazed that I could live in a country where a procedure as gruesome and awful as this could be legalized. Some would call this a safe medical procedure. I would contend that there was a party involved in this procedure where it was anything but safe. Indeed, it was lethal, and it was lethal in a most horrific way.

We in the United States, contrary to the contention of many people, have the most liberal left-wing abortion laws. In Europe, most of Europe that legalized abortion far before we did in this country, this type of procedure is not legal. They have restrictions on how you can do these procedures and when you can do them. Specifically, they are not legalized in late trimester, in late second trimester, and in the third trimester.

My colleague on the other side of the aisle I thought encapsulated the whole issue very well. There are some people who would like the mother to be able to choose how her baby will die. The majority of this body voted once before, and will vote again, that there is a place where the Government of the United States has to draw the line and say, ''This is beyond the pale.'' This is a total repudiation of the principles upon which our Nation was founded. I support the rule. I encourage all my colleagues to vote for the rule.

Mr. BEILENSON. Mr. Speaker, I yield 5 minutes to my good friend, the gentleman from Ohio [Mr. HALL], a fellow member of the Committee on Rules.

Mr. HALL of Ohio. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of the Senate amendments to this legislation and was proud to be an original cosponsor of the House-passed bill.

While abortions, except to save the mother's life, are wrong for those of us who believe in life, this particular procedure is doubly wrong. It requires a partial delivery and involves pain to the baby.

Mr. Speaker, you will hear the medical details of these abortions from other witnesses, but I simply lend my support to the bill as one who tries to ascribe to a moral code and commonsense. A compassionate society should not promote a procedure that is gruesome and inflicts pain on the victim. We have humane methods of capital punishment. We have humane treatment of prisoners. We even have laws to protect animals. It seems to me we should have some standards for abortion as well.

Many years ago surgery was performed on newborns with the thought that they did not feel pain. Now we know they do feel pain. According to Dr. Paul Ranalli, a neurologist at the University of Toronto, at 20 weeks a human fetus is covered by pain receptors and has 1 billion nerve cells—more than us, since ours start dying off with adolescence. Regardless of the arguments surrounding the ethics of the procedure, it does seem that pain is inflicted.

Finally, Mr. Speaker, I do not want to discuss a bill relating to abortion without saying that we have a deep moral obligation to improving the quality of life for children after they are born. I am a Member of Congress who is opposed to abortion. But, I could not sit here and honestly debate this subject with a clear conscience if I did not spend a good portion of my time on hunger and trying to help children and their families achieve a just life once they are born.

We need to promote social policies that ensure the mother and child will receive adequate health care, training and other assistance that will, in turn, enable them to become productive members of society. We have not done a good job so far, and I am afraid to say, this House has been unraveling social programs all too easily. Until our Nation makes a commitment to offering pregnant women and their children a promising future, I am afraid the demand for abortion will not subside.

Enough is enough. If there's one thing this Congress ought to do this year is stop this very reprehensible and gruesome technique of abortion. We treat dogs better than this. Vote yes on this bill.

Mrs. WALDHOLTZ. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. CHABOT].

(Mr. CHABOT asked and was given permission to revise and extend his remarks.)

Mr. CHABOT. Mr. Speaker, today we will again vote on whether or not it should be lawful for an abortionist to kill a baby that already has been partially delivered in circumstances where the mother's life is not at risk. Remember, the doctor must grasp two kicking, healthy legs to secure the baby so that he can insert into the child's skull a scissor-like device that causes the brain to collapse, and it kills the child. Even those who advocate this type of abortion shudder to describe it. Only the most extreme ideologue could favor such a gruesome procedure where the mother's life is not in jeopardy.

This whole debate is over whether thinking, feeling, healthy little babies who are within weeks or sometimes even days of natural delivery should be robbed of the opportunity to breathe the same air you and I share. These babies, only inches away from being fully born, are no different from mildly premature babies. They deserve to live.

I celebrate the fact that today we will take a step in representing those who cannot represent themselves by passing the partial birth abortion bill, and I strongly, strongly urge Members to vote for its passage.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. FARR].

Mr. FARR of California. Mr. Speaker, this is not a bill about life, this is a bill about politics. Think about it. The House passed this bill in its original version to ban partial birth abortions. The Senate changed it. The Senate said, ''You can make an exception to the ban in the case of the life of the mother.'' What is going on here? Congress is trying to be your doctor.

I though this was the era of getting Government off our backs, not the era of getting Government more into your personal issues.

□ 1730

Now it seems that we are imposing more Government regulations on a woman's personal life.

It is ironic that this Congress honors this month of March as Women's History Month. We celebrate women overcoming obstacles in their lives, women having liberties, and women having freedom of choice. Now here tonight, in a male-dominated Congress, they want to take away a woman's right to decide what is right for her and for her baby.

I have talked to constituents who have been forced to have this procedure to protect future fertility. I think we are foolish to think that we can handle this issue with our lawmaking process better than women can handle it in the medical arena.

Everyone knows that we cannot save life or make life by ordering it. Do not pass laws that may prevent healthy women from ever, ever becoming loving mothers. Support women. Support womanhood. Reject this rule. Reject this bill. Honor women. Honor medicine. Honor choice. Do not make bad law.

Mrs. WALDHOLTZ. Mr. Speaker, I yield 3 minutes to the gentleman from Tennessee [Mr. BRYANT].

(Mr. BRYANT of Tennessee asked and was given permission to revise and extend his remarks.)

Mr. BRYANT of Tennessee. Mr. Speaker, I rise in support of this rule which I think is a very good one. It allows the Senate amendments that were made to this bill to be accepted by this House, and I believe that the Senate amendments are reasonable and, as I said before, acceptable.

This rule continues to focus on the matter at hand, only the Senate amendments, and for that reason I do not think we need any extraneous amendments to this bill.

When this House considered the bill in the past, the recent past, it passed it by 288 people voting for it, which showed wide bipartisan support for this bill. Now, under the guise of protecting the mother's health, efforts are being made to change this rule or ask for amendments to allow this exception.

The Supreme Court has considered in the case of Roe versus Bolton that to protect the mother's health, that definition of health can encompass all factors, physical, emotional, psychological, familial, and the woman's age, all relevant to the patient's well-being. This type of exception, as we found in California, would open the door wide open to the humane device of this partial-birth abortion, and certainly would be unacceptable.

Even many of the people that voted in the House earlier for this bill which outlawed this particularly terrible procedure would call themselves prochoice.

I find it somewhat ironic, too, as we are taking up the Endangered Species Act on this Hill and we are talking about preservation of animals in particular, that we actually protect the American eagle and its preborn, the egg of that eagle, more than we protect the preborn of a human being. It is actually a fine of $500 to $5,000, up to 1 year in prison, for destroying an eagle egg, a preborn eagle.

But this issue here is not about the big issue of abortion, but simply outlawing a particularly egregious and terrible procedure that is used. As I argued on the floor before, were we to transfer this type of procedure over to a way of executing people who have committed murder, on death row, there would be many in this body that would be the first to stand up or encourage people to go to court to stop this type of procedure as in violation of the eighth amendment to our Constitution which prohibits cruel and unusual punishment. Were we to take someone, instead of electrocuting them or using the gas chamber or, as in Utah, using the firing squad, and take a screwdriver and crack their skull and suck out their brain, which is this procedure that is used in this particular type of abortion, again we would be in court very quickly to defend that particularly terrible procedure, and I would agree on that.

The example that we used in our earlier debate occurred in Washington State, where a man on death row actually went to court and was able to set aside temporarily his death row conviction or the execution of the death penalty because he was so heavy, over 400 pounds, that he would be decapitated were he hung as was the procedure in Washington.

We have precedent for this, and I would simply say that the American Medical Association Council on Legislation has voted unanimously to recommend that the AMA endorse this bill. I think their opinion would carry an awful lot of weight.

Mr. Speaker, I was very pleased when this body passed H.R. 1833, the Partial-Birth Abortion Ban Act, by an overwhelming 288-to-139 margin. Today we consider the Senate's amendments to the bill and the rule.

The Senate passed the Partial-Birth Abortion Ban Act with similar bipartisan support. And that body's amendments are reasonable and acceptable. Furthermore, the rule simply addresses the matter at hand—the Senate amendments. There is no reason to consider extraneous amendments.

Unfortunately, the President and proabortion extremists continue to oppose this modest, widely supported bill. The President has threatened to veto this bill because it doesn't have amendments that would allow this gruesome procedure for virtually any reason. Under the guise of protecting the mother's health, the radical abortionists want to add a health-of-the-mother exception. The bill already would allow the partial-birth abortion procedure if the abortion was necessary to save the woman's life, and this procedure was the only method of doing so.

However, to add ''health'' would be tantamount to writing in a loophole through which a Mack truck could be driven. While protecting a mother's health may sound reasonable on its face, the Supreme Court has defined ''health'' as anything that relates to one's well-being. Does that mean that being depressed or having a cold or allergies or a headache could qualify as jeopardizing health under such an open-ended definition? Certainly. In fact, the Court held in Doe versus Bolton that ''health'' encompasses ''all factors—physical, emotional, psychological, familial, and the woman's age—relevant to the well-being of the patient.'' Therefore, to add ''health'' to this legislation would gut the bill.

The fact is, according to the doctors who perform most of this type of abortion, 80 percent of partial-birth abortions are elective. That means they are for almost any reason.

Mr. Speaker, let's be completely clear about the procedure that this bill would ban. The opponents of this bill would direct the debate to side issues, and for good reason: If the American people know the facts, they'll want this horrible abortion procedure banned.

While all methods of abortion are repulsive, barbaric, and nauseating, this abortion method reaches depths of inhumanity that only a calloused conscience could approve of.

Remember that this abortion procedure takes place during the second trimester or later. That's after the baby's heart is beating, which occurs at about 3 weeks after conception. That's after the baby's brain waves can be measured, which happens at 6 weeks. That's after morning sickness has usually subsided, after 3 months.

First, the abortionist uses ultrasound—an amazing, high-technology medical tool that gives doctors and parents-to-be a look at the baby inside the womb—the abortionist uses this tool of life as a tool of death. He uses ultrasound to guide his forceps to grab the unborn baby's leg.

Second, the abortionist pulls the baby by his leg into the birth canal and proceeds to deliver the baby's entire body, except for the head.

Next, the abortionist jams scissors into the base of the baby's skull. That's the usual point when the baby dies. Let me interject here that the only thing that separates this act from murder is the fact that the baby's head is still in the birth canal.

Finally, the abortionist removes the scissors and inserts a suction catheter. The baby's brains are sucked out, collapsing the skull. The dead baby is then fully delivered. That's a partial-birth abortion.

Some of the so-called antichoice extremists who support this bill include the American Medical Association's Council on Legislation, which voted unanimously to recommend that the AMA endorse H.R. 1833. The council made that recommendation because its members concluded that partial-birth abortion is not a legitimate medical procedure. This statement begs the question, if partial-birth abortion isn't an acceptable medical procedure according to a professional body in the field of medicine, then what is this procedure? It certainly doesn't reflect the Hippocratic oath, which says doctors should first do no harm.

It is ironic that we wouldn't treat convicted capital offenders this way. The ACLU would be up in arms and in court and crying ''cruel and unusual punishment'' if a State tried to stab scissors in the base of the prisoner's skull and then suck out his brains with a vacuum cleaner.

In fact, a court in Washington State ruled that hanging convicted murderer Mitchell Rupe, who weighted 400 pounds, would be cruel and unusual punishment. Rupe had appealed his death penalty by arguing that because of his excessive body weight, the noose would decapitate him, and that would be cruel

and unusual punishment. The appellate judge agreed with this man, who had been convicted on two counts of first-degree murder.

Mr. Speaker, H.R. 1833 bans the performance of partial-birth abortions, the gruesome procedure that I have described.

As medical technology continues to develop to the point where surgery can be performed on unborn babies, where more and more premature babies survive, where doctors can perform increasingly sophisticated techniques that just 10 or 20 years ago we would have thought of as medical miracles, it's time to take a hard look at biological and medical facts.

H.R. 1833 bans a single abortion technique that even many people who call themselves pro-choice support the banning of. But what are the ethical and moral questions we as a society need to confront? Do the medical facts we have today support the ignorant bliss on which Roe versus Wade and Doe versus Bolton were decided? Is this country still a civilized society? What kind of a people would allow the partial birthing of a half-gestated baby, only to be stabbed with surgical scissors and his brains sucked out, knowing the biological facts we have in 1996?

It is also ironic that this Nation protects unborn eagles more vigorously than it protects unborn human beings. We punish people under three different acts—the Migratory Bird Treaty Act (16 U.S.C. 703), the Bald Eagle Protection Act (16 U.S.C. 668), and the Endangered Species Act (16 U.S.C. 1538 and 1540)—for destroying an eagle egg. The Migratory Bird Treaty Act provides for penalties up to $500 in fines and 6 months in prison for destroying an eagle egg. The penalty under the Bald Eagle Protection Act is a fine up to $5,000 and a year in prison. The Endangered Species Act provides for civil and criminal penalties; the criminal penalties for knowingly destroying an eagle egg, depending on the location where the egg is found, range to $50,000 in fines and 1 year in prison. Unborn eagles have that much protection under law. However, unborn human babies may be aborted at any time throughout the pregnancy. And in the case of partial-birth abortion, the baby can even be forcibly, partially delivered in order for the abortionist to destroy that baby's life.

Mr. Speaker, I have faith that the American people will make the right decision. Give the American people the facts, as has been done regarding partial-birth abortion, and they will arrive at the civilized, decent conclusion that this procedure should be outlawed. I believe the American people will remain true to our Nation's core values, that we are all endowed by our Creator with certain unalienable rights, foremost being the right to life.

I conclude with these verses from Psalm 139: ''For you created my inmost being; you knit me together in my mother's womb. * * * My frame was not hidden from you when I was made in the secret place. When I was woven together in the depths of the earth, your eyes saw my unformed body.''

Mr. Speaker, I urge that we accede to the Senate's amendments. I urge that we adopt this rule. And I urge the President to reconsider his veto threat.

Mr. BEILENSON. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts [Mr. FRANK], who serves on the Committee on the Judiciary.

Mr. FRANK of Massachusetts. Mr. Speaker, we will get to debate the substance of the bill, although very briefly. The gentlewoman from Utah [Mrs. WALDHOLTZ] said that this rule provides adequate time to discuss the Senate amendments. This rule, in fact, provides quite deliberately the minimum time that it is legally possible to give a bill on the floor of the House.

The rule gives 1 hour. That is the minimum that is allowed under the basic rules, so this is part of an effort to suppress debate and discussion on this bill. We will get to the substance, but I want to talk here about the outrageous procedure. It is one more example of this majority running absolutely roughshod over the notion of open debate and democracy and fairness. This is, once again, a rule as we say in previous weeks where to achieve their political purpose, to make sure that their political message is unadulterated, the majority sacrifices the right of the American people to have free debate.

For example, the gentlewoman from Utah talked about the amendment that was adopted in the Senate. She said people felt that the life exception for the mother was not done right so the Senate straightened it out. Many of us raised that same point here in the House, and why did we not straighten it out here in the House? Because they had the same rules the last time. The rule did not allow that amendment. It is an amendment that we in the House were prevented from considering because of the close-fisted rule of the majority on this bill.

The Senate did adopt the amendment, so they are giving in and they say, ''OK, we will do it''. They are almost taking credit for the improvement the Senate made when they refused to allow us to vote on such an amendment here. Now we have another amendment that we want to offer, and I understand here that we cannot even offer a motion to recommit this.

It is a very cleverly crafted procedure they have. This is not a bill. It is a concurrence with the Senate amendment because, by making it that way, we cannot even recommit it and no amendments are in order. We can do nothing in the House to alter this. We can vote up or down. We have twice been asked by the majority, not asked, directed by the majority to vote on this very important issue with no amendment and with the minimum time for debate allowed under the rules of this House.

They want to do it. They want to do it quickly and have as little conversation as possible because it will not stand up, apparently, they believe, to greater scrutiny. They are afraid to allow an amendment.

We have an amendment that we offered, the gentlewoman from Colorado and I. It is an amendment that was offered in the Senate. The Senate adopted one amendment and then the Senate rejected another but it got 47 votes. We are hardly talking about some fringe position; 47 votes, including Republican votes, in the Senate, and we are not being allowed to offer it here.

We cannot do it on the motion to recommit because there is no committee to which it can be recommitted. This is simply a motion to concur in the Senate amendment, and what is the amendment that the majority is afraid to allow the House to vote on?

They cannot plead time. We are less busy than the guys in ''Marty,'' standing around on the corner. ''What do you want to do tonight?'' ''I don't know. What do you want to do tonight?''

Voting is not one of the things, because the majority cannot get itself organized. We have hardly overvoted ourselves this week, but the majority is afraid to allow the amendment.

The amendment says the doctor will not be considered a criminal and sent to prison if he performs this procedure to prevent damage to the health of the mother. If a doctor were to decide that this procedure was necessary to avoid damage to the mother's ability to give birth in the future, he would be committing a crime if he did it because the majority will not even let us vote on an amendment that would say to avoid damage to her ability in the future to bear children. We are talking about serious adverse health effects.

At the Committee on Rules, the majority allowed a debate in the Committee on Rules. They did not want to but they cannot shut us up. They are probably working on a way to do that in the Rules Committee.

The gentlewoman from Colorado said this is so broad. What do we mean by health? My answer is simple. I think serious adverse health is good enough, and I am prepared to put the doctor's opinion up.

But if you think that is too broad, then amend the amendment. My colleagues on the other side of the aisle are afraid of open debate. If you think serious adverse health is too broad, why do you not put very, very, really serious adverse health? Or if you are afraid of psychological, put physical health. I do not agree with that. I would vote against that, but if you want to avoid serious physical damage to the mother but do not want to let in depression, then allow us to vote on it.

But your preferred procedure which you are imposing successfully on this House, I am afraid, I reemphasize this, that procedure requires us to vote and will not allow an amendment that would say to a doctor if you perform this procedure, and by the way it is called a procedure by the American College of Obstetricians and Gynecologists. I will put their letter in opposition to this in the RECORD. You are saying that we cannot even offer an amendment that would say to avoid serious damage to the mother's physical health. Our amendment does not say that, but you could amend the amendment and make that in order.

I know that democracy seems complicated to people who have so little practice with it. You are instead going to demand that we vote to make it criminal even if a doctor wanted to prevent serious physical damange to the health of the mother.

Mr. Speaker, I include the following letter for the RECORD:

THE AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS,
Washington, DC, November 1, 1995.

STATEMENT ON H.R. 1833: THE PARTIAL-BIRTH ABORTION BAN ACT OF 1995

The American College of Obstetricians and Gynecologists is disappointed that the U.S. House of Representatives has attempted to regulate medical decision-making today by passing a bill on so-called ''partial-birth'' abortion.

The College finds very disturbing any action by Congress that would supersede the medical judgment of trained physicians and that would criminalize medical procedures that may be necessary to save the life of a woman. Moreover, in defining what medical procedures doctors may or may not perform, the bill employs terminology that is not even recognized in the medical community—demonstrating why congressional opinion should never be substituted for professional medical judgment.

The College does not support H.R. 1833, or the companion Senate bill, S. 939.

Mrs. WALDHOLTZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to simply respond quickly. The gentleman from Massachusetts is an excellent student of the rules of the House, and as such an excellent student of the rules of the House the gentleman knows that the minority had an opportunity to offer a motion to recommit when the House originally considered this bill. At that time the gentleman could have offered his amendment. He chose not to. The minority chose to not offer a motion to recommit. This bill went over to the Senate. It is back now for our concurrence.

Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. BARCIA].

Mr. BARCIA. Mr. Speaker, I rise today in support of House Resolution 1833, the Partial-Birth Abortion Ban Act, and I urge my colleagues to vote in favor of the rule and the final passage of this important legislation.

As a pro-life advocate I am committed to protecting the rights of unborn children. My primary concern is that abortion should not be treated like a routine medical procedure. Although some consider partial-birth abortions routine medical procedures, this could not be further from the truth. Partial-birth abortions are neither routine, legitimate or necessary.

Partial-birth abortions are most often performed in the second or third trimester. I am particularly troubled by the horrifying prospect of late term abortions. Even in Roe versus Wade, abortions are limited to the first trimester. Today we are considering continuing to allow abortions through the third trimester of fetal viability.

House Resolution 1833 not only bans the performance of this type of inhuman abortion but it imposes fines and a maximum of 2 years of imprisonment for any person who administered a partial-birth abortion. This gruesome and brutal procedure should not be permitted.

I strongly believe in the sanctity of life, and if 80 percent of the abortions are elective, we have to reconsider and reevaluate the value our society places on human life. This decision is not made in the case of rape or incest, not if the mother's life is in danger, and not if there are birth defects. In many cases this is a cold, calculated, and selfish decision.

This is not a choice issue. This is a life or death issue for an innocent child. Please join me in making this heinous procedure illegal.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the gentlewoman from New York [Ms. SLAUGHTER].

Mrs. SLAUGHTER. Mr. Speaker, in every way this debate today is a tragedy.

First, I want to make it very clear, as clear as I can to people who are interested in knowing the truth, that the third trimester abortions, and the partial-birth abortions are very rare and they are not done as elective surgery at all. They are done in the case of a severely deformed fetus, a dead fetus, or a mother who will not survive until the birth is completed.

It is not a case of grabbing hold of two kicking legs and delivering a child that will be able to grow and respond to life. It is not a case of that at all. Why do we add to the awful tragedy of the families that desperately want the children that they are carrying and lose? Why do we say that the Congress of the United States knows better than the parents do and better than their doctor does, and we are going to require that they continue this pregnancy.

I am scared about the precedent that this legislation sets. To say that the procedure, practice and procedure, should be left to the Congress of the United States and not to medical people is a dangerous idea. A physician cannot choose this procedure even if other procedures would have serious health consequences, and we have talked about that, the possibility of loss of fertility.

□ 1745

But the underlying thing that last bothered me ever since I have been in the Congress of the United States is there is another underlying piece here, and that is that women do not have the right to choose, maybe they are not smart enough, we cannot let them decide what is the best thing in the world for them to do. Some men have to sit around and decide what is best, usually deciding that in legislatures all over the country and this Congress what it is that we can say is appropriate for them.

It is not original with me, but if women were that dumb, how in the world does anybody here expect that they had had a mother who bore them and raised them to extraordinary lengths that they are today? Had a Member of the Congress of the United States. Just like any other patient, a woman deserves the best care based on the best circumstances and the knowledge that it fits her situation. It should not be tailored to fit the needs of Members of Congress or any ideas that they may have. Women should not be considered second-class citizens and that needs a big brother to tell her what is permissible and what is not.

Unfortunately, I think this is only a beginning. The bill's sponsors have consistently stated this is a first step and, if they have the votes, they will prevent all abortion. I think many of them would also prohibit birth control. They want Government intrusion into every doctor's office and eventually into every bedroom. We should not start down this road. We should not prohibit medical procedures by Government fiat. We should not prohibit physicians and patients from making informed decisions based on the individual facts of the particular case.

Mr. Speaker, I ask defeat of this rule, which prohibits this House from modifying the draconian antiwoman provisions of this bill. I then ask my colleagues to preserve the right of women to the most appropriate medical procedure based on the best medical advice by defeating this underlying bill.

Mrs. WALDHOLTZ. Mr. Speaker, I yield myself such time as I may consume.

I think it is important to point out the definition of elective and nonelective abortion regarding third-trimester abortions. In this particular situation, it depends on the definition of the person expressing it. One of the doctors who pioneered the partial-birth abortion procedure, as he called it, said the third trimester abortions he performed this way are nonelective, but he said that these abortions also are caused by factors such as maternal risk, rape, incest, psychiatric or pediatric indications. This doctor's definition of nonelective are extremely broad. He went on to tell the Subcommittee on the Constitution that he had performed more than 2,000 of these partial-birth abortions and that he attributed over 1,300 of them to what he called fetal indications or maternal indications.

Of those indications, the most common maternal indication was depression. Other maternal indications included what he called pediatric pelvis, their youth, spousal drug exposure, and substance abuse. Clearly, Mr. Speaker, what is elective or nonelective varies widely depending on the purpose of the person offering the definition.

Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. SOUDER].

Mr. SOUDER. Mr. Speaker, first I want to agree with the earlier speaker

that this amendment is actually not needed. We in the House had already protected life of the mother, but in the new language, ''necessary to save the life of the mother whose life is endangered by a physical disorder, illness, or injury, provided that no other medical procedure would suffice for that purpose,'' makes it clear this has nothing to do with life of the mother.

I would also like to address the question of whether we men are trying to regulate women. I think one of the tragedies of this country are men who beat their spouses, mothers and fathers who treat their children as though they are objects to abuse. The question here is whether it is human life. If it is human life, it has nothing to do with whether it is the right of the woman or the right of the man to kill this child.

If we disagree over life, that is one thing. But to act like we are trying to do anything other than protect an innocent life is unfair. In this case, the life is a life. If its head pops out a little bit further but if the legs are out and the heart is beating and the head is inside, then you jab it, it is not a human life. This is a debate over human life, not the rights of women and men.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Speaker, abortion is a tough debate under any circumstances, and an emotional one. But I think the reason I oppose this rule and oppose this measure is because in this one this debate is wrongly directed. This is not an issue about whether or not a woman should have a right to choose or what state a fetus is viable or when life begins. The tragic situation in this case is that overwhelmingly the women affected do not want an abortion. They wanted to have this child. But it is being performed in the last trimester because of medical necessities. There are less than 500 of these procedures performed a year. And, yes, what are some of the situations? This has been a pretty graphic debate. Some of the situations, such as brains that have developed outside the fetus's skull, a situation where the woman's health, the mother's health is significantly endangered, once again, this woman, this couple having their child, want to have this child in the overwhelming number of cases I have been able to find, yet they are not able to. They find this out in the last trimester. I have got problems with Congress, a lot of people have problems getting involved in different areas. A lot of people have problems with Congress making important medical decisions, particularly when a woman's life is possibly endangered.

Under this amendment, it is improved a little bit from leaving the House. The prosecution has to show beyond a reasonable doubt the doctor performed this procedure improperly except the only way you get to that point is you charge the doctor and bring that physician to trial. For exercising medical judgment, a physician goes to trial. He or she cannot perform this procedure even to safeguard the severe adverse health effects to the mother, only for the life of the mother.

I guess what concerns me the most is that in this legislation they would permit the doctor to be charged but the woman who requested that understood that something has to be done, requested something be done, she is not charged. This whole thing does not belong in the Congress, and Congress should not start down this road.

Mrs. WALDHOLTZ. Mr. Speaker, I yield 7 minutes to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, for more than two decades the multimillion-dollar abortion industry has sanitized abortion methods by aggressively employing the most clever and most benign of euphemisms market research can buy. Until today they succeeded in a massive coverup about the sickening truth about abortion methods, including chemical poisoning of the child by highly concentrated salt water or some other potion, dismemberment of the baby's fragile body by a knife connected to a suction machine that is 20 to 30 times more powerful than the average vacuum cleaner, and now brain extraction, the method at issue today, as if the child's brain were a diseased tooth in need of extraction or a tumor to be excised. Make no mistake about it, Mr. Speaker, partial-birth abortion is child abuse. And those who do it today have an unfettered right to kill. We can revoke that license to kill, Mr. Speaker, and we must. If the President vetoes this legislation, then he alone will have empowered the abortionist to kill babies in this way. If he vetoes this bill, he renews this license to kill. He bears the responsibility for the thousands of kids who will die from this hideous method of abortion. Veto this bill, and there is no doubt whatsoever in my mind that Bill Clinton will go down in history as the abortion President.

Mr. Speaker, the abortion lobby lies to women and they lie to society at large, and they usually get away with it. But not this time. On this issue, they have said that partial-birth abortion is used primarily to save the life of the mother, an exception included in the bill, or for the deformity of the child. Leaving aside the inhumane notion that handicapped kids are throwaways or are to be construed as so much garbage, I thought we took care of that with passage of the Americans with Disabilities Act, which said that handicapped people have rights and they have inherent value, and we need to respect that.

Nevertheless, the fact of the matter is then, perhaps most of the partial-birth abortions procured in the United States are elective; in other words, they are abortions on demand. Dr. Martin Haskell, an abortionist who alone has performed over 1,000 partial-birth abortions, said in a tape recorded interview with the American Medical News that of the procedures he does, from 20 to 24 weeks, 80 percent are, ''purely elective.''

Mr. Speaker, the abortion lobby has also said that anesthesia kills the babies before they are removed from the womb. Even if that excuse were true, even if that rationalization were true, it would still mean that a baby dies. But again it is another lie. The American Society of Anesthesiologists, the ASA, has testified that such an assertion by the abortion lobby has, and I quote, ''absolutely no basis in scientific fact,'' and is, ''misleading and potentially dangerous to pregnant women.'' According to the ASA general anesthesia given to a pregnant woman does not kill nor does it injure an unborn baby or even provide the baby with protection from pain. And Dr. Haskell himself has said that local anesthesia he uses has no effect on the baby.

Mr. Speaker, to my left is a chart, one of a series of charts, medically correct, a diagram of what the actual procedure is all about. In a paper given by Dr. Haskell to the National Abortion Federation in 1992, entitled ''Second Trimester Abortion From Every Angle,'' in September Dr. Haskell describes the partial birth abortion this way. Remember, this man, one of the pioneers who is trying to promote the use of this despicable form of child abuse, and he says, and I quote,

> With the instrument, when the instrument appears on the sonogram screen, the surgeon is able to open and close its jaws and firmly and reliably grasp a lower extremity of the child. The surgeon then applies firm traction to the instrument, causing a version of the fetus and pulls the extremity into the vagina.

He then goes on to say that,

> With a lower extremity in the vagina, the surgeon uses his fingers to deliver the lower extremity, then the torso, the shoulders, and then the upper extremities, the skull lodges in the internal cervical os. Usually there is not enough dilation for it to pass through. At this point, the right-handed surgeon slides the fingers of the left hand along the back of the fetus and hooks the shoulders of the fetus with the index and ring fingers palm down, while maintaining tension, lifting the cervix and applying traction to the shoulders with the fingers of the left hand. The surgeon takes a pair of blunt curved Metzenbaum scissors in the right hand. He carefully advances its tip curved down along the spine and under his middle finger until he feels it contact the base of the skull.

Mr. Speaker, according to Dr. Haskell, the surgeon then forces the scissors into the skull, right into the skull of that baby. And then he introduces a, suction catheter, holds it and excavates the skull contents.

Mr. Speaker, one nurse, a registered nurse by the name of Brenda Pratt Schaefer, witnessed several of these partial-birth abortions while working for Dr. Haskell. She said, in describing the process that,

> The baby's body was moving, his little fingers were clasping together, he was kicking

his feet. All the while his little head was still stuck inside. Dr. Haskell took a pair of scissors, inserted them into the back of the baby's head. Then he opened the scissors up. Then he stuck a high-powered suction tube into the hole and sucked the baby's brains out.

This is child abuse, Mr. Speaker, let us face reality. And we can stop it.

Finally, just let me say, Mr. Speaker, I want to commend the distinguished gentleman from Florida, Mr. CANADY, the chairman of the subcommittee, for his courage in bringing this very important human rights legislation to the floor. The other side hates him for it. The abortion, lobby certainly does. They hate many others who fight for unborn kids.

But just let me say, protecting children and protecting human rights is always difficult. I serve as the chairman of the Subcommittee on International Operations and Human Rights. For 16 years I have been promoting human rights abroad. This, I would say, and submit to my distinguished colleagues, is a human rights abuse. Children are being slaughtered, some say 500, as if 500 is a small number of executions. That is, I think, a very conservative estimate; it is very likely many, many more than that. And it is being promoted as a method of choice.

□ 1800

I would submit that we have the opportunity today to stop this kind of child abuse and to protect little children from this kind of killing. We ought to do it. Support the rule and support the bill.

Mr. BEILENSON. Mr. Speaker, I yield 1½ minutes to the gentlewoman from New York [Mrs. MALONEY].

(Mrs. MALONEY asked and was given permission to revise and extend her remarks.)

Mrs. MALONEY. Mr. Speaker, I rise in strong opposition to this rule. The bill in question presents a direct challenge to Roe versus Wade. As one member of the majority boasted, ''We intend to ban a woman's right to choose, procedure by procedure.'' I take him at his word, because this legislation will do just that.

I would like to put a human face on this debate and talk about Coreen Costello, who is pictured here. Coreen Costello would have taken any child that God would have given her, regardless of any handicap. But this child, the child that she was expecting, was not a child that could live. The Dole amendment would not have allowed Coreen Costello to use the procedure that now allows her to have other children. She is currently expecting yet another child. The Committee on Rules denied an amendment that would keep Coreen Costello's doctor out of jail.

I urge Members to have a heart. Vote humanitarian, vote for children, vote for women, vote for families, vote against this rule.

Mr. BEILENSON. Mr. Speaker, I yield the balance of my time to the gentlewoman from Colorado [Mrs. SCHROEDER].

The SPEAKER pro tempore (Mr. ROGERS). The gentlewoman from Colorado is recognized for 4 minutes.

(Mrs. SCHROEDER asked and was given permission to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman from California for yielding me time.

Mr. Speaker, I eagerly, eagerly ask Members to vote against this rule. This rule is one more gag rule put on doctors dealing with women and their families in the most difficult situations that any family would ever have to face. I think it is unbelievable that we are gagging Members of Congress from being able to deal with the severe and adverse health conditions a woman can have, and that is what is being done. We are not being allowed to present that amendment.

The reason we are doing this today is really all political. Let us be honest. We have a letter from the President pointing out he will veto this bill in this form because it violates Roe versus Wade. We now have a new decision, a 100-page decision in Ohio, where the same kind of procedure was tested and the court said no, that is violative of Roe versus Wade.

We have heard so many statements made here that were incorrect, that you do not even know what to say.

People get up and they obsess on this, they obsess on this procedure and they obsess on all this stuff. The real issue is, show me an obstetrician and gynecologist that is going to do something terrible and evil and awful. We try to make this into a witch trial. Show me parents that would want this.

These are crisis situations, where everything has gone wrong. We are only talking here about late, late abortions, where people were clinging to that child trying to go as far as possible. If we deny this kind of procedure, we are going to be denying to young parents their chance to have another shot at being a parent, which is probably one of the most driving desires anyone has.

Why do I say that? Because there are other procedures available. Sure, you could have a hysterectomy. There are other procedures available. But, guess what? You lose your reproductive organs. This procedure has been put together so that the reproductive system can remain whole and they get another shot at parenthood.

Should that not be okay? You hear people talk about how these are elective. Elective? These are not elective. Who in the world would sign up for a process like this, unless it was absolutely essential.

This bill does not do anything about early abortions in the first trimester. Remember what Roe versus Wade said? In the first trimester, you could do whatever. That is the elective part. We are talking about the late part, where Roe versus Wade said States can regulate this except in the case of life and severe health consequences to the mother.

Here is a mother that is happy we did not interfere in that, because she has gone on to be able to have another child, and she lived to see these two children grow to adulthood.

Is it the position of this Congress that other women in the future cannot have that opportunity? Are we going to move in and tell the doctors that would look at her health rather than this law, guess what, they go to prison for 2 years? Are we going to start criminalizing these medical procedures?

This is the first medical procedure we will ever have criminalized. Is that not interesting?

Mr. Speaker, I will put in the RECORD a letter from the American Nurses Association speaking clearly that they are opposed to this bill, and the American College of Gynecologists and Obstetricians, who are the ones that are the specialists who deal with this. They are opposed to this bill.

Mr. Speaker, we ought to be listening to the specialists and to the people who are talking about this. If we really think our medical profession is so badly trained in America, so against life that they are out doing these grizzly, terrible things, then we better look at the whole medical profession. But I do not think so. I hear this obsessing that you are hearing, which is wrong.

Vote ''no'' against this rule. Allow women to have their severe health consequences taken into consideration.

THE AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS DOES NOT SUPPORT H.R. 1833

DEAR COLLEAGUE: I thought you might be interested in the following statement released by the American College of Obstetricians and Gynecologists. Protect women's health by voting ''No'' on H.R. 1833.

PAT.

THE AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS,
November 1, 1995.

STATEMENT OF H.R. 1833—THE PARTIAL-BIRTH ABORTION BAN ACT OF 1995

The American College of Obstetricians and Gynecologists is disappointed that the U.S. House of Representatives has attempted to regulate medical decision-making today by passing a bill on so-called ''partial-birth'' abortion.

The College finds very disturbing any action by Congress that would supersede the medical judgment of trained physicians and that would criminalize medical procedures that may be necessary to save the life of a woman. Moreover, in defining what medical procedures doctors may or may not perform, the bill employs terminology that is not even recognized in the medical community—demonstrating why congressional opinion should never be substituted for professional medical judgment.

The College does not support H.R. 1833, or the companion Senate bill, S. 939.

AMERICAN NURSES ASSOCIATION,
Washington, DC, November 8, 1995.

Hon. BARBARA BOXER,
U.S. Senate,
Washington, DC.

DEAR SENATOR BOXER: I am writing to express the opposition of the American Nurses Association to H.R. 1833, the ''Partial-Birth Abortion Ban Act of 1995'', which is scheduled to be considered by the Senate this

week. This legislation would impose Federal criminal penalties and provide for civil actions against health care providers who perform certain late-term abortions.

It is the view of the American Nurses Association that this proposal would involve an inappropriate intrusion of the federal government into a therapeutic decision that should be left in the hands of a pregnant woman and her health care provider. ANA has long supported freedom of choice and equitable access of all women to basic health services, including services related to reproductive health. This legislation would impose a significant barrier to those principles.

Furthermore, very few of those late-term abortions are performed each year they are usually necessary either to protect the life of the mother or because of severe fetal abnormalities. It is inappropriate for Congress to mandate a course of action for a woman who is already faced with an intensely personal and difficult decision. This procedure can mean the difference between life and death for a woman.

The American Nurses Association is the only full-service professional organization representing the nation's 2.2 million Registered Nurses through its 53 constituent associations. ANA advances the nursing profession by fostering high standards of nursing practice, promoting the economic and general welfare of nurses in the workplace, projecting a positive and realistic view of nursing, and by lobbying the Congress and regulatory agencies on health care issues affecting nurses and the public.

The American Nurses Association respectfully urges you to vote against H.R. 1833 when it is brought before the Senate.

GERI MARULLO,
Executive Director.

Mr. BEILENSON. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Texas [Ms. JACKSON-LEE].

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in opposition to the rule and legislation of H.R. 1833, for the dastardly impact on the life and health of the mother and the fetus and the physicians.

Mr. Speaker, I rise in opposition to the rule for H.R. 1833. We must be allowed to offer amendments to H.R. 1833, specifically, those which would provide for a true exception to save a woman's life, or for serious, adverse health consequences to the woman, including her future fertility, or where there exists severe or potentially fatal fetal abnormalities.

In 1973, and more recently in 1992, the Supreme Court held that a woman has a constitutional right to choose whether or not to have an abortion. H.R. 1833 is a direct attack on the principles established in both Roe versus Wade and Planned Parenthood versus Casey.

H.R. 1833 is a dangerous piece of legislation which would ban a range of late term abortion procedures that are used when a woman's health or life is threatened or when a fetus is diagnosed with severe abnormalities incompatible with life.

Because H.R. 1833 does not use medical terminology, it fails to clearly identify which abortion procedures it seeks to prohibit, and as a result could prohibit physicians from using a range of abortion techniques, including those safest for the woman.

H.R. 1833 is a direct challenge to Roe versus Wade—1973. This legislation would make it a crime to perform a particular abortion method utilized primarily after the 20th week of pregnancy. This legislation represents an unprecedented and unconstitutional attempt to ban abortion and interfere with physicians' ability to provide the best medical care for their patients.

If enacted, such a law would have a devastating effect on women who learn late in their pregnancies that their lives or health are at risk or that the fetuses they are carrying have severe, often fatal, anomalies.

Women like Coreen Costello, a loyal Republican and former abortion protester whose baby had a lethal neurological disease; Mary-Dorothy Lines, a conservative Republican who discovered her baby had severe hydrocephalus; Claudia Ades, who terminated her pregnancy in the sixth month because her baby was riddled with fetal anomalies due to a fatal chromosomal disorder, Vicki Wilson, who discovered at 36 weeks that her baby's brain was growing outside his head; Tammy Watts, whose baby had no eyes, and intestines developing outside the body; and Vikki Stella, who discovered at 34 weeks that her baby had nine severe anomalies that would lead to certain death. All these children were wanted but could not survive. These are the women who would be hurt by H.R. 1833—women and their families who face a terrible tragedy—the loss of a wanted pregnancy.

In Roe, the Supreme Court established that after viability, abortion may be banned by States as long as an exception is provided in cases in which the woman's life or health is at risk. H.R. 1833 provides no true exceptions for cases in which a banned procedure would be necessary to preserve a women's life or health.

The Dole amendment does not cover all cases where a woman's life is in danger. This narrow life exception applies only when a woman's life is threatened by a physical disorder, illness or injury and when no other medical procedure would suffice. By limiting the life exception in this way, the bill would omit the most direct threat to a woman's life in cases involving severe fetal anomalies—the pregnancy itself.

In fact, none of the women who submitted testimony during the Senate and House hearings on this bill would have qualified for the procedure under the Dole life exception. Instead, this bill would require physicians to use an alternative life-saving procedure, even if the alternative renders the woman infertile, or increases her risk of infection, shock, or bleeding. Thus, the result of this provision is that women's lives would be jeopardized, not saved.

This bill unravels the fundamental constitutional rights that American women have to receive medical treatment that they and their doctors have determined are safest and medically best for them. By seeking to ban a safe and accepted medical technique, Members of Congress are intruding directly into the practice of medicine and interfering with the ability of physicians and patients to determine the best course of treatment. The creation of felony penalties and Federal tort claims for the performance of a specific medical procedure would mark a dramatic and unprecedented expansion of congressional regulation of health care.

This bill is bad medicine, bad law, and bad policy. Women facing late term abortions due to risks to their lives, health, or severe fetal abnormalities incompatible with life must be able to make this decision in consultation with their families, their physicians, and their god. Women do not need medical instruction from the government. To criminalize a physician for using a procedure which he or she deems to be safest for the mother is tantamount to legislating malpractice.

I urge my colleagues to vote against this rule so that we can offer amendments which would create true life and health exceptions to the bill. These amendments would allow doctors to continue to perform the procedure which they feel is safest for the mother without risk of prosecution.

True life and health amendments would ensure that mothers, and families, facing tragic circumstances would continue to receive the best possible, and safest medical care available.

Mr. BEILENSON. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. BECERRA]

(Mr. BECERRA asked and was given permission to revise and extend his remarks.)

Mr. BECERRA. Mr. Speaker, I rise in opposition to the rule and the bill. It is wrong-headed and should fail.

Mr. BEILENSON. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California [Ms. PELOSI].

(Ms. PELOSI asked and was given permission to revise and extend her remarks.)

Ms. PELOSI. Mr. Speaker, I rise in opposition to this legislation, which would prevent doctors from performing a lifesaving medical procedure. This is a direct threat to the health and lives of American women.

Mr. Speaker, we all hope that the number of abortions in this country can be decreased. But this debate is not about abortion. Restricting medical options that endangers the health of women is unconstitutional. The Supreme Court has stated that the Government may ban post-viability abortions, but it cannot restrict abortion when the procedure may be necessary to save the health and life of the mother.

The life exception included in this legislation is far too narrow to protect women's lives effectively. The exception would allow this procedure only as a last resort when a women's life is threatened by physical disorder, illness, and injury—when who other medical procedure would suffice. It does not consider that this may be the safest procedure to protect the health and life of the mother. This so-called life exception would have a women rendered sterile or face critical health risks rather than the use the safe and rare procedure that this legislation is attempting to outlaw.

Families faced with this difficult decision often go on to have successful pregnancies. Yet this legislation does nothing to protect health or future fertility of the mother—in fact, it puts a mother's future fertility at risk.

Mr. Speaker, the so-called partial-birth abortion ban is unconstitutional and inhumane. I urge my colleagues to vote against this legislation.

Mr. BEILENSON. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. FAZIO].

(Mr. FAZIO of California asked and was given permission to revise and extend his remarks.)

Mr. FAZIO of California. Mr. Speaker, I rise in opposition to the rule and the underlying legislation.

Mrs. WALDHOLTZ. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore. The gentlewoman from Utah is recognized for 3½ minutes.

Mrs. WALDHOTZ. Mr. Speaker, let me address first the question that has been raised regarding this rule and the procedure by which this bill is brought to the floor.

We have heard complaints, Mr. Speaker, that there was not an opportunity to consider an amendment regarding the health consequences to the mother. But in fact, Mr. Speaker, as I pointed out earlier, the minority chose not to exercise its right to offer a motion to recommit when this bill first came to the floor. That was the opportunity, Mr. Speaker, that the minority had to offer whatever it felt was appropriate to change this bill. They decided not to do that. It is a bit disingenuous to complain about that now after the Senate has already taken up the bill, after the House had completed its debate.

In fact, Mr. Speaker, that particular amendment was offered in the Senate and it failed. We know what the definition of health of the mother is, because the Supreme Court provided us that definition in Doe versus Bolton, the companion case to Roe versus Wade, in which the Supreme Court defined health in the abortion context to include ''all factors, physical, emotional, psychological, familial and the woman's age relevant to the well-being of the patient.''

This is an extraordinary broadening of this bill. This bill was debated by the House, Mr. Speaker. It was debated by the Senate. We are back now to consider whether we should concur in the amendments that the other side has already stated improve the bill, a change that will allow doctors to exercise their best judgment in performing this procedure when it is necessary to save the life of the mother.

The gentlewoman from Colorado said though, Mr. Speaker, that we ought to look to the specialists, to the physicians, in determining whether this is an appropriate piece of legislation. So I wish to close, Mr. Speaker, by referring to the specialists.

First, Mr. Speaker, I would quote from Dr. Martin Haskell, a practitioner of the partial birth abortion method. When Dr. Haskell was asked about the advantages of this particular procedure he did not talk about the life of the mother. He did not talk about the sensation of the fetus. He did not talk about the health risk to the mother. He said this: ''Among its advantages are that it is a quick, surgical, outpatient method that can be performed on a scheduled basis under local anesthesia.'' Those are not emergency measures, Mr. Speaker.

When Dr. Haskell was asked in an interview with Cincinnati Medicine in the fall of 1993, Dr. Haskell said when asked about the impact to the fetus of this procedure, the question, ''Does the fetus feel pain?'' This is what Dr. Haskell said: ''I am not an expert, but my understanding is that fetal development is insufficient for consciousness.'' He continued, ''It is a lot like pets. We like to think they think like we do. We ascribe humanlike feelings to them, but they are not capable of the same level of awareness we are. It is the same with fetuses.''

Mr. Speaker, that is what one specialist, a practitioner of partial birth abortion, says about this procedure. But let us turn to another specialist, Dr. Pamela Smith, Director of Medical Education at the Department of ob-gyn at Mount Sinai Hospital in Chicago. Dr. Smith said, ''There is absolutely no obstetrical situations encountered in this country that would require this procedure.''

Mr. Speaker, I ask for support on this rule.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mrs. WALDHOLTZ. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 269, nays 148, not voting 14, as follows:

[Roll No. 93]

YEAS—269

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bonior
Bono
Borski
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dingell
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fox
Franks (NJ)
Frisa
Frost
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Goodlatte
Goodling
Gordon
Goss
Graham
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manton
Manzullo
Martini
Mascara
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Mica
Miller (FL)
Molinari
Mollohan
Montgomery
Moorhead
Moran
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thornberry
Thornton
Tiahrt
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff

NAYS—148

Abercrombie
Ackerman
Andrews
Baldacci
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bishop
Boehlert
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Chapman
Clay
Clayton
Clyburn
Coleman
Collins (MI)
Condit
Conyers
Coyne
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dixon
Doggett
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Flake
Foglietta
Frank (MA)
Franks (CT)
Frelinghuysen
Furse
Gejdenson
Gephardt
Gilman
Gonzalez
Green
Greenwood
Gutierrez
Hastings (FL)
Hilliard
Hinchey
Horn
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Lantos
Levin
Lewis (GA)
Lincoln
Lofgren
Lowey
Luther
Maloney
Markey
Martinez
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Meyers
Miller (CA)
Minge
Mink
Moakley
Morella
Nadler
Neal
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)

Pelosi	Schumer	Velazquez
Peterson (FL)	Scott	Vento
Pickett	Serrano	Visclosky
Pomeroy	Shays	Ward
Rangel	Skaggs	Waters
Reed	Slaughter	Watt (NC)
Richardson	Spratt	Waxman
Rivers	Stark	Williams
Rose	Studds	Wilson
Roybal-Allard	Thompson	Wise
Rush	Thurman	Woolsey
Sabo	Torkildsen	Wynn
Sanders	Torres	Yates
Sawyer	Towns	Zimmer
Schroeder	Traficant	

NOT VOTING—14

Bryant (TX)	Ford	Stokes
Collins (IL)	Fowler	Thomas
Dooley	Gibbons	Torricelli
Dornan	Harman	Weldon (PA)
Filner	Smith (WA)	

□ 1832

The Clerk announced the following pairs:

On this vote:

Mr. Thomas for, with Ms. Harman against.
Mrs. Fowler for, with Mr. Stokes against.

Ms. FURSE and Mr. GILMAN changed their vote from ''yea'' to ''nay.''

Mrs. KELLY changed her vote from ''nay'' to ''yea.''

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. CANADY of Florida. Mr. Speaker, pursuant to House Resolution 389, I move to take from the Speaker's table the bill (H.R. 1833), to amend title 18, United States Code, to ban partial-birth abortions with the Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The text of the Senate amendments is as follows:

Page 2, line 9, strike out [Whoever] and insert: *Any physician who*

Page 2, line 12, after ''both.'' insert: *This paragraph shall not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, illness, or injury: Provided, That no other medical procedure would suffice for that purpose. This paragraph shall become effective one day after enactment.*

Page 2, line 13, strike out [As] and insert: *(1) As*

Page 2, after line 16, insert:

''(2) As used in this section, the term 'physician' means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the State in which the doctor performs such activity, or any other individual legally authorized by the State to perform abortions: Provided, however, That any individual who is not a physician or not otherwise legally authorized by the State to perform abortions, but who nevertheless directly performs a partial-birth abortion, shall be subject to the provision of this section.

Page 2, line 17, strike out [(c)(1) The father,] and insert: *(c)(1) The father, if married to the mother at the time she receives a partial-birth abortion procedure,*

Page 3, strike out lines 12 through 20.

MOTION OFFERED BY MR. CANADY

Mr. CANADY of Florida. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore (Mr. ROGERS). The Clerk will designate the motion.

The Clerk read the motion.

Mr. CANADY of Florida moves to concur in each of the six Senate amendments to H.R. 1833.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. CANADY] and the gentlewoman from Colorado [Mrs. SCHROEDER] each will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. CANADY].

GENERAL LEAVE

Mr. CANADY of Florida. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks on H.R. 1833.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. CANADY of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to express my support for the motion to concur in the Senate amendments to H.R. 1833, the Partial-Birth Abortion Ban Act. H.R. 1833 bans a particularly heinous late-term abortion procedure unless that procedure is necessary to save the life of the mother.

This is partial-birth abortion:

Guided by ultrasound, the abortionist grabs the live baby's leg with forceps.

Mr. Speaker, then the baby's leg is pulled out into the birth canal by the abortionist.

The abortionist delivers the living baby's entire body, except for the head, which is deliberately kept lodged just within the uterus.

Then the abortionist jams scissors into the baby's skull.

The scissors are then opened to enlarge the hold in the baby's skull.

The scissors are than removed, and a suction catheter is inserted.

The child's brains are sucked out, causing the skull to collapse so that the delivery of the child can be completed.

Clearly, the only difference between partial-birth abortion, the procedure which my colleagues have just seen described, and homicide is a mere 3 inches.

The supporters of partial-birth abortion seek to defend the indefensible, but today the hard truth cries out against them. Despite their relentless effort to misrepresent and confuse the issue, the opponents of this bill can no longer conceal the uncomfortable facts about this horrible procedure.

The ugly reality of partial birth abortion is revealed here in these drawings for all to see.

The Senate amendment to H.R. 1833 makes three acceptable changes to the House passed version of the bill:

First, the Senate amendment clarifies that H.R. 1833 allows a partial-birth abortion to be performed if it is necessary to save the life of the mother. Instead of a life exception in the form of an affirmative defense as passed by the House, the amendment inserts the life exception in the first paragraph of the bill. The effect of the amendment is to force the prosecution to prove beyond a reasonable doubt that the partial-birth abortion was performed to save the life of the mother or that another procedure would have saved her life.

Second, the Senate amendment restricts civil liability under the bill to physicians who perform partial-birth abortions or anyone who directly performs a partial-birth abortion. In other words, the amendment does not allow anyone who assists in a partial-birth abortion to be liable under H.R. 1833.

Third, the Senate amendment allows fathers to sue for damages only if the father was married to the mother at the time the partial-birth abortion was performed.

I believe that if H.R. 1833 is enacted into law with the Senate amendments, it will deter abortionists from partially delivering, and then killing, unborn children.

Unfortunately, Mr. Speaker, President Clinton has threatened to veto H.R. 1833 unless we make gutting changes to the bill. The President does not want to openly defend a procedure that 71 percent of the public says should be banned. Therefore, he is trying to deceive the American people by claiming he supports banning this, as he calls it, disturbing procedure while he has at the same time proposed an amendment that would gut H.R. 1833, making it totally meaningless.

Mr. Speaker, the President wants a bill that allows an abortionist to perform a partial-birth abortion whenever the abortionist says it is to prevent a serious adverse health consequence. The President wants to explicitly leave the definition of serious adverse health up to the abortionist. In Doe versus Bolton, the companion cause to Roe versus Wade, the Supreme Court defined health in the abortion context to include, and I quote, ''all factors: physical, emotional, psychological, familial, and the woman's age, relevant to the well-being of the patient.'' Partial-birth abortions are currently being performed for such health reasons as the mother's depression or young age.

While Dr. Martin Haskell, a prominent practitioner of partial-birth abortion, stated that 80 percent of the partial-birth abortions that he performed from 20 to 24 weeks are purely elective, Dr. James McMahon called the partial-birth abortions he performed in the third trimester non-elective or health related. In documents submitted to the House Subcommittee on the Constitution, Dr. McMahon asserted: after 26 weeks, that is, 6 months, those pregnancies that are not flawed are still non-elective. They are interrupted because of maternal risk, rape, incest, psychiatric or pediatric indications. Dr. McMahon's definition of non-elective is extremely broad.

Accordingly, if President Clinton had his way, even third trimester partial-

birth abortions performed because of a mother's youth or depression would be justified to preserve the mother's health. This is simply unacceptable.

Furthermore, Dr. McMahon told the subcommittee that he had performed more than 2000 of what he called intact dilation and evacuation abortions. He attributed more than 1300 of these late-term abortions to fetal indications or maternal indications. The most common maternal indication was depression. Other maternal indications included pediatric pelvis, that is, youth, spousal drug exposure, and substance abuse.

□ 1845

It is never necessary to partially vaginally deliver a living infant at 20 weeks, that is, 4½ months or later, before killing the infant and completing the delivery in order to protect a mother's life or even her health.

During two extensive hearings in the Committee on the Judiciary on H.R. 1833, not one of the medical experts invited to testify by the bill's opponents could point to a single circumstance that would require the use an abortion technique in which the infant was partially delivered alive and then killed. On the contrary, several physicians, including one well-known abortionist, have stated that partial birth abortion poses risks to the health of the mother.

Dr. Pamela Smith, the director of medical education for the Department of Obstetrics and Gynecology at Mr. Sinai Hospital in Chicago, has written:

> There are absolutely no obstetrical situations encountered in this country which require a partially delivered human fetus to be destroyed to preserve the health of the mother. Partial birth abortion is a technique devised by abortionists for their own convenience, ignoring the known health risks to the mother. The health status of women in this country will only be enhanced by the banning of this procedure.

Dr. Martin Haskell, himself, said of a partial birth abortion, ''Among its advantages are that it is a quick surgical outpatient method that can be performed on a scheduled basis under local anesthesia.''

The President and other proponents of partial birth abortion know that adding an exception for health of the mother to H.R. 1833 is unnecessary and would gut the bill, allowing partial birth abortion on demand.

This is the question I would raise to the President and my colleagues who support abortion on demand: Is there ever an instance when abortion or a particular type of abortion is inappropriate? The vehement opposition of abortion rights supporters to H.R. 1833 makes their answer to my question clear. For them there is never an instance when abortion is inappropriate. For them the right to abortion is absolute, and the termination of an unborn child's life is acceptable at whatever time, for whatever reason, and in whatever way a woman or an abortionist so chooses.

To all my colleagues, I say this, Mr. Speaker: Look at this drawing. Open your eyes wide and see what is being done to innocent, defenseless babies. What we see here in this drawing is an offense to the conscience of humankind. Put an end to this detestable practice. Vote in favor of the motion to concur in the Senate amendments to H.R. 1833.

Mr. Speaker, I reserve the balance of my time.

Mrs. SCHROEDER. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. CONYERS], the esteemed ranking member of the committee.

Mr. CONYERS. Mr. Speaker, I rise to make observations about two members of the Committee on the Judiciary, and I respect all of the members on the committee. First, I have asked the gentlewoman from Colorado, PATRICIA SCHROEDER, to manage this bill, because she will long be remembered for her sensitivity and dedication on a subject that is so difficult for all of us to deal with.

The other Member whose attention I would draw the membership to is the gentleman from Florida [Mr. CANADY], the author of this measure. Mr. CANADY is not a doctor, has never been to medical school, and has created a misnomer in the title of this bill. There is no medical term called ''partial birth abortion.'' It is not in the medical dictionary, the American College of Obstetricians and Gynecologists do not use the term and in fact, has come out very strongly against the bill.

Mr. Speaker, assuming that we are not doctors, let us just talk about the law that we have a responsibility to deal with. Since the measure of the Gentleman from Florida was introduced, a Federal court in Ohio has spoken on a very similar measure and the Ohio Federal court has said very, very clearly that this procedure, the dilation and extraction, or D and X procedure, which was banned by an Ohio statute, is unconstitutional. Similarly, this bill is unconstitutional.

I urge my colleagues to consider that Roe versus Wade, through the constitutional process, has protected a woman's right to choose, for over 20 years. This attempt to ban a class of medically appropriate abortions is not only very discouraging, it is unconstitutional.

Mr. CANADY of Florida. Mr. Speaker, I yield 3 minutes to the gentleman from Oklahoma [Mr. COBURN].

(Mr. COBURN asked and was given permission to revise and extend his remarks.)

Mr. COBURN. Mr. Speaker, I think it is important that we talk about what this bill is and what it is not. The term abortion is used rather loosely around this body. Abortion, by definition, occurs before 20 weeks. This procedure is not used before 20 weeks. This procedure is used on viable infants, infants who are viable outside of the womb. So as we hear all the confusing dialogue tonight, it is important that everybody realize that infants, 22 weeks gestation, from the time of conception 22 weeks forward, which is actually less than 21 weeks, by normal count, those are viable infants by definition. Today if a baby is born at 22 weeks we do everything we can to save that baby.

So this bill is not about abortion, this bill is about eliminating the murdering of infants who are otherwise viable outside of the womb.

What is this bill? This bill eliminates a procedure that has been designed to be of benefit only to the abortionist. Every complicated pregnancy that might have an adverse outcome in terms of an indication under the present utilization of this procedure can in fact be delivered in a much more humane, much less traumatic, and much more beneficial way to both the infant and the mother. What this bill provides is the respect that a viable fetus deserves, an infant of 22 weeks.

Let us make no mistake about this, this procedure is utilized to terminate otherwise normal infants the vast majority of the time. We are going to hear otherwise on that, but if you think an infant with a cleft palate is someone who needs to be terminated, if you think adolescent females, because they are pregnant. should qualify under this bill, as the President would have us say, because of their adolescence or because of their age, should otherwise be an exception under this bill, then you do not in fact understand what this procedure is all about.

I would urge my colleagues to think about what this bill really is. This is not an abortion. This procedure is a convenient method for some practitioners to terminate the lives of otherwise viable infants.

Mrs. SCHROEDER. Mr. Speaker, I yield myself 2 minutes.

(Mrs. SCHROEDER asked and was given permission to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, first of all, let me answer the gentleman who was just in the well. I think it is terribly important to say we were trying to offer the amendment that is the law of the land, which is severe adverse health consequences to the mother. I resent very much hearing that this is about cleft palates and these are designer things and so forth, because this is not, and there is no one in this body trying to make it that way.

Now let me tell you why I hate this debate. I hate this debate because this debate reminds me of my 30th birthday, and let me bring you to my 30th birthday. My 30th birthday was spent in intensive care, an intensive care in which I had been given last rites. I had a 15-day-old baby girl I had not seen and a 4-year-old boy that I was terrified I would not see again. I want to tell the Members, that is scrambling, man. We had doctors, we had everybody running around figuring out what in the world can happen.

I just want to say to people in this Chamber, if you really think families in that situation want you, the U.S. Congress, to come in and tell them

which procedures their doctors may use and which ones they may not use, I think you are wrong. I think doctors think this is a zone of privacy and families think this is a zone of privacy, and that we should trust our doctors, although I understand there are some Members here who trust Hamas more than they trust the Government. But I happen to trust my doctor in that instance a whole lot more than I trust you Members of Congress. I want you to know it.

I want you to know I also looked at your drawings. You know what it said on the bottom? It said, ''Drawing commissioned by the National Conference of Catholic Bishops.'' Maybe they deliver babies, and maybe they practice medicine, but I go with the American College of Gynecologists and Obstetricians, because those are the ones I know that deliver babies. I am tired of the playing politics on this. I think America's families are tired of playing politics on this, and I really think that that is all this is about.

I wish there were some way to bring some sanity to this. My time has expired. I have thousands more I could say, but I only want to tell you, my 30th birthday was hell, and because of people like you, I could be dead, and I resent that very much.

Mr. Speaker, I rise to urge my colleagues to oppose the motion that would send to the President an abortion ban that does not have an exception for the life or health of the woman.

When the House first voted on this bill, we fought hard, but unsuccessfully, for an opportunity to debate and vote on an amendment that would provide an exception to the ban in cases where the woman's life or health is at risk. Since the original House vote on this bill, two noteworthy events have occurred.

First, an Ohio court has issued a 100-page opinion setting forth, with great detail and care, the unconstitutionality of a similar provision passed by the Ohio legislature. Central to the court's analysis is the fact that under Roe versus Wade and later cases, the government cannot ban abortions that are necessary to preserve the life or health of the woman.

Second, on February 28, President Clinton sent a letter to the chairman of the Judiciary Committee clearly stating that he will veto the legislation unless it contains a true exception for the life and health of the woman, as required by Roe versus Wade.

Because H.R. 1833, both in its original form and as amended by the Senate, fail to include any exception for the health of the woman, and because the life exception is too narrowly framed to constitute a true life exception, the bill before us today is unconstitutional. It clearly violates Roe versus Wade, and most importantly, it sends an unacceptable message to American women that their lives and health are not worthy of full protection.

In the course of our committee's hearings on this bill, we heard heart-rending stories from four women whose families benefited from the procedure this bill would ban, all in cases where terrible tragedies occurred late in the woman's pregnancy. As I listened to these women's stories, it became obvious to me that, in many respects, this bill is not about abortion at all. These pregnancies were wanted pregnancies, and the women told us that their families loved and cherished the babies that God was giving to them, no matter what disabilities those babies might have.

Unfortunately, these families had to confront the terrible tragedy that life was not to be for these babies, and they had to make decisions about how to manage the medical crises that confronted them in the way that best safeguarded the woman's life, health, and her ability to have another chance at motherhood. They chose this procedure based on advice from multiple medical specialists, knowing that it posed the least risk to them and their future fertility. Some of these women told us that they were pro-life before they had this procedure, and they remain pro-life today. But they oppose this bill because it bans a medical procedure that preserved their health and their future fertility. Several of these women are pregnant again today, thanks to this procedure that safeguarded their reproductive capacity.

So, in truth, the bill before us today is as much about safe motherhood as it is about abortion. In 1920, 800 women died for every 100,000 live births. In 1990, 10 women died for every 100,000 births. While the maternal mortality ratio in the United States has decreased dramatically, pregnancy-related complications and deaths remain an important public health concern.

We cannot get complacent about safe motherhood. And an adjunct of safe motherhood is that when something goes terribly wrong with a pregnancy, the woman, her family, and her doctor have every right to do everything possible to preserve her future reproductive capacity, so that she can have another chance at motherhood.

So many times when we say the words ''life and health of the woman'' people react as if it's some kind of tricky legal technicality. That women don't die anymore because of pregnancy or childbirth. As a woman who almost died after childbirth, let me assure you, it can happen. And the CDC statistics I am citing are a reminder that the life and the health of the woman can indeed be placed in jeopardy during pregnancies today. The leading causes of pregnancy-related death are hemorrhage, embolism, and hypertensive disorders. Combined, they account for over 70 percent of pregnancy-related deaths. That's why options that reduce the risk of excess bleeding, such as the procedure we are considering today, can in many cases save the life or health of the woman.

You would think that Congress would have the sense to leave the practice of medicine to doctors. You would think that Congress would respect the privacy of the families who confront these terrible tragedies, and their intelligence in deciding how best to manage the life and health risks these tragedies bring with them. Instead, this bill tells these families that Congress would put the doctors who preserved the woman's life, her health, and her future fertility in prison for 2 years.

Look Coreen Costello in the eye, and tell her that the second chance at safe motherhood that this procedure afforded her is something that Congress is taking away. Sit down with her children and explain to them that Congress would subordinate their mother's health to a political agenda, so that supporters of this bill can run sensational 30-second ads to advance their political ambitions.

If this committee were serious about passing a bill that would pass constitutional muster, we would be voting on amendments to cure the constitutional problems that are so carefully detailed in the Ohio court decision and the President's letter. The President's letter makes it clear that he would quickly sign a bill that contained an exception for procedures necessary for the life of the woman or to avert serious adverse health consequences to the woman.

Without altering the bill to cure the vagueness problem, the undue burden on previability abortions, and to add a true life or health exception, everyone in this Chamber knows that this bill would be enjoined immediately by the courts. That being the case, what can the purpose be in forcing this bill to the President's desk without a life or health exception? I am afraid I cannot see one other than political gamesmanship, and it is distressing in the extreme to see that game being played at the expense of the lives and health of very real women in this country, women like Coreen Costello and Mary-Dorothy Line.

Don't play a political game with the lives and health of the women of this country. Don't vote to send this bill to the President without a health exception and without a true life exception.

Mr. Speaker, I include for the RECORD the following:

THE ISSUE IS NOT ABORTION

(By Mary-Dorothy Line)

My husband and I are extremely offended by the ad sponsored by the National Conference of Catholic Bishops that appeared in the March 26, 1996 edition of the Washington Post. A bill pending before the House (H.R. 1833) would ban intact dilation and evacuation (intact D&E) procedures used in some late-term abortions; late term abortions which are provided to protect the mother's life or health when there is no hope for the baby. This legislation is wrong, and it would hurt a lot of American families. We know. We are one of those families.

I am a registered Republican and we are practicing Catholics. Last April, we found out I was pregnant with our first child and were extremely happy. 19 weeks into my pregnancy, an ultrasound indicated that there was something wrong with our baby. The doctor noticed that his head was too large and contained excessive fluid. This problem is called hydrocephalus. Every person's head contains fluid to protect and cushion the brain, but if there is too much fluid, the brain cannot develop.

As practicing Catholics, when we have problems and worries, we turn to prayer. So, our whole family prayed. We were scared, but we are strong people and believe that God would not give us a problem if we couldn't handle it. This was our baby; everything would be fine. We never thought about abortion.

A few weeks later we had two more ultrasounds. We consulted with five specialists, who all told us the same thing. Our little baby had an advanced, textbook case of hydrocephaly. We asked what we could do. They all told us there was no hope and recommended that we terminate the pregnancy. We asked about in utero operations and shunts to remove the fluid, but were again told there was nothing we could do. We were devastated. I can't express the pain we still feel—this was our precious little baby, and he was being taken from us before we even had him.

My doctors, some of the best in the country, recommended the intact D&E procedure.

No scissors were used and no one sucked out our baby's brain as is depicted in the inflammatory ads supporting H.R. 1833. A simple needle was used to remove the fluid—the same fluid that killed our son—to allow his head to pass through the birth canal undamaged. This was not our choice—this was God's will.

My doctor knew that we would want to have children in the future, even though it was the furthest thing from my mind at the time. They recommended the best procedure for me and our baby. Because the trauma to my body was minimized by this procedure, I was able to become pregnant again. We are expecting another baby in September.

I pray every day that this will never happen to anyone again, but it will, and those of us unfortunate enough to have to live this nightmare need a procedure which will give us hope for the future.

Congress needs to hear the truth. The truth does make a difference—when people listen. Last week, I testified at a hearing held in the Maryland legislature. A committee there was considering a bill similar to the one Congress in prepared to pass this week. In Maryland, they listened. And in Maryland, several conservative legislators joined in the 15–6 committee vote to reject this bill.

After seeing the callous way our tragedies are regarded by the proponents of H.R. 1833, I know the only hope to protect families lies with the President of the United States. I am told he is a good man. I am told he listens to people. I hope he listens to us, to the truth, and not to the political propaganda. I pray he shows love and compassion for women like me and families like mine. I pray he vetoes this bill.

Many people do not understand the real issue—it is women's health; not abortion and certainly not choice. We must leave decisions about the type of medical procedure to employ with the experts in the medical community and with the families they affect. It is not the place for government.

Mr. CANADY of Florida. Mr. Speaker, I yield 3½ minutes to the gentlewoman from California [Mrs. SEASTRAND].

Mrs. SEASTRAND. Mr. Speaker, I thank the gentleman from Florida for yielding time to me.

Mr. Speaker, I rise this evening in support of the amended version of H.R. 1833. The practice of partial-birth abortions should spark outrage in all of us. We, of this Congress, have a duty, a duty to protect children who might otherwise fall victim to this procedure. I believe we also have a duty to protect women from the scandalous falsehoods perpetrated by the opponents of this bill.

Those desperate to obscure the true nature of partial-birth abortions claim that the anesthesia given to the mother prior to the procedure results in the death of the child in utero. Based upon this myth they argue that it is misleading to call the procedure a partial-birth abortion, and any concerns that the child experiences pain are misplaced. Extreme abortion advocates have trumpeted this mistaken notion with the complicity of the unquestioning media.

Mr. Speaker, I rely upon the authority of Dr. Norig Ellison, president of the American Society of Anesthesiologists, who says this claim has ''absolutely no basis in scientific fact.''

Dr. David Birnbach, the president-elect of the Society for Obstetric Anesthesia and Perinatology, says it is crazy. The American Medical News reported in a January 1 article that ''Medical experts contend the claim is scientifically unsound and irresponsible, unnecessarily worrying pregnant women who need anesthesia.''

During the House and Senate debates over this measure, we heard several of the opponents piously express concern for the health of women. Yet, they willingly propagate the mistaken rhetoric of the extreme pro-abortionists, and undoubtedly frighten pregnant women in need of anesthesia for other medical reasons.

In Dr. Ellison's words:

> I am deeply concerned that the widespread publicity may cause pregnant women to delay necessary and perhaps life-saving medical procedures totally unrelated to the birthing process, due to misinformation regarding the effects of anesthetics on the fetus.

Mr. Speaker, the Senate amendments to the bill clearly make an exception should the life of the mother depend on the employment of this procedure. I am satisfied that no woman will be harmed as a result of this legislation, and many children will be spared a particularly gruesome fate. To oppose this bill is to display the extremism in the defense of abortion rights that is beyond reason and without compassion.

In the immortal words of Abraham Lincoln:

> Fellow Citizens, we cannot escape history . . . The fiery trial through which we will pass will light us down, in honor or dishonor, to the latest generation.

Let it be recorded by history that this Congress took a stand, not only against cruel medical practice, but for the life and death of women.

□ 1900

Mrs. SCHROEDER. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York [Mrs. LOWEY], the distinguished cochair of the Caucus on Women's Issues.

(Mrs. LOWEY asked and was given permission to revise and extend her remarks.)

Mrs. LOWEY. Mr. Speaker, I rise in opposition to H.R. 1833.

Mr. Speaker, we are here today debating this extreme bill because the Republican leadership is absolutely committed to eliminating the right to choose. The pro-life majority in this House has restricted abortion rights throughout the last year—and this bill is yet another step on the road to the back alley. This legislation will criminalize abortion, harass doctors, and prevent women from getting the medical care they need.

Families facing a late-term abortion are families that want to have a child. These couples have chosen to become parents, and only face terminating the pregnancy due to tragic circumstances. Terminating a wanted pregnancy at this stage is agonizing and deeply personal.

This procedure is not about choice, It is about necessity.

Let me tell you about Claudia Ades, who lives in Sanata Monica, CA. She heard about this bill, and called to ask me if there was anything she could do to defeat it. As Claudia said so passionately, ''This procedure saved my life and my family.''

Three years ago, Claudia was pregnant and happier than she had ever been. However, 6 months into her pregnancy she discovered that the child she was carrying had severe fetal anomalies that made its survival impossible, and placed Claudia's own life at risk.

After speaking to a number of doctors, Claudia and her husband finally concluded that there was no way to save the pregnancy. ''This was a desperately wanted pregnancy,'' Claudia said, ''But my child was not meant to be in this world.''

Those of us with healthy children can only imagine the horror that Claudia felt when she received the news about her condition. It is the news that all mothers pray every day they will never hear.

But, in those tragic cases where families do hear this horrible news, who should decide? The one thing that I know for sure is that the decision should not be made by Congress. At that horrible, tragic moment, the Government has no place.

Now, the Republican leadership could have made this a better bill by including real life and health exceptions. Not the sham life exception that's included in this bill—written by the Republican presidential candidate from Kansas who never met an abortion restriction that he didn't support. President Clinton even indicated that he would sign the bill if it contained real exceptions. But the Republican leadership doesn't want the President to sign this bill—they want him to veto it. This entire debate is a pay-off to the Christian Coalition and an exercise in election year political theatre.

Mr. Speaker, President Clinton's veto pen is the only thing protecting American women from the back alley. H.R. 1833 is an extreme bill that will put the lives of American women at risk. I urge its defeat.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. GOODLATTE], a member of the Committee on the Judiciary.

Mr. GOODLATTE. Mr. Speaker, I thank the chairman for his fine work.

Mr. Speaker, today I rise in support of an eminently reasonable bill to ban a heinous procedure to partially deliver fully formed babies, and then kill them. Again, I repeat, this is a very reasonable bill which the majority of Americans wholeheartedly support. Those who oppose this bill are the excessive ones.

Already, 288 of the Members of this House have voted to ban partial birth abortions. The bill before us today is identical except for three minor changes—all of which I support:

It still allows an exception to the ban in order to save the life of the mother, and now provides in those cases that the prosecution must prove that there was no other alternative available to save the mother's life, rather than placing the burden on the physician.

It clarifies that only the physician who performs the abortion may incur civil liability under the bill.

It allows fathers to sue a physician for damages only if the father and mother of the child were married when the abortion was performed.

We must put an end to this barbaric procedure where the difference between abortion and murder is literally a few inches. This is effective legislation to ban an unbelievably gruesome act. I urge my colleagues to support it.

Mrs. SCHROEDER. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. FRANK], the ranking member of the subcommittee.

Mr. FRANK of Massachusetts. Mr. Speaker, I salute the courage of the gentlewoman from Colorado [Mrs. SCHROEDER] and her willingness to take this issue on.

Mr. Speaker, we are clearly here dealing with a political issue. We heard one of the previous speakers say the purpose of it is to give the President something to veto. The President has said, amend this bill and he will sign it. Amend it to say that if the particular procedure is deemed necessary by a doctor to avoid serious adverse health consequences, he can do it.

Understand that this bill would say to a doctor, if in his judgment performing the abortion in this way is necessary to prevent severe physical damage to the mother, as long it is not life-threatening, he cannot do it. He can do it if it will save her life, but if it will destroy forever her chances of having a child, if it will cause her serious, long-lasting physical pain and disability, this bill says it is a crime to do it.

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Speaker, I think the gentleman is absolutely correct. They are saying that there is a life exception, but it is very cosmetic because the way I read the bill, it is that the doctor would have to prove there was no other medical procedure that would suffice, and maybe there is another medical procedure but it would not be as good for her outcome.

Mr. FRANK of Massachusetts. Mr. Speaker, reclaiming my time, and of course that is only life. It does not deal with health. The majority refused to allow an amendment. Be very clear about it. We have twice asked them let us vote, as the Senate did, and the amendment in the Senate got 46 votes and lost narrowly.

Members have said, ''Your health exception is too broad.'' My colleagues on the other side of the aisle can narrow it if they want to. But they cannot, however, object that we have one that is too broad when they have none at all; when they are asking the House to vote for a bill that will make it a crime for a doctor to perform this procedure even if he believes that performing it is necessary to prevent serious physical, long-lasting, permanent damage to the mother. That is not a reason for going forward under this outrageous bill.

Mrs. SCHROEDER. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, I salute the gentlewoman from Colorado for her leadership, and I want to reiterate some of the points that have been made before.

Mr. Speaker, it all boils down to this: A doctor is in an operating room, an obstetrician-gynecologist. There is a serious problem that evolves and the doctor has to make a judgment. Does it make any sense for this body, or for any body, to impose the threat of a crime, a criminal penalty and a jail sentence, on that doctor while he or she is making the decision about what is best for health or for life?

Then let us say that we even go with the narrow amendment of life. What is the doctor going to do? Is a doctor not supposed to worry that maybe his or her judgment is different than what a jury might determine 2 years later, not under the glare of the operating room lights?

This amendment is regrettable. It is unfortunate. I have some sympathy with those that disagree with my view on the issue of choice, about the idea that it should not be easy and it should not be a quick decision, and abortion should not be a method of birth control. We are not talking about that here because in these cases the mother, the parents, wanted to have the baby but something happened and an emergency may occur. We, again without a bit of knowledge of what is actually the best medical procedure, are imposing something here, and that is simply wrong.

I would say to my colleagues, resist this amendment. It is not going to be an issue in political campaigns, believe me. It is too arcane and too gruesome. Do the right thing. Rise to the occasion and vote down this awful amendment.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. ROEMER].

(Mr. ROEMER asked and was given permission to revise and extend his remarks.)

Mr. ROEMER. Mr. Speaker, we hear now today from some of our colleagues that this is an issue of privacy and the U.S. Congress should not vote on it. We vote on issues of speech, and that is very private. We vote on issues of prayer, and that is very private. We vote on issues of guns, and that is everywhere private. Certainly we should vote to ban this kind of procedure that takes the life of a partially delivered baby.

I hear some of my colleagues on this side of the aisle even say that this is a regrettable procedure, an unfortunate procedure. This is a gruesome and brutal procedure, and as we spend billions of dollars every single year on medicine and technology, certainly there is no room in our society for this kind of procedure to continue to take place in 1996, no matter what your view is as a pro-life or a pro-choice Member of Congress.

What are we voting on? A partial birth abortion is defined as a procedure in which a doctor partially delivers a living fetus before killing the fetus and completing the delivery. That is what we are voting on.

What have we added to this in chapter 74, section 1531? ''This paragraph shall not apply to a partial-birth abortion that is necessary to save the life of the mother whose life is endangered by a physical disorder, illness or injury.''

Finally, let me conclude by saying this issue should not divide pro-choice and pro-life. It should not divide women and men. It should not divide Democrats and Republicans. It is a brutal and inhumane procedure that should be banned, and I urge my colleagues to support this bill.

Mrs. SCHROEDER. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Mrs. LOFGREN], a distinguished Member of the Committee on the Judiciary.

Ms. LOFGREN. Mr. Speaker, politicians in Congress have issues. We have wedge issues, we have issues we put in direct mail and we have rhetoric. I have heard a lot of partial discussions, selected comments that are meant to inflame, meant to persuade, and I think in some cases meant to mislead. But the people who will be hurt by this bill do not have issues. They have tragedies, and they do not need this bill to pass.

Mr. Speaker, I want to talk about people I really know, my friend Suzie Wilson's son and daughter-in-law, Bill and Vicki Wilson, and their wonderful children, Jon and Kaitlyn, because 2 years ago this April 8th they lost Abigail.

They were very much looking forward to Abigail. They had had two baby showers. The nursery was full of pink ribbons waiting for Abigail, and in the eighth month they found out that all of Abigail's brains had formed outside of her cranium and that there was no way that this child could survive. It was a tragedy.

They took their case to the doctor, who was able to save Vicki's life and to save her fertility. The question that faced them was not whether Abigail could live, but how would Abigail die and whether Vicki's uterus would burst while Abigail was dying.

I am glad that Vicki and Bill had the chance they did to keep their family intact. I know because we had a lot of tears, we friends of the family. They did not need the Congress of the United States to help them at that moment. They needed a doctor. They needed the

love of their friends and their family. They needed the guidance of God.

Mr. Speaker, I have talked to Members in this body who have told me privately that if it were their wife, they would want this procedure, and then gone ahead and voted for this bill. I would ask all of you, do your politics with some other issues. Hurt someone else. Search your conscience and look at my friends, the Wilson family. Think of them and put politics aside.

Mrs. SCHROEDER. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Georgia [Ms. MCKINNEY].

Ms. MCKINNEY. Mr. Speaker, on Friday this House voted to repeal the assault weapons ban as a payoff to the NRA. Today we are voting to ban a rare but sometimes medically necessary procedure as a payoff to certain right-wing elements within the Republican party.

Mr. Speaker, we need to be honest with each other. Anti-choice forces see this ban as the first step toward ending a woman's right to choose in America. As far as the anti-choice forces are concerned, there is no difference between the procedure we are debating today and abortions in the cases of rape and incest.

□ 1915

Yet these same radicals believe that properly manipulated, this late-term procedure can be the wedge issue to divide the overwhelmingly pro-choice American public. Today, it is this procedure. Tomorrow, it is family planning.

Mr. Speaker, no one in this body likes this procedure. And, yes, it is unpleasant. But this rarely used medical procedure remains necessary to ensure that women who must have an abortion are still able to bear children afterwards.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentlewoman from Idaho [Mrs. CHENOWETH].

Mrs. CHENOWETH. Mr. Speaker, I rise today in absolute support of H.R. 1833.

As I walked to the floor this evening, it struck me how ridiculous and sad it is that in this great Chamber in this great Nation, we should even be debating this issue.

What we are talking about today is not the issue of abortion per se.

That is a discussion for another time, and that time will come.

What we are talking about is a procedure that is positively medieval.

The issue of abortion is very emotional and I try to avoid using inflammatory rhetoric on the issue, because I have felt it didn't further the debate.

But in this case murder is not too strong a term.

Partial birth abortion is murder, cold, grisly, and premeditated.

Partial birth is used on babies who are up to 9 months in the womb.

The ninth and final month.

At 9 months, what is the difference between a baby in the womb or a baby in the crib? One is just as helpless as the other.

And yet this procedure exists and is used at will.

We have seen statements from abortionists that not only have they frequently performed this procedure, but they have often performed it in purely elective circumstances.

Can anyone argue that this chilling act is medically necessary?

The American Medical Association's Council on Legislation voted unanimously to recommend that the AMA board of trustees endorse H.R. 1833.

Many council members agreed that, ''the procedure is basically repulsive.''

To condone the practice of partial birth abortion is to discard and disgrace every shred of morality that we as human beings should embrace.

Mr. Speaker, I strongly urge my colleagues to take a stand against this evil procedure known as partial birth abortion and vote for H.R. 1833.

Mrs. SCHROEDER. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Kansas [Mrs. MEYERS].

Mrs. MEYERS of Kansas. Mr. Speaker, we know that after the 24th week, only .01 percent of all abortions are performed, .01 percent. There are two or three procedures that are used, meaning that this particular procedure is used in only a portion of that .01 percent. Of these procedures, all are more terrifying and unpleasant than this one. But if a woman is carrying a fetus which has a severe abnormality or if the woman has a severe health condition which threatens her health if she continues to carry the fetus, one of these procedures must be used. The bill itself states that there are circumstances in which no other procedure will suffice.

The Senate amendments improved the bill only marginally, and I must still vote ''no'' because, one, I believe strongly that we should not remove a medical option that might preserve the health of a woman or preserve the ability of a woman to have future children. Second, I believe strongly that we should not decide medical procedures on the floor of this House and am deeply concerned about where this might lead. And, third, I believe strongly that we should not criminalize a medical procedure. For these three reasons, I must vote ''no.''

Mrs. SCHROEDER. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. WOOLSEY].

Ms. WOOLSEY. Mr. Speaker, I rise in opposition to H.R. 1833 and criminalizing late-term abortions.

First of all, this conference report is a cruel, a very cruel attempt to make a political point. Make no mistake about it, ladies and gentleman, this conference report, with all of the emotional rhetoric and the exaggerated testimony, is a frontal attack on Roe versus Wade by the Gingrich majority, plain and simple. With the Gingrich majority, what they want is to do away with Roe. The radical rights wants to do away with Roe, and H.R. 183 is a good first step as far as they are concerned. So let us be honest about what this debate is really about.

This legislation seeks to prohibit the wide array of medical techniques which are rarely used but are sometimes required in the late stages of pregnancy, like with the Wilson family, in extreme and tragic cases when the life of the mother is in danger, or the fetus is so malformed that it has absolutely no chance of survival; for example, when the fetus has no brain, or the fetus is missing organs or the fetus's spine has grown outside of its body, when the fetus has zero chance of life, when women are forced to carry these malformed fetuses to term, they are in danger of chronic hemorrhaging, permanent infertility, or death.

Woman and their doctors need to make these decisions, not the Congress. Like the Wilsons, the family needs to make this decision with their doctors, not the Congress.

I urge my colleagues to oppose the conference report on H.R. 1833.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, children, however dependent, are not property and no child is ever a throw-away. A pregnancy is not a disease. Yet partial-birth abortions treat a partially delivered child as a tumor, as a wart, as a disease to be destroyed.

Even if you have a doubt, I say to my colleagues concerning the humanity of an unborn child, can you not resolve that doubt in the baby's favor when the infant is half delivered?

Mr. Speaker, for the first time ever, Democrats and Republicans will send to the President a bill that says ''no'' to the horrific procedure that literally sucks the brains out of a baby's head. This poster to my left is not some kind of fiction. It is the reality of this horrendous child abuse.

A registered nurse, Brenda Pratt Shafer, said after seeing some of these partial-birth abortions, and I quote, ''The baby's body was moving, his little fingers were clasping together, he was kicking his feet. All the while, his little head was stuck inside.'' Dr. Haskell took a pair of scissors and inserted them into the back of the baby's head. Then he opened up the scissors. Then he stuck a high-powered suction tube into the hole and sucked the baby's brains out.

Mr. Speaker, for the first time ever, despite the extraordinary ability of the pro-abortion lobby to obfuscate and confuse, the reality of abortion is finally getting the scrutiny it deserves. By addressing this particular kind of abortion, this legislation compels us to face the dark secret, the cold fact that an unborn baby dies in every abortion.

I am astonished that Members can support this kind of abortion. Two decades of cover up are over. I would say to colleagues that the brutal methods,

whether it be chemical poisoning or suction, dismemberment of a baby, in this case a partially delivered baby killed with brain suction, this must be brought to the forefront so the people know exactly what is going on.

I hope the President says to the bill that he will sign it. I hope he signs it. It is not likely. He will have earned the legacy of being the abortion President. What a tragic, what a pathetic legacy to be the abortion President, especially a man who once in his past used to be pro-life.

Mrs. SCHROEDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am sorry the gentleman would not yield. I wanted to point out it does say it was the Conference of Catholic Bishops that created that poster.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Hawaii [Mrs. MINK].

(Mrs. MINK of Hawaii asked and was given permission to revise and extend her remarks.)

Mrs. MINK of Hawaii. Mr. Speaker, it is really tragic, tragic that the personal problems and the anxieties of women who face these very, very difficult decisions that must be made with respect to their health and their safety and the integrity of their family and to have those tragic circumstances of a person's life be used under these circumstances to advance this political goal of trying to do away with abortion.

But I think that the debate clearly points out that what is being attempted here is a denunciation of the rights of women that have been created by the U.S. Supreme Court. That is what is at stake here.

It is not this procedure that is used so few times out of necessity, but it is the principle of interfering with the doctor and the women that require this procedure, taking away that right of a woman to make this difficult decision, taking away the right of a woman to consult with her physician about what needs to be done, allowing the Congress of the United States to make these decisions. I think that is the most reprehensible thing we could even think of.

We talk about getting big government off of the backs of people. Well, let us concentrate about what we are trying to do today. We are trying to take away the rights of reproductive freedom that the Supreme Court has established, which the courts have said we must not interfere, and this is what is before us today, and that is why this Congress must oppose it. That is why this bill must never become law. It is trying to dictate to the doctors how to practice and criminalize their profession. I think it is outrageous.

Mrs. SCHROEDER. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas [Ms. JACKSON-LEE], a distinguished member of the Committee on the Judiciary.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentlewoman for yielding this time to me.

I am not a criminal, Mr. Speaker. And I am ashamed that what we are doing today may, in fact, makes innocent women, women who love children, criminals. Coreen Costello, Mary-Dorothy Lines, Claudia Ades, Viki Wilson, Tammy Watts, and Vikki Stella, all women who offered their most personal stories about wanting to conceive and to have a loving child and yet coming upon a physical and debilitating need to have a medical procedure.

Today we have legislation that will not cover all cases where a woman's life is in danger. The bill will not provide a health exception. H.R. 1833 creates obstacles to medical research, and tragically the life exception will not protect women. Criminals, we are making. Women, their families, their physicians. This is not the way to go.

In order to suggest that those of us who rise to support the rights of women do not have a love of a higher authority, how shameful. This is a bad bill. It does not help this country. It does not help women, and it certainly does not help the love we have for our children.

Mr. CANADY of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to respond to a point that was made a few moments ago about this bill criminalizing the activities of women and making criminals of women. That is simply not true.

I would suggest that before Members come to the floor to speak about the bill, they might want to read the bill. The bill says clearly a woman upon whom a partial-birth abortion is performed may not be prosecuted under this section.

Mr. Speaker, I reserve the balance of my time.

□ 1930

Mrs. SCHROEDER. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from New York [Mrs. MALONEY].

Mrs. MALONEY. Mr. Speaker, I rise in opposition to H.R. 1833. In yet another attempt to roll back a woman's right to choose, to roll back Roe versus Wade, and make all abortions illegal, choice opponents are putting forward legislation which could endanger a woman's life and her ability to have children in the future.

How odd that the majority party would describe itself as family friendly. Plain and simple, the supporters of this bill feel it is more important to save a doomed fetus than the life of a mother and her ability to have children in the future.

Coreen Costello is the mother of two. The Dole amendment would not have allowed her to use this procedure. Coreen Costello said in front of the Senate in her testimony that she would have taken any child that God gave her, regardless of any handicap. But her child was a child that could not live. Fortunately for Coreen and her family, her doctor was able to save her life and her fertility. She is now expecting her next child.

But what about the women who come after Coreen? What will happen to them, their health, their lives, their families, if this life-saving procedure is outlawed? Congress has no place in their decisions and no place in their tragedies.

Mrs. SCHROEDER. Mr. Speaker, I yield 3 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the gentlewoman from Colorado for yielding me time.

If your daughter and son-in-law were faced with the extraordinary tragedy of discovering extreme fetal deformity late in pregnancy or a life threatening development with abortion being the only alternative, would you, would you, each individual Member of this body, want her to have available to her the procedure that was the least threatening to her life and the most protective of her future reproductive capability and the most respectful of the need for the parents to be and their living children to mourn their tragic loss?

Consider the experience of Coreen Costello. Mrs. Costello and her husband hold strong pro-life views, but were suddenly faced with the terrible and painful truth of the problems with her pregnancy. Specialists had determined that the baby had a lethal neurological disorder. Doctors at Cedars-Sinai told the Costellos that their daughter would not live, and due to the amniotic fluid pooling in Mrs. Costello's uterus, as well as the baby's position, there was a serious risk of a ruptured uterus. Natural birth or an induced labor were impossible. Coreen Costello then considered a caesarean section, but the doctors at her hospital were adamant that the risk to her health and life were simply too great.

She and her husband chose not to risk leaving their other children motherless by opting for a D&E procedure. Because of the safety of the procedure, Coreen is now pregnant again.

What right have we here in Congress on this floor to say to this family that you should have risked mom's life and ignored your doctor's advice? By what authority do we tell these women that we know more in each of their cases than their own physicians?

It is ironic that some of you here are advocating legislation that would assure that managed care plans guaranteed physicians the right to tell women all the medical possibilities for treatment, and yet you will legislate here tonight the denial to women of America who face terribly tragic, painful, personal circumstances of the right to have the medical procedure that in truth is safest for them and most protective of their reproductive capability, assures them to the maximum extent possible that they will have more children in their future.

Men of the House of Representatives, women who are Members of Congress,

if it were your daughter, would you not want her life and reproductive hopes and dreams protected? Of course you would. Do not do this shortsighted, mean-spirited, terrible thing to women in our Nation.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentlewoman from North Carolina [Mrs. MYRICK].

Mrs. MYRICK. Mr. Speaker, I honestly believe that a lot of the problems we have today in society stem from the fact that we have no regard for human life. You can call me old-fashioned, but I believe every individual born into this world is special, needed and important.

You know, our forefathers shared this philosophy when they wrote in our Declaration of Independence that we are endowed by our Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness.

I ask that we consider the difference. A doctor performs a painful, cruel, partial abortion one day, and it is accepted. And then the next day, if that same mother gave birth to the same age child and then she killed her child, she would be charged with murder. Only a few hours separates these two acts, but one is considered justified and accepted, even promoted, and the other is considered unjust. There is something wrong with our society today if we continue to justify such an unjust procedure.

Mrs. SCHROEDER. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Speaker, I know that there are some Members of Congress who believe they know everything about everything, but maybe once in awhile Members of this body might want to show a little humility. We are discussing a procedure which, as I understand it, is used in .01 of 1 percent of abortions, a situation which occurs only under the most tragic circumstances.

Day after day we hear from our conservative friends about how the big, bad Government should leave people alone and get off of the backs of people. I would urge our conservative friends to heed that advice on this occasion.

This is a tragic circumstance. Let the woman, let her family, let the physician make that decision, not the politicians in Congress.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Missouri [Mr. VOLKMER].

(Mr. VOLKMER asked and was given permission to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker, I rise today in strong support of H.R. 1833, the Partial Birth Abortion Ban Act. Today's battle for the rights of the unborn differ from previous prolife and proabortion debates. Yes, this debate today will not stop all abortions. It will only stop one procedure, the partial birth abortion. It brings to light the fact that when a woman and her unborn child have this type of procedure, that only the woman leaves the operating room.

Mr. Speaker, I think we are all forgetting one thing: A third trimester baby has a very good chance of living, if it was allowed to be born without interference. I urge my colleagues who might otherwise not support a prolife piece of legislation to support this legislation, which simply and narrowly protects against partial birth abortions.

This debate is not about a woman's right to choose, because there are other options. This debate today is about putting an end to a procedure that kills a child just a few inches from full birth.

Mrs. SCHROEDER. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. BECERRA] a distinguished member of the Committee on the Judiciary and also the spouse of a distinguished physician.

Mr. BECERRA. Mr. Speaker, I thank the gentlewoman for yielding me time.

Mr. Speaker, I am confused. The debate I am hearing from that side has nothing to do with the medical procedure that it seems we are trying to ban. I continue to hear people talk about how we are conducting abortions on babies that otherwise would be able to survive; if the pregnancy were to go to term, we would have a living baby. When in fact, as my wife who happens to be a high-risk obstetrician-gynecologist who deals specifically with women who have difficult pregnancies, has said, this is not a procedure where you are talking about a fetus that will go to term and where you will have a healthy baby born. This is a procedure that is used when it is fairly clear that the baby has no chance to live, and to allow the pregnancy to go to term would jeopardize the health and perhaps the life of the woman. So it seems like the debate is not really on point.

Now, let me read something that came from the American College of Obstetricians and Gynecologists, those doctors that are asked to perform these types of procedures and to protect the women involved.

They state:

> The college finds very disturbing any action by Congress that would supersede the medical judgment of trained physicians and that would criminalize medical procedures that may be necessary to save the life of a woman. Moreover, in defining what medical procedures doctors may or may not perform, the bill employs terminology that is not even recognized in the medical community, demonstrating why congressional opinion should never be substituted for professional medical judgment.

Mr. Speaker, I think that states it best. We have people here who are trying to impose their opinion on a medical profession where technical, highly sophisticated, highly trained individuals are being asked to perform lifesaving procedures.

It does not make sense. We should stay out of this. We should let a woman make that very difficult choice of what type of procedure she would need to preserve her health and her life, and perhaps have a chance to have a pregnancy that will be able to go to term.

Mr. Speaker, I would urge Members to seriously consider voting strongly against this particular bill, because it does not do what the proponents say.

Mrs. SCHROEDER. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore (Mr. ROGERS). The gentlewoman from Colorado is recognized for 2½ minutes.

Mrs. SCHROEDER. Mr. Speaker, as a woman, when I am with my doctor, I want that doctor focused on my health, and not on their criminal liability. What this bill does is it will focus any doctor on steering away from what they think might be best for the patient, because they could serve 2 years in prison or they could have a criminal record, or on and on and on.

Mr. Speaker, I think every citizen thinks that that is a zone of privacy. This Congress has never interfered in that zone of privacy between a family and their physician. Today, for the first time, if this bill becomes law, we will be moving to make an act criminal by a doctor. I much more trust my doctor than I do Members of this body, I am sorry to say, so I get very angry when I hear some of the things that have been said here.

I have heard people talk about ''inhumane, brutal, gruesome, terrible.'' We have seen the drawings. The drawings were not done by the American College of Gynecologists and Obstetricians. They do not support this bill. They were done, as they say rightfully, by the Catholic Conference of Bishops. Now, they have the right to make their case here, but, please, again, I think most Americans trust their doctors to make those difficult decisions.

We have heard about pain, we have heard about everything. I sat through those hearings. The anesthesiologists who testified said that there is pain in everything. There is pain in birth. So if we are just going to outlaw anything that is painful, we are going to be a very busy Congress. What they were saying is what happened, some of the advocates were misstating anesthesiology procedures. That is possible, because people here are not doctors.

□ 1945

But they were not supporting the bill. They were just trying to set the record straight. Bottom line, as the gentlewoman from Kansas said, these are in very tragic circumstances. Only .01 percent of all abortions would be affected by this. These are basically a handful of doctors, and thank goodness a handful of families. But I must say as one who has been there, one who almost lost her life, I would be terribly resentful of this happening, and I never thought it could happen to me, so I say to people, please, please, I know this is a difficult issue.

Anything you cannot explain, anything that is difficult to explain, people hesitate to vote against. But please

be willing to make this explanation. It is much too important for America's families.

Mr. CANADY of Florida. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Nevada [Mrs. VUCANOVICH].

(Mrs. VUCANOVICH asked and was given permission to revise and extend her remarks.)

Mrs. VUCANOVICH. Mr. Speaker, I strongly urge my colleagues to support H.R. 1833 with the Senate amendments which would ban this brutal procedure know as partial-birth abortion.

Mr. Speaker, as many of you know, I have 15 grandchildren. Two of my grandchildren, the miracle twins as I call them, were born prematurely at 7 months. They were so tiny that they could fit in your hands but they were perfectly formed little human beings and they are now 14 years old.

It makes me shudder to think that somewhere, perhaps even today, in this country that there are other little preborn human beings 7 months old in their mothers womb that are going to be subject to this brutal, horrible procedure known as a partial birth abortion.

I am not the only one who finds this procedure horrifying. The American Medical Association's Legislative Council unanimously decided that this procedure was not ''a recognized medical technique'' and that ''this procedure is basically repulsive.'' This is especially true when you realize that 80 percent of these types of abortion are done as a purely elective procedure. It is important to note that this bill does make exception for this type of abortion if it is necessary to save the life of the mother, however, this is an exception that will have to be used rarely.

I think we can all agree that it is inhuman to begin the birthing process and nearly complete the delivery of the baby, only to suck the life out of the child.

I strongly urge my colleagues to support H.R. 1833, with the Senate amendments, which would ban this brutal procedure known as partial birth abortion.

Mr. CANADY of Florida. Mr. Speaker, I yield the balance of my time to the gentleman from Illinois [Mr. HYDE], chairman of the Committee on the Judiciary.

The SPEAKER pro tempore (Mr. ROGERS). The gentleman from Illinois is recognized for 5 minutes.

(Mr. HYDE asked and was given permission to revise and extend his remarks.)

Mr. HYDE. Mr. Speaker, I listened with great intensity to the debate this evening. It is an important debate. I heard the gentleman from Vermont talk about humility, and he is absolutely right. You do not deal with people's lives in a sense of arrogance at all. But at the same time, if you believe you are right, if you are convinced that you possess the truth and you remain silent, you become the accomplice of liars and forgers. I just ascribe the failure to consider the unborn, and I listened to all of the impassioned remarks of my friends on the other side, they never talk about the unborn. It is the woman, it is her family, it is her doctor, but the little tiny infant in the shadows, the absent person, the invisible person is the unborn, and that is a failure of imagination. That is a compassion deficit.

Mr. Speaker, I guess you have to be healthy to be born. I guess our Declaration of Independence, when it talked about the right to life being inalienable should have said if you are healthy, if you are healthy. God help you if you are handicapped before you are born. But if you make it through the birth canal, we will give you a preferred parking place. That is the way we deal with those situations. No, the partial birth abortion, which is just what it is. It is not an exercise of reproductive rights, and it is not a fetus. It is an abortion. It is not a termination of a pregnancy. It is an extermination of a defenseless little life whose little arms and little legs are wiggling until that scissors gets shoved in his neck and then they stiffen. We heard that testimony. Some of you heard that testimony. There is a coursening of our national conscience when you tolerate this form of torture.

Catholic bishops. Thank God somebody cares about this grotesquery. Thank God, I do not think that invalidates those charts. A political goal? If defending human dignity is political, then I plead guilty. But somebody has to speak up for that little defenseless child almost born, three-quarters born, just the little head left, and they brutally kill that little child, and you do it in the name of compassion. I am sorry, I think that is a coursening, a desensitizing of our conscience.

This bill outlaws a uniquely barbaric method of abortion. Even to describe it is painful, but it is not as painful as the pain that little unborn child feels. If steel traps are too brutal for wild animals, what is too brutal for a tiny member of the human family, an almost-born infant? Have you heard of PETA, People for the Ethical Treatment of Animals? We need a PETA for humans, people for the ethical treatment of tiny, defenseless, cannot rise up in the streets, cannot vote, cannot escape members of the human family. You would not treat a coyote like you treat this little almost-born baby.

Members keep insisting the Government should not intervene. Well, I know some Members are for Government intervention in everything but abortion. I understand that. But who will speak for the baby if the Government does not? What is the purpose of law to protect the weak from the strong? What is weaker than a little child almost born and you destroy that child in a barbaric way? No, I am glad the Government is there. I am not that libertarian that I do not think that Government should not protect the weak from the strong.

The only thing Members consider is the autonomy of the woman, the woman. Well, God bless the woman, and she needs help and care and love and nurturing. But what about the little baby? Why do you leave that out of your equation, our of your calculus?

We had four anesthesiologists tell us those little babies feel pain. That is why they get anesthesia. One of the head of the anesthesiology department at Emory University says the pre-term baby feels pain more that when it is born. That validates the title ''silent scream.'' What about the pain felt by the little baby? Not a word, not a word.

Is there anything, is there anything we say no to? Is everything permitted? God help us if that is true. Let us draw the line here. This should not be tolerated.

Mr. DICKEY. Mr. Speaker, I submit the following material for enclosure in the RECORD:

DILATION AND EXTRACTION FOR LATE SECOND TRIMESTER ABORTION—PRESENTED AT THE NATIONAL ABORTION FEDERATION RISK MANAGEMENT SEMINAR, SEPTEMBER 13, 1992

(By Martin Haskell, M.D.)

INTRODUCTION

The surgical method described in this paper differs from classic D&E in that it does not rely upon dismemberment to remove the fetus. Nor are inductions or infusions used to expel the intact fetus.

Rather, the surgeon grasps and removes a nearly intact fetus through an adequately dilated cervix. The author has coined the term Dilation and Extraction or D&X to distinguish it from dismemberment-type D&E's.

This procedure can be performed in a properly equipped physician's office under local anesthesia. It can be used successfully in patients 20–26 weeks in pregnancy.

The author has performed over 700 of these procedures with a low rate of complications.

BACKGROUND

D&E evolved as an alternative to induction or instillation methods for second trimester abortion in the mid 1970's. This happened in part because of lack of hospital facilities allowing second trimester abortions in some geographic areas, in part because surgeons needed a ''right now'' solution to complete suction abortions inadvertently started in the second trimester and in part to provide a means of early second trimester abortion to avoid necessary delays for instillation methods.[1] The North Carolina Conference in 1978 established D&E as the preferred method for early second trimester abortions in the U.S.[2,3,4]

Classic D&E is accomplished by dismembering the fetus inside the uterus with instruments and removing the pieces through an adequately dilated cervix.[5]

However, most surgeons find dismemberment at twenty weeks and beyond to be difficult due to the toughness of fetal tissues at this stage of development. Consequently, most late second trimester abortions are performed by an induction method.[6,7,8]

Two techniques of late second trimester D&E's have been described at previous NAF meetings. The first relies on sterile urea intra-amniotic infusion to cause fetal demise and lysis (or softening) of fetal tissues prior to surgery.[9]

The second technique is to rupture the membranes 24 hours prior to surgery and cut the umbilical cord. Fetal death and ensuing autolysis soften the tissues. There are attendant risks of infection with this method.

In summary, approaches to late second trimester D&E's rely upon some means to induce early fetal demise to soften the fetal tissues making dismemberment easier.

PATIENT SELECTION

The author routinely performs this procedure on all patients 20 through 24 weeks LMP

Footnotes at end of article.

with certain exceptions. The author performs the procedure on selected patients 25 through 26 weeks LMP.

The author refers for induction patients falling into the following categories: previous C-section over 22 weeks; obese patients (more than 20 pounds over large frame ideal weight); twin pregnancy over 21 weeks; patients 26 weeks and over.

DESCRIPTION OF DILATION AND EXTRACTION METHOD

Dilation and extraction takes over three days. In a nutshell, D&X can be described as follows: dilation; more dilation; real-time ultrasound visualization; version (as needed); intact extraction; fetal skull decompression; removal; clean-up; recovery.

Day 1—Dilation

The patient is evaluated with an ultrasound, hemoglobin and Rh. Hadlock scales are used to interpret all ultrasound measurements.

In the operating room, the cervix is prepped, anesthetized and dilated to 9–11 mm. Five, six or seven large Dilapan hydroscopic dilators are placed in the cervix. The patient goes home or to a motel overnight.

Day 2—Dilation

The patient returns to the operating room where the previous day's Dilapan are removed. The cervix is scrubbed and anesthetized. Between 15 and 25 Dilapan are placed in the cervical canal. The patient returns home or to a motel overnight.

Day 3—The Operation

The patient returns to the operating room where the previous day's Dilapan are removed. The surgical assistant administers 10 IU Pitocin intramuscularly. The cervix is scrubbed, anesthetized and grasped with a tenaculum. The membranes are ruptured, if they are not already.

The surgical assistant places an ultrasound probe on the patient's abdomen and scans the fetus, locating the lower extremities. This scan provides the surgeon information about the orientation of the fetus and approximate location of the lower extremities. The transducer is then held in position over the lower extremities.

The surgeon introduces a large grasping forcep, such as a Bierer or Hern, through the vaginal and cervical canals into the corpus of the uterus. Based upon his knowledge of fetal orientation, he moves the tip of the instrument carefully towards the fetal lower extremities. When the instrument appears on the sonogram screen, the surgeon is able to open and close its jaws to firmly and reliably grasp a lower extremity. The surgeon then applies firm traction to the instrument causing a version of the fetus (if necessary) and pulls the extremity into the vagina.

By observing the movement of the lower extremity and version of the fetus on the ultrasound screen, the surgeon is assured that his instrument has not inappropriately grasped a maternal structure.

With a lower extremity in the vagina, the surgeon uses his fingers to deliver the opposite lower extremity, then the torso, the shoulders and the upper extremities.

The skull lodges at the internal cervical os. Usually there is not enough dilation for it to pass through. The fetus is oriented dorsum or spine up.

At this point, the right-handed surgeon slides the fingers of the left had along the back of the fetus and ''hooks'' the shoulders of the fetus with the index and ring fingers (palm down). Next he slides the tip of the middle finger along the spine towards the skull while applying traction to the shoulders and lower extremities. The middle finger lifts and pushes the anterior cervical lip out of the way.

While maintaining this tension, lifting the cervix and applying traction to the shoulders with the fingers of the left hand, the surgeon takes a pair of blunt curved Metzenbaum scissors in the right hand. He carefully advances the tip, curved down, along the spine and under his middle finger until he feels it contact the base of the skull under the tip of his middle finger.

Reassessing proper placement of the closed scissors tip and safe elevation of the cervix, the surgeon then forces the scissors into the base of the skull or into the foramen magnum. Having safely entered the skull, he spreads the scissors to enlarge the opening.

The surgeon removes the scissors and introduces a suction catheter into this hole and evacuates the skull contents. With the catheter still in place, he applies traction to the fetus, removing it completely from the patient.

The surgeon finally removes the placenta with forceps and scrapes the uterine walls with a large Evans and a 14 mm suction curette. The procedure ends.

Recovery

Patients are observed a minimum of 2 hours following surgery. A pad check and vital signs are performed every 30 minutes. Patients with minimal bleeding after 30 minutes are encouraged to walk about the building or outside between checks.

Intravenous fluids, pitocin and antibiotics are available for the exceptional times they are needed.

ANESTHESIA

Lidocaine 1% with epinephrine administered intra-cervically is the standard anesthesia. Nitrous-oxide/oxygen analgesic is administered nasally as an adjunct. For the Dilapan insert and Dilapan change, 12cc's is used in 3 equidistant locations around the cervix. For the surgery, 24cc's is used at 6 equidistant spots.

Carbocaine 1% is substituted for lidocaine for patients who expressed lidocaine sensitivity.

MEDICATIONS

All patients not allergic to tetracycline analogues receive doxycycline 200 mgm by mouth daily for 3 days beginning Day 1.

Patients with any history of gonorrhea, chlamydia or pelvic inflammatory disease receive additional doxycycline, 100 mgm by mouth twice daily for six additional days.

Patients allergic to tetracyclines are not given prophylactic antibiotics.

Ergotrate 0.2 mgm by mouth four times daily for three days is dispensed to each patient.

Pitocin 10 IU intramuscularly is administered upon removal of the Dilapan on Day 3.

Rhogam intramuscularly is provided to all Rh negative patients on Day 3.

Ibuprofen orally is provided liberally at a rate of 100 mgm per hour from Day 1 onward.

Patients with severe cramps with Dilapan dilation are provided Phenergan 25 mgm suppositories rectally every 4 hours as needed.

Rare patients require Synalogos DC in order to sleep during Dilapan dilation.

Patients with a hemoglobin less than 10 g/dl prior to surgery receive packed red blood cell transfusions.

FOLLOW-UP

All patients are given a 24 hour physician's number to call in case of a problem or concern.

At least three attempts to contact each patient by phone one week after surgery are made by the office staff.

All patients are asked to return for check-up three weeks following their surgery.

THIRD TRIMESTER

The author is aware of one other surgeon who uses a conceptually similar technique. He adds additional changes of Dilapan and/or lamineria in the 48 hour dilation period. Coupled with other refinements and a slower operating time, he performs these procedures up to 32 weeks or more.[10]

SUMMARY

In conclusion, Dilation and Extraction is an alternative method for achieving late second trimester abortions to 26 weeks. It can be used in the third trimester.

Among its advantages are that it is a quick, surgical outpatient method that can be performed on a scheduled basis under local anesthesia

Among its disadvantages are that it requires a high degree of surgical skill, and may not be appropriate for a few patients.

FOOTNOTES

[1] Cates, W. Jr., Schulz, K.F., Grimes D.A., et al: The Effects of Delay and Method of Choice on the Risk of Abortion Morbidity, Family Planning Perspectives, 9:266, 1977.

[2] Borell, U., Emberey, M.P., Bygdeman, M., et al: Midtrimester Abortion by Dilation and Evacuation (Letter), American Journal of Obstetrics and Gynecology, 131:232, 1978.

[3] Centers for Disease Control: Abortion Surveillance 1978, p. 30, November, 1980.

[4] Grimes, D.A., Cates, W. Jr. (Berger, G.S., et al, ed): Dilation and Evacuation, Second Trimester Abortion—Perspectives After a Decade of Experience, Boston, John Wright—PSG, 1981, p. 132.

[5] Ibid, p. 121–128.

[6] Ibid, p. 121.

[7] Kerenyi, T.D. (Bergen, G.S., et al, ed): Hypertonic Saline Instillation, Second Trimester Abortion—Perspectives After a Decade of Experience, Boston, John Wright—PSG, 1981, p. 79.

[8] Hanson, M.S. (Zatuchni, G. I., et al, ed): Midtrimester Abortion: Dilation and Extraction Preceded by Laminaria, Pregnancy Termination Procedures, Safety and New Developments, Hagerstown, Harper and Row, 1979, p. 192.

[9] Hern, W.M., Abortion Practice, Philadelphia, J.B. Lippincott, 1990, p. 127, 144–6.

Mr. TIAHRT. Mr. Speaker, I believe my colleagues will be interested in Dr. Birnbach's testimony related to partial birth abortions.

Mr. Chairman, members of the subcommittee, my name is David Birnbach, M.D., and I am presently the director of obstetric anesthesiology at St. Luke's-Roosevelt Hospital Center, a teaching hospital of Columbia University College of Physicians and Surgeons in New York City. I am also president-elect of the Society for Obstetric Anesthesia and Perinatology, the society which represents my subspecialty.

I am here today to take issue with the previous testimony before committees of the Congress that suggests that anesthesia causes fetal demise. I believe that I am qualified to address this issue because I am a practicing obstetric anesthesiologist. Since completing my anesthesiology and obstetric anesthesiology training at Harvard University, I have administered analgesia to more than 5,000 women in labor and anesthesia to over 1,000 women undergoing caesarean section. Although the majority of these cases were at full term gestation, I have provided anesthesia to approximately 200 patients who were carrying fetuses of less than 30 weeks gestation and who needed emergency nonobstetric surgery during pregnancy. These operations have included appendectomies, gall bladder surgeries, numerous orthopedic procedures such as fractured ankles, uterine and ovarian procedures, including malignant tumor removal, breast surgery, neurosurgery, and cardiac surgery.

The anesthetics which I have administered have included general, epidural, spinal, and local. The patients have included healthy as well as very sick pregnant patients. Although

I often use spinal and epidural anesthesia in pregnant patients, I also administer general anesthesia to these patients and, on occasion, have needed to administer huge doses of general anesthesia in order to allow surgeons to perform cardiac surgery or neurosurgery.

In addition, I believe that I am also especially qualified to discuss the effect of maternally administered anesthesia on the fetus, because I am one of only a handful of anesthesiologists who has administered anesthesia to a pregnant patient undergoing in-utero fetal surgery, thus allowing me to watch the fetus as I administered general anesthesia to the mother. A review of the experiences that my associates and I had while administering general anesthesia to a mother while a surgeon operated on her unborn fetus was published in the Journal of Clinical Anesthesia vol. 1, 1989, pp. 363–367. In this paper, we suggested that general anesthesia provides several advantages to the fetus who will undergo surgery and then be replaced in the womb to continue to grow until mature enough to be delivered. Safe doses of anesthesia to the mother most certainly did not cause fetal demise when used for these operations.

Despite my extensive experience with providing anesthesia to the pregnant patient, I have never witnessed a case of fetal demise that could be attributed to an anesthetic. Although some drugs which we administer to the mother may cross the placenta and affect the fetus, in my medical judgment fetal demise is definitely not a consequence of a properly administered anesthetic. In order to cause fetal demise it would be necessary to give the mother dangerous and life-threatening doses of anesthetics. This is not the way we practice anesthesiology in the United States.

Mr. Chairman, I am deeply concerned that the previous congressional testimony and the widespread publicity that has been given this issue will cause unnecessary fear and anxiety in pregnant patients and may cause some to unnecessarily delay emergency surgery. As an example, several newspapers across the United States have stated that anesthesia causes fetal demise. Because this issue has been allowed to become a ''controversy'' several of my patients have recently expressed concerns about anesthesia, having seen newspaper or heard radio or television coverage of this issue. Evidence that patients are still receiving misinformation regarding the fetal effects of maternally administered anesthesia can be seen by review of an article that a pregnant patient recently brought with her to the labor and delivery floor. In last month's edition of Marie Claire, a magazine which many of my pregnant patients read, an article about partial birth abortion states: ''The mother is put under general anesthetic, which reaches the fetus through her bloodstream. By the time the cervix is sufficiently dilated, the fetus has overdosed on the anesthetic and is brain-dead.'' These incorrect statements continue to find their way into newspapers and magazines around the country. Despite the previous testimony of Dr. Ellison, I have yet to see an article that states, in no uncertain terms, that anesthesia when used property does not harm the fetus. This supposed controversy regarding the effects of anesthesia on the fetus must be finally and definitively put to rest.

In order to address this complex issue, I believe that it is necessary to comment on three of the statements which have recently been made to the Congress.

First, Dr. James McMahon, now deceased, testified that anesthesia causes neurologic fetal demise.

Second, Dr. Lewis Koplick supported Dr. McMahon and stated: ''I am certain that anyone who would call Dr. McMahon a liar is speaking from ignorance of abortions in later pregnancy and of Dr. McMahon's technique and integrity.''

Third, Dr. Mary Campbell of Planned Parenthood has addressed this issue by writing the following: ''Though these does are high, the incremental administration of the drugs minimizes the probability of negative outcomes for the mother. In the fetus these dosage levels may lead to fetal demise—death—in a fetus weakened by its own developmental anomalies.''

My responses to these statements are as follows:

One, there is absolutely no scientific or clinical evidence that a properly administered maternal anesthetic causes fetal demise. To the contrary, there are hundreds of scientific articles which demonstrate the fetal safety of currently used anesthetics.

Two, Dr. Koplick has stated that the ''massive'' doses used by Dr. McMahon are responsible for fetal demise. This again, is incorrect and there is not scientific or clinical data to support this allegation. I have personally administered ''massive'' doses of narcotics to intubated critically ill pregnant patients who are being treated in an intensive care unit. I am pleased to say that the fetuses were born alive and did well.

Three, Dr. Campbell has described the narcotic protocol which Dr. McMahon had used during his D&X procedures: it includes the administration of Midazolam (10–40 mg) and Fetanyl (900–2,500 µg). Although there is no evidence that this dose will cause fetal demise, there is clear evidence that this excessive dose could cause maternal death. These doses are far in excess of any anesthetic that would be used by an anesthesiologist and even if they are incrementally given over a 2 to 3 hour period these doses would in all probability cause enough respiratory depression of the mother, to necessitate intubation and/or assisted respiration. Since Dr. McMahon cannot be questioned regarding his ''heavy handed'' anesthetic practice. I am unable to explain why we would willingly administer such huge amounts of drugs if he did indeed administer 2,500 µg of fentanyl and 40 mg of midazolam to a patient in a clinic, without an anesthesiologist present, he has definitely placing the mother's life at great risk.

In conclusion, I would like to say that I believe that I have a responsibility as a practicing obstetric anesthesiologist to refute any and all testimony that suggests that maternally administered anesthesia causes fetal demise. It is my opinion that in order to achieve that goal one would need to administer such huge doses of anesthetic to the mother as to place her life at jeopardy. Pregnant women must get the message that should they need anesthesia for surgery or analgesia for labor, they may do so without worrying about the effects on their unborn child.

Thank you for your attention. I am happy to respond to your questions.

Mr. VOLKMER. Mr. Speaker, I submit the following material for inclusion in the RECORD:

[From the American Medical News, Nov. 20, 1995]

OUTLAWING ABORTION METHOD: VETO-PROOF MAJORITY IN HOUSE VOTES TO PROHIBIT LATE-TERM PROCEDURE

(By Diane M. Gianelli)

Washington.—His strategy was simple: Find an abortion procedure that almost anyone would describe as ''gruesome,'' and force the opposition to defend it.

When Rep. Charles T. Canady (R. Fla.) learned about ''partial birth'' abortions, he was set.

He and other anti-abortion lawmakers launched a congressional campaign to outlaw the procedure.

Following a contentious and emotional debate, the bill passed by an overwhelming—and veto-proof—margin: 288–139. It marks the first time the House of Representatives has voted to forbid a method of abortion. And although the November elections yielded a ''pro-life'' infusion in both the House and Senate, massive crossover voting occurred, with a significant number of ''pro-choice'' representatives voting to pass the measure.

The controversial procedure, done in second- and third-trimester pregnancies, involves an abortion in which the provider, according to the bill, ''partially vaginally delivers a living fetus before killing the fetus and completing the delivery.''

''Partial birth'' abortions, also called ''intact D&E'' (for dilation and evacuation), or ''D&X'' (dilation and extraction) are done by only a handful of U.S. physicians, including Martin Haskell, MD, of Dayton Ohio, and, until his recent death, James T. McMahon, MD of the Los Angeles area. Dr. McMahon said in a 1993 AM/News interview that he had trained about a half-dozen physicians to do the procedure.

The procedure usually involves the extraction of an intact fetus, feet first, through the birth canal, with all but the head delivered. The surgeon forces scissors into the base of the skull, spreads them to enlarge the opening, and uses suction to remove the brain.

The procedure gained notoriety two years ago, when abortion opponents started running newspaper ads that described and illustrated the method. Their goal was to defeat an abortion rights bill then before Congress on grounds it was so extreme that states would have no ability to restrict even late-term abortions on viable fetuses. The bill went nowhere, but strong reaction to the campaign prompted anti-abortion activists to use it again.

They drafted a bill that would ban the procedure, after considering a number of other options. An Ohio law passed earlier this year, for instance, bans ''brain suction'' abortions, except when all other methods would pose a greater risk to the pregnant woman. It has been enjoined pending a challenge.

MIXED FEELINGS IN MEDICINE

The procedure is controversial in the medical community. On the one hand, organized medicine bristles at the notion of Congress attempting to ban or regulate any procedures or practices. On the other hand, even some in the abortion provider community find the procedure difficult to defend.

''I have very serious reservations about this procedure,'' said Colorado physician Warren Hern. MD. The author of ''Abortion Practice,'' the nation's most widely used textbook on abortion standards and procedures. Dr. Hern specializes in late-term procedures.

He opposes the bill, he said, because he thinks Congress has no business dabbling in the practice of medicine and because he thinks this signifies just the beginning of a

series of legislative attempts to chip away at abortion rights. But of the procedure in question he says. ''You really can't defend it. I'm not going to tell somebody else that they should not do this procedure. But I'm not going to do it.''

Dr. Hern's concerns center on claims that the procedure in late-term pregnancy can be safest for the pregnant women, and that without this procedure women would have died. ''I would dispute any statement that this is the safest procedure to use,'' he said.

Turning the fetus to a breech position is ''potentially dangerous,'' he added. ''You have to be concerned about causing amniotic fluid embolism or placental abruption if you do that.''

Pamela Smith, MD, director of medical education, Dept. of Ob-Gyn at Mt. Sinai Hospital in Chicago, added two more concerns: cervical incompetence in subsequent pregnancies caused by three days of forceful dilation of the cervix and uterine rupture caused by rotating the fetus within the womb.

''There are absolutely no obstetrical situations encountered in this country which require a partially delivered human fetus to be destroyed to preserve the life of the mother.'' Dr. Smith wrote in letter to Canady.

The procedure also has its defenders. The procedure is a ''well-recognize and safe technique by those who provide abortion care,'' Lewis H. Koplik, MD, an Albuquerque, N.M., abortion provider, said in a statement that appeared in the Congressional Record.

''The risk of severe cervical laceration and the possibility of damage to the uterine artery by a sharp fragment of calvarium is virtually eliminated. Without the release of thromboplastic material from the fetal central nervous system into the maternal circulation, the risk of coagulation problems, DIC [disseminated intravascular coagulation], does not occur. In skilled hands, uterine perforation is almost unknown,'' Dr. Koplik said.

Bruce Ferguson, MD, another Albuquerque abortion provider, said in a letter released to Congress that the ban could impact physicians performing late-term abortions by other techniques. He noted that there were ''many abortions in which a portion of the fetus may pass into the vaginal canal and there is no clarification of what is meant by 'a living fetus.' Does the doctor have to do some kind of electrocardiogram and brain wave test to be able to prove their fetus was not living before he allows a foot or hand to pass through the cervix?''

Apart from medical and legal concerns, the bill's focus on late-term abortion also raises troubling ethical issues. In fact, the whole strategy, according to Rep. Chris Smith (R, N.J.), is to force citizens and elected officials to move beyond a philosophical discussion of ''a woman's right to choose,'' and focus on the reality of abortion. And, he said, to expose those who support ''abortion on demand'' as ''the real extremists.''

Another point of contention is the reason the procedure is performed. During the Nov. 1 debate before the House, opponents of the bill repeatedly stated that the procedure was used only to save the life of the mother or when the fetus had serious anomalies.

Rep. Vic Fazio (D, Calif.) said, ''Despite the other side's spin doctors—real doctors know that the late-term abortions this bill seeks to ban are rare and they're done only when there is no better alternative to save the woman, and, if possible, preserve her ability to have children.''

Dr. Hern said he could not imagine a circumstance in which this procedure would be safest. He did acknowledge that some doctors use skull-decompression techniques, but he added that in those cases fetal death has been induced and the fetus would not purposely be rotated into a breech position.

Even some physicians who specialize in this procedure do not claim the majority are performed to save the life of the pregnant woman.

In his 1993 interview with AMNews, Dr. Haskell conceded that 80 percent of his late-term abortions were elective. Dr. McMahon said he would not do an elective abortion after 26 weeks. But in a chart he released to the House Judiciary Committee, ''depression'' was listed most often as the reason for late-term nonelective abortions with maternal indications. ''Cleft lip'' was listed nine times under fetal indications.

The accuracy of the article was challenged, two years after publication, by Dr. Haskell and the National Abortion Federation, who told Congress the doctors were quoted ''out of context.'' AMNews Editor Barbara Bolsen defended the article, saying AMNews ''had full documentation of the interviews, including tape recordings and transcripts.''

Bolsen gave the committee a transcript of the contested quotes, including the following, in which Dr. Haskell was asked if the fetus was dead before the end of the procedure.

''No, it's not. No, it's really not. A percentage are for various numbers of reasons. Some just because of the stress—intrauterine stress during, you know, the two days that the cervix is being dilated. Sometimes the membranes rupture and it takes a very small superficial infection to kill a fetus in utero when the membranes are broken.

''So in my case, I would say probably about a third of those are definitely dead before I actually start to remove the fetus. And probably the other two-thirds are not,'' said Dr. Haskell.

In a letter to Congress before his death, Dr. McMahon stated that medications given to the mother induce ''a medical coma'' in the fetus, and ''there is neurological fetal demise.''

But Watson Bowes, MD, a maternal-fetus specialist at the University of North Carolina, Chapel Hill, said in a letter to Canady that Dr. McMahon's statement ''suggests a lack of understanding of maternal-fetal pharmacology. * * * Having cared for pregnant women who for one reason or another required surgical procedures in the second trimester, I know they were often heavily sedated or anesthesized for the procedures, and the fetuses did not die.''

NEXT MOVE IN THE SENATE

At AMNews press time, the Senate was scheduled to debate the bill. Opponents were lining up to tack on amendments, hoping to gut the measure or send it back to a committee where it could be watered down or rejected.

In a statement about the bill, President Clinton did not use the word ''veto.'' But he said he ''cannot support'' a bill that did not provide an exception to protect the life and health of the mother. Senate opponents of the bill say they will focus on the fact that it does not provide such an exception.

The bill does provide an affirmative defense to a physician who provides this type of abortion if he or she reasonably believes the procedure was necessary to save the life of the mother and no other method would suffice.

But Rep. Patricia Schroeder (D, Colo.) says that's not sufficient. ''This means that it is available to the doctor after the handcuffs have snapped around his or her wrists, bond has been posted, and the criminal trial is under way,'' she said during the House debate.

Canady disagrees. ''No physician is going to be prosecuted and convicted under this law if he or she reasonably believes the procedure is necessary to save the life of the mother.''

ORGANIZED MEDICINE POSITIONS VARY

The physician community is split on the bill. The California Medical Assn., which says it does not advocate elective abortions in later pregnancy, opposes it as ''an unwarranted intrusion into the physician-patient relationship.'' The American College of Obstetricians and Gynecologists also opposes it on grounds it would ''supersede the medical judgment of trained physicians and * * * would criminalize medical procedures that may be necessary to save the life of a woman,'' said spokeswoman Alice Kirkman.

The AMA has chosen to take no position on the bill, although its Council on Legislation unanimously recommended support. AMA Trustee Nancy W. Dickey, MD, noted that although the board considered seriously the council's recommendations, it ultimately decided to take no position, because it had concerns about some of the bill's language and about Congress legislating medical procedures.

Meanwhile, each side in the abortion debate is calling news conferences to announce how necessary or how ominous the bill is. Opponents highlight poignant stories of women who have elected to terminate wanted pregnancies because of major fetal anomalies.

Rep. Nita Lowey (D, N.Y.) told the story of Claudia Ames, a Santa Monica woman who said the procedure had saved her life and saved her family.

Ames told Lowey that six months into her pregnancy, she discovered the child suffered from severe anomalies that made its survival impossible and placed Ames' life at risk.

The bill's backers were ''attempting to exploit one of the greatest tragedies any family can ever face by using graphic pictures and sensationalized language and distortions,'' Ames said.

Proponents focus on the procedure's cruelty. Frequently quoted is testimony of a nurse. Brenda Shafer, RN, who witnessed three of these procedures in Dr. Haskell's clinic and called it ''the most horrifying experience of my life.

''The baby's body was moving. His little fingers were clasping together. He was kicking his feet.'' Afterwards, she said, ''he threw the baby in a pan.'' She said she saw the baby move. ''I still have nightmares about what I saw.''

Dr. Hern says if the bill becomes law, he expects it to have ''virtually no significance'' clinically. But on a political level, ''it is very, very significant.''

''This bill's about politics,'' he said, ''it's not about medicine.''

Mrs. VUCANOVICH. Mr. Speaker, I submit the following material for inclusion in the RECORD:

[From Cincinnati Medicine, Fall 1993]

2ND TRIMESTER ABORTION

(An interview with W. Martin Haskell, MD)

Last summer, American Medical News ran a story on abortion specialists. Included was W. Martin Haskell, MD, a Cincinnati physician who introduced the D&X procedure for second trimester abortions. The Academy received several calls requesting information about D&X. The following interview provides an overview.

Q: What motivated you to become an abortion specialist?

A: I stumbled into it by accident. I did an internship in anesthesia. I worked for a year in general practice in Alabama. I did two years in general surgery, then switched into family practice to get board certified. My intentions at that time were to go into emergency medicine. I enjoyed surgery, but I realized there was an abundance of really good surgeons here in Cincinnati. I didn't feel I'd

make much of a contribution. I'd be just another good surgeon. While I was in family practice, I got a part-time job in the Women's Center. Over the course of several months, I recognized things there could be run a lot better, with a much more professional level of service—not necessarily in terms of medical care—in terms of counseling, the physical facility, patient flow, and in the quality of people who provided support services. The typical abortion patient spends less than ten minutes with the physician who performs the surgery. Yet, that patient might be in the facility for three hours. When I talked to other physicians whose patients were referred here, I saw problems that could be easily corrected. I realized there was an opportunity to improve overall quality of care, and make a contribution. I own the center now.

Q: Back in 1979 when you were making these decisions, did you consider yourself prochoice?

A: I've never been an activist. I've always felt that no matter what the issue, you prove your convictions by your hard work—not by yelling and screaming.

Q: Have there been threats against you?

A: Not directly. Pro-life activist Randall Terry recently said to me that he was going to do everything within his power to have me tried like a Nazi war criminal.

Q: A recent American Medical News article stated that the medical community hadn't really established a point of fetal viability. Why not?

A: Probably because it can't be established with uniform certainty. Biological systems are highly variable. The generally accepted point of fetal viability is around 24–26 weeks. But you can't take a given point in fetal development and apply that 100 percent of the time. It just doesn't happen that way. If you look at premature deliveries and survival percentages at different weeks of gestation, you'll get 24-week fetuses with some survival rate. The fact that you get some survivors demonstrates the difficulty in defining a point.

Q: Most women who get abortions end pregnancies during the first trimester. Who is the typical second-trimester patient?

A: I don't know that there is a typical second-trimester abortion. But if you look at the spectrum of abortions (most women are between the ages of 19 and 29) they tend to be younger. Some are older. The typical thing that happens with older women is that they never realized they were pregnant because they were continuing to bleed during the pregnancy. The other thing we see with older women is fetal malformations or Down's Syndrome. These are being diagnosed much earlier now than they used to be. We're seeing a lot of genetic diagnoses with ultrasound and amniocentesis at 17–18 weeks instead of 22–24 weeks. With the teenagers, anybody who has ever worked with or had teenagers can appreciate how unpredictable they can be at times. They have adult bodies, but a lot of time they don't have adult minds. So their reaction to problems tends to be much more emotional than an adult's might be. It's a question of maturity. So even though they may have been educated about all kinds of issues in reproductive health, when a teenager becomes pregnant, depending upon her relationship with her family, the amount of peer support she has—every one is a highly-individual case—sometimes they delay until they can no longer contain their problem and it finally comes out. Sometimes it's money: It takes them a while to get the money. Sometimes it's just denial.

Q: Do you think more information on abstinence and contraceptives would decrease the number of teenage pregnancies?

A: I grew up in the sixties and nobody talked about contraception with teenagers in the sixties. But today, though it may be controversial in some areas, there's a lot being taught about reproductive health in the high school curricula. I think a lot more is being done, but the bottom line is we're all still just human—with human emotions, and particularly with teenagers, a sense of invulnerability; it can't happen to me. So education helps a lot, but it's not going to eliminate the problem. You can teach a person the skills, but you can't make them use them.

Q: Does it bother you that a second trimester fetus so closely resembles a baby?

A: I really don't think about it. I don't have a problem with believing the fetus is a fertilized egg. Sure it becomes more physically developed but it lacks emotional development. It doesn't have the mental capacity for self-awareness. It's never been an ethical dilemma for me. For people for whom that is an ethical dilemma, this certainly wouldn't be a field they'd want to go into. Many of our patients have ethical dilemmas about abortion. I don't feel it's my role as a physician to tell her she should not have an abortion because of her ethical feelings. As individuals grow and mature, learn more, feel more, experience more, their perspective about themselves and life, morality and ethics change. Facing the situation of abortion is a part of that passage through life for some women—how they resolve that is their decision. I can be their advisor much as a lawyer can be; he can tell you your options, but he can't make you file a suit or tell you not to file a suit. My role is to provide a service and, to a limited degree, help women understand themselves when they make their decision. I'm not to tell them what's right or wrong.

Q: Do your patients ever reconsider?

A: Between our two centers, that happens maybe once a week. There's a patient who changes her mind or becomes truly ambivalent and goes home to reconsider, then might come back a week or two later. I feel that's one of the strengths of how we approach things here. We try not to create pressure to have an abortion. Our view has always been that there are enough women who want abortions that we don't have to coerce anyone to have one. We've always been strongly against pressure on our patients to go ahead with an abortion.

Q: How expensive is a second trimester abortion?

A: Fees range from $1,200–1,600 depending on length of pregnancy. More insurance companies cover abortion than don't cover it. About 15 percent of our patients won't use insurance because they want to maintain privacy. About 10–20 percent use insurance. The rest pay out of pocket.

Q: What led you to develop D&X?

A: D & E's, the procedure typically used for later abortions, have always been somewhat problematic because of the toughness and development of the fetal tissues. Most physicians do terminations after 20 weeks by saline infusion or prosteglandin induction, which terminates the fetus and allows tissue to soften. Here in Cincinnati, I never really explored it, but I didn't think I had that option. There certainly weren't hospitals willing to allow inductions past 18 weeks—even Jewish, when they did abortions, their limit was 18 weeks. I don't know about University. What I saw here in my practice, because we did D & Es, was that we had patients who needed terminations at a later date. So we learned the skills. The later we did them, the more we saw patients who needed them still later. But I just kept doing D & Es because that was what I was comfortable with, up until 24 weeks. But they were very tough. Sometimes it was a 45-minute operation. I noticed that some of the later D & Es were very, very easy. So I asked myself why can't they all happen this way. You see the easy ones would have a foot length presentation, you'd reach in and grab the foot of the fetus, pull the fetus down and the head would hang up and then you would collapse the head and take it out. It was easy. At first, I would reach around trying to identify a lower extremity blindly with the tip of my instrument. I'd get it right about 30–50 percent of the time. Then I said, ''Well gee, if I just put the ultrasound up there I could see it all and I wouldn't have to feel around for it. I did that and sure enough, I found it 99 percent of the time. Kind of serendipity.

Q: Does the fetus feel pain?

A: Neurological pain and perception of pain are not the same. Abortion stimulates fibers, but the perception of pain, the memory of pain that we fear and dread are not there. I'm not an expert, but my understanding is that fetal development is insufficient for consciousness. It's a lot like pets. We like to think they think like we do. We ascribe human-like feelings to them, but they are not capable of the same self-awareness we are. It's the same with fetuses. It's natural to project what we feel for babies to a 24-week old fetus.

[From the American Medical News, Jan. 1, 1996]

ANESTHESIOLOGISTS QUESTION CLAIMS IN ABORTION DEBATE

(By Diane M. Gianelli)

WASHINGTON.—When he saw an article in the St. Louis Post-Dispatch that claimed anesthesia caused fetal death in some late-term abortion procedures. David Birnbach, MD, was ''shocked.''

''I thought, 'This is crazy,'" said Dr. Birnbach, who is director of obstetric anesthesiology at New York's St. Luke's-Roosevelt Hospital Center, and vice president of the Society for Obstetric Anesthesia and Perinatology.

''Everyday we have pregnant patients who get anesthesia—women who break their ankles, need knee surgery, have appendectomies, gallbladder removals, breast biopsies, and so on. Anesthetics done safely by an anesthesiologist do not do harm to either the mother or the baby,'' he said.

The anesthesia-causes-fetal-death claim was made by one of the two U.S. physicians who specialized in a particular type of late-term abortion that opponents call ''partial birth'' abortions. The contention has been repeated by other proponents of the procedure, who refer to it as ''intact D&E'' (for dilation and evacuation) or ''D&X'' (dilation and extraction).

Medical experts contend the claim is scientifically unsound and irresponsible, unnecessarily worrying pregnant women who need anesthesia. But while some are now qualifying their assertion that anesthesia induces fetal death, they are not backing away from it.

When Rep. Charles T. Canady (R, Fla.) introduced a bill to ban the procedure, James T. McMahon, MD, a Los Angeles area family physician who specialized in this procedure before his recent death, responded. Dr. McMahon wrote that the anesthesia given to the mother before the abortion causes ''neurological fetal demise.''

The bill to ban the procedure, passed late last year by both the House and the Senate, defines it as one in which the provider ''partially vaginally delivers a living fetus before killing the fetus and completing the delivery.''

The procedure was recently banned in Ohio, where its other main practitioner, Martin Haskell, MD, lives. But a federal

judge declared the law there unconstitutional in a preliminary injunction last month.

On the federal level, the bill faces a presidential veto threat, and while the measure passed the House by a 2-to-1 ratio, proponents do not have enough Senate votes to override a veto.

The claim about anesthesia causing fetal death has been repeated by many of the bill's opponents, including the National Abortion Federation, the National Abortion and Reproductive Rights Action League, and members of Congress. A recent Planned Parenthood ''fact sheet'' on these late-term abortions claims that ''the fetus dies from an overdose of anesthesia given to the mother intravenously.''

The distinction of when fetal death occurs is critical, because the bill would ban only procedures in which the fetus was killed after being partially delivered alive through the birth canal. If it could be proved that the fetuses died inside the womb—from anesthesia or any other cause—the abortion would not fall under the proposed law.

After reading the anesthesia-kills-fetuses claim in the St. Louis paper, the American Society of Anesthesiologists issued a press release denouncing it. And in testimony before the Senate, Norig Ellison, MD, president of the society—which did not take a position on the bill—called Dr. McMahon's statements ''entirely inaccurate.''

He added that he was ''deeply concerned'' that the widespread publicity given to Dr. McMahon's claims ''may cause pregnant women to delay necessary and perhaps even life-saving medical procedures, totally unrelated to the birthing process, due to misinformation regarding the effect of anesthetics on the fetus.''

In fact, cases of maternal concern have already surfaced. Dr. Birnbach said he has already had patents raise questions. And Rep. Tom Coburn, MD, an Oklahoma Republican who still delivers babies when he goes home on weekends, said he just had a patient refuse epidural anesthesia during childbirth after hearing those claims. Dr. Coburn is a co-sponsor of the bill.

Dr. Ellison, vice chair of the Dept. of Anesthesiology at the University of Pennsylvania School of Medicine in Philadelphia, testified that very little of the anesthetic given the mother ever reaches, the fetus. He added that ''in my medical judgment, it would be necessary—in order to achieve 'neurological demise' of a fetus in a 'partial birth' abortion—to anesthetize the mother to such a degree as to place her own health in serious jeopardy.''

Planned Parenthood's Mary Campbell, MD, who wrote the fact sheet claiming anesthesia cases fetal death, was grilled during the Senate Judiciary Committee hearing Nov. 17, 1995, by Sen. Spence Abraham (R, Mich.).

When prodded, she conceded ''I do not know what causes the fetus to die.'' When asked why her fact sheet attributes the cause to anesthesia, she replied, ''I simplified that for Congress.''

Afer the hearing, Dr. Campbell wrote to Sen. Barbara Boxer, (D, Calif.), who led the movement against the bill in the Senate. In her letter, Dr. Campbell repeated that anesthesia caused fetal death, but added some caveats. She said it ''may lead to fetal demise (death) in a fetus weakened by its own developmental anomalies.''

''In other cases,'' she wrote, ''these drugs prevent the perception of pain by the fetus; they cause depression of fetal respiration before the extraction procedure and preclude fetal respiration afterward.''

Dr. Birnbach disputes her contention. Even in the very high-end doses she mentioned, he said—10 mg to 40 mg of Versed, given in 1 mg to 2 mg increments, and 900 ug to 2,500 ug of fentanyl, given in 100 ug to 150 ug increments—''anesthesia does not kill an infant if you don't kill the mother.''

He added that when patients receive the high-end dosage range specified by Dr. Campbell, the mother was in fact at risk for depressed breathing. ''You can't give those high doses without harming the mother unless the mother is assisted in her breathing,'' he said.

Dr. Birnbach said that, on occasion, he has given even larger doses than the high-end ones cited by Dr. Campbell and has never caused any harm to either the mother or the fetus.

He also said that Dr. Campbell's claims that the medications depress fetal respiration before the abortion takes place were ''immaterial'' because fetuses don't breathe in the womb.

Dr. Birnbach added, however, that an infant born alive with depressed respiration can still survive normally. ''The narcotics are not a problem. We can reverse the narcotics and we can breathe for the baby.''

Another recurring theme at both the hearings and during the ensuing debate about the procedure centers around fetal pain. Specialists in this procedure claim the fetus feels no pain for a variety of reasons, but usually because they say fetuses lack the neural development necessary to perceive pain, or if they are capable of feeling pain, anesthesia given to the mother prevents the preception of pain in the fetus.

Robert J. White, MD, PhD, professor of neurosurgery at Case Western University in Cleveland, testified on the topic before Congress last summer. ''There are published scientific studies that demonstrate that by the 20th week, many of the neuronal pathways that sense pain have already started to develop,'' he said. ''By the 24th week, the connections of the cortex and the thalamus are well under way. . . . There is no way to argue with impunity that pain reception is not possible.''

Michael J. Murray, MD, an anesthesiologist at the Mayo Clinic in Rochester, Minn., and president of the Minnesota Medical Assn., agrees.

In fact, he said, physicians doing fetal surgery inject narcotic fentanyl and muscle relaxants into the umbilical cord to provide pain relief, even though the mother is already anesthetized, ''because what they get from the mom is not enough.'' He added that studies on neonates getting surgery right after birth indicate that those who were given opioids had much better outcomes than those who were just given muscle relaxants.

The bottom line for many anesthesiologists, regardless of their position on abortion: Women should not be concerned about questionable claims thrown out in the heat of the debate.

''Women who need anesthesia for emergency surgery during pregnancy or who request analgesia for labor should take heart that both they and their babies will do just fine,'' Dr. Birnbach said.

Mr. CANADY of Florida. Mr. Speaker, I submit the following material for inclusion in the RECORD.

March 27, 1996.

THE SMITH-DOLE SENATE AMENDMENT PROTECTS THE LIFE OF THE MOTHER

DEAR COLLEAGUE: This is in response to a March 26 ''Dear Colleague'' from Reps. Nita Lowey and Nancy Johnson, which ran under the very misleading headline, ''The Dole Amendment Endangers Women's Lives.''

As initially passed by the House on Nov. 1, 1995—with 288 votes—HR 1833 contained an ''affirmative defense'' provision that protected a doctor if he showed that he ''reasonable believed'' that a partial-birth abortion procedure was necessary to save a mother's life. These sorts of ''affirmative defense'' exceptions are found in literally dozens of federal criminal statutes. However, opponents of HR 1833 distorted the legal effect of the ''affirmative defense'' mechanism. Therefore, the prime sponsor of the Senate bill, Sen. Bob Smith (who for some curious reason is not mentioned in the Lowey-Johnson letter) and Sen. Dole offered an amendment that says the ban ''shall not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, illness, or injury: Provided, That no other medical procedure would suffice for that purpose.''

Senator Barbara Boxer—the leading Senate opponent of HR 1833—immediately endorsed the Smith-Dole Amendment, which was adopted 98–0. Here is what Senator Boxer said on the floor of the Senate: ''And now here we have it. Here we have it, an exception now for life of the mother. I think that is progress. I think that is progress, because when we started, there was no exception. It was an affirmative defense.'' [Congressional Record, Dec. 5, 1995, p. S 18005]

Moreover, in a Jan. 31 letter to Cardinal Anthony Bevilacqua of Philadelphia, President Clinton himself recognized that the Senate had added a life-of-mother exception (but the President continues to demand the addition of the gutting ''health exception'' endorsed by the National Abortion and Reproductive Rights Action League.)

Reps. Lowey and Johnson write, ''It is unclear whether pregnancy would legally constitute a physical disorder.'' A normal pregnancy does not constitute a life-threatening condition—but in those rare cases in which a ''physical disorder, illness, or injury'' causes the pregnancy to threaten a mother's life, the Senate exception obviously applies. With respect, our colleagues' reading of the Senate language is absurdly convoluted, and violates standard principles of statutory construction.

As to our colleagues' other objections: let's keep in mind that a partial-birth abortion involves the almost complete delivery of a living baby, who is then killed. Now, if the entire baby has been delivered alive, except for the head, supposedly without jeopardy to the mother, why can't the doctor simply deliver the head as well, without killing the baby?

When the American Medical News put essentially that very question to Dr. Martin Haskell (who has done over 1,000 partial-birth abortions) in a tape-recorded interview, Dr. Haskell's answer was both candid and chilling: ''The point here is you're attempting to do an abortion . . . not to see how do I manipulate the situation so that I get a live birth instead,'' he said.

(There are rare cases in which a baby suffers from such severe hydrocephaly—head enlargement caused by excess fluid in the skull—so that without intervention, both vaginal delivery and a Caesarian could pose risks to the mother. In those cases, according to Prof. Watson Bowes, a nationally eminent authority on fetal and maternal medicine who is co-editor of the Obstetrical and Gynecological Survey, the standard treatment is cephalocentesis—removal of excess fluid through a needle. ''Fluid is then withdrawn which results in reduction of the size in the head so that delivery can occur,'' wrote Prof. Bowes. ''This procedure is not intended to kill the fetus, and, in fact, is usually associated with the birth of a live infant.'')

Attempts by HR 1833 opponents to ''revive'' the life-of-mother issue are merely another reflection of their refusal to come to grips

with the uncomfortable fact—which is amply documented in the writings and validated statements of partial-birth abortion practitioners—that the overwhelming majority of partial-birth abortions have nothing whatever to do with life-threatening complications of pregnancy, but are (in the words of Dr. Martin Haskell) ''purely elective.''

Sincerely,

HENRY J. HYDE,
Chairman.

''FETAL DEATH'' OR DANGEROUS DECEPTION? THE EFFECTS OF ANESTHESIA DURING A PARTIAL-BIRTH ABORTION

The claim that anesthesia given to a pregnant woman kills her fetus/baby before a partial-birth abortion is performed has ''absolutely no basis in scientific fact,'' according to Dr. Norig Ellison, the president of the American Society of Anesthesiologists. It is ''crazy,'' says Dr. David Birnbach, the president-elect of the Society for Obstetric Anesthesia and Perinatology.

Despite such authoritative statements, this medical misinformation is still being disseminated. Here are a few examples:

ABORTION ADVOCATES

KATE MICHELMAN OF THE NATIONAL ABORTION RIGHTS ACTION LEAGUE (NARAL)

One of the leading proponents of the ''anesthesia myth'' is Kate Michelman, president of the National Abortion Rights Action League (NARAL). For example, in an interview on ''Newsmakers,'' KMOX–AM in St. Louis on Nov. 2, 1995, Ms. Michelman said: The other side grossly distorted the procedure. There is no such thing as a ''partial-birth.'' That's, that's a term made up by people like these anti-choice folks that you had on the radio. The fetus—I mean, it is a termination of the fetal life, there's no question about that. And the fetus, is, before the procedure begins, the anesthesia that they give the woman already causes the demise of the fetus. That is, it is not true that they're born partially. That is a gross distortion, and it's really a disservice to the public to say this.

DR. MARY CAMPBELL OF PLANNED PARENTHOOD

Prior to the November 1, 1995, House vote on the bill, Planned Parenthood circulated to lawmakers a ''fact sheet'' titled, ''H.R. 1833, Medical Questions and Answers,'' which includes this statement:

''Q: When does the fetus die?

''A: The fetus dies of an overdose of anesthesia given to the mother intravenously. A dose is calculated for the mother's weight which is 50 to 100 times the weight of the fetus. The mother gets the anesthesia for each insertion of the dilators, twice a day. This induces brain death in a fetus in a matter of minutes. Fetal demise therefore occurs at the beginning of the procedure while the fetus is still in the womb.''

THE NEW YORK DAILY NEWS

The fetus is partially removed from the womb, its head collapsed and brain suctioned out so it will fit through the birth canal. The anesthesia given to the woman kills the fetus before the full procedure takes place. But you won't hear that from the anti-abortion extreme. It would have everybody believe the fetus is dragged alive from the womb of a woman just weeks away from birth. Not true. (Editorial, Dec. 15, 1995)

USA TODAY

''The fetus dies from an overdose of anesthesia given to its mother.'' (Editorial, Nov. 3, 1995)

THE ST. LOUIS POST-DISPATCH

''The fetus usually dies from the anesthesia administered to the mother before the procedure begins.'' (News story, Nov. 3, 1995)

SYNDICATED COLUMNIST ELLEN GOODMAN

Syndicated columnist Ellen Goodman wrote in mid-November that, if one relied on statements by supporters of the bill, ''You wouldn't even know that anesthesia ends the life of such a fetus before it comes down the birth canal.''

THE TRUTH

''Medical experts contend the claim is scientifically unsound and irresponsible, unnecessarily worrying pregnant women who need anesthesia.'' (American Medical News, January 1, 1996)

''[A]nesthesia does not kill an infant if you don't kill the mother.'' (Dr. David Birnbach quoted in American Medical News, January 1, 1996)

''I am deeply concerned, moreover, that widespread publicity . . . may cause pregnant women to delay necessary and perhaps life-saving medical procedures, totally unrelated to the birthing process, due to misinformation regarding the effect of anesthetics on the fetus.'' (Dr. Norig Ellison, Nov. 17, 1995, testimony before Senate Judiciary Committee)

''Drugs administered to the mother, either local anesthesia administered in the paracervical area or sedatives/analgesics administered intramuscularly or intravenously, will provide no-to-little analgesia [relief from pain] to the fetus.'' (Dr. Norig Ellison, November 22, 1995, letter to Senate Judiciary Committee)

Mr. SALMON. Mr. Speaker, I submit the following material for inclusion in the RECORD:

AMERICAN MEDICAL NEWS,
PUBLISHED BY THE AMA,
Chicago, IL, July 11, 1995.

Hon. CHARLES T. CANADY,
Chairman, Subcommittee on the Constitution, Committee on the Judiciary, U.S. House of Representatives, Rayburn House Office Bldg., Washington, DC

DEAR REPRESENTATIVE CANADY: We have received your July 7 letter outlining allegations of inaccuracies in a July 5, 1993, story in American Medical News, ''Shock-tactic ads target late-term abortion procedure.''

You noted that in public testimony before your committee, AMNews is alleged to have quoted physicians out of context. You also noted that one such physician submitted testimony contending that AMNews misrepresented his statements. We appreciate your offer of the opportunity to respond to these accusations, which now are part of the permanent subcommittee record.

AMNews stands behind the accuracy of the report cited in the testimony. The report was complete, fair, and balanced. The comments and positions expressed by those interviewed and quoted were reported accurately and in context. The report was based on extensive research and interviews with experts on both sides of the abortion debate, including interviews with two physicians who perform the procedure in questions.

We have full documentation of these interviews, including tape recordings and transcripts. Enclosed is a transcript of the contested quotes that relate to the allegations of inaccuracies made against AMNews.

Let me also note that in the two years since publication of our story, neither the organization nor the physician who complained about the report in testimony to your committee has contacted the reporter or any editor at AMNews to complain about it. AMNews has a longstanding reputation for balance, fairness and accuracy in reporting, including reporting on abortion, an issue that is as divisive within medicine as it is within society in general. We believe that the story in question comports entirely with that reputation.

Thank you for your letter and the opportunity to clarify this matter.

Respectfully yours,

BARBARA BOLSEN,
Editor.

Attachment.

AMERICAN MEDICAL NEWS TRANSCRIPT

Relevant portions of recorded interview with Martin Haskell, M.D.

AMN. Let's talk first about whether or not the fetus is dead beforehand . . .

HASKELL. No it's not. No, it's really not. A percentage are for various numbers of reasons. Some just because of the stress—intrauterine stress during, you know, the two days that the cervix is being dilated. Sometimes the membranes rupture and it takes a very small superficial infection to kill a fetus in utero when the membranes are broken. And so in my case, I would think probably about a third of those are definitely are (sic) dead before I actually start to remove the fetus. And probably the other two-thirds are not.

AMN. Is the skull procedure also done to make sure that the fetus is dead so you're not going to have the problem of a live birth?

HASKELL. It's immaterial. If you can't get it out, you can't get it out.

AMN. I mean, you couldn't dilate further? Or is that riskier?

HASKELL. Well, you could dilate further over a period of days.

AMN. would that just make it . . . would it go from a 3-day procedure to a 4- or a 5-?

HASKELL. Exactly. The point here is to effect a safe legal abortion. I mean, you could say the same thing about the D&E procedure. You know, why do you do the D&E procedure? Why do you crush the fetus up inside the womb? To kill it before you take it out?

Well, that happens, yes. But that's not why you do it. YOu do it to get it out. I could do the same thing with a D&E procedure. I could put dilapan in for four or five days and say I'm doing a D&E procedure and the fetus could just fall out. But that's not really the point. The point here is you're attempting to do an abortion. And that's the goal of your work, is to complete an abortion. Not to see how do I manipulate the situation so that I get a live birth instead.

AMN, wrapping up the interview. I wanted to make sure I have both you and (Dr.) McMahon saying 'No' then. That this is misinformation, these letters to the editor saying it's only done when the baby's already dead, in case of fetal demise and you have to do an autopsy. But some of them are saying they're getting that information from NAF. Have you talked to Barbara Radford or anyone over there? I called Barbara and she called back, but I haven't gotten back to her.

HASKELL. Well, I had heard that they were giving that information, somebody over there might be giving information like that out. The people that staff the NAF office are not medical people. And many of them when I gave my paper, many of them came in, I learned later, to watch my paper because many of them have never seen an abortion performed of any kind.

AMN. Did you also show a video when you did that?

HASKELL. Yeah. I taped a procedure a couple of years ago, a very brief video, that simply showed the technique. The old story about a picture's worth a thousand words.

AMN. As National Right to Life will tell you.

HASKELL. Afterwards they were just amazed. They just had no idea. And here they're rabid supporters of abortion. They work in the office there. And . . . some of them have never seen one performed . . .

Comments on elective vs. non-elective abortions:

HASKELL. And I'll be quite frank: most of my abortions are elective in that 20–24 week range . . . In my particular case, probably

20% are for genetic reasons. And the other 80% are purely elective.

[From the American Medical News, July 5, 1993]

SHOCK-TACTIC ADS TARGET LATE-TERM ABORTION PROCEDURE

FOES HOPE CAMPAIGN WILL SINK FEDERAL ABORTION RIGHTS LEGISLATION

(By Diana M. Gianelli)

WASHINGTON.—In an attempt to derail an abortion-rights bill maneuvering toward a congressional showdown, opponents have launched a full-scale campaign against late-term abortions.

The centerpieces of the effort are newspaper advertisements and brochures that graphically illustrate a technique used in some second- and third-trimester abortions. A handful of newspapers have run the ads so far, and the National Right to Life Committee has distributed 4 million of the brochures, which were inserted into about a dozen other papers.

By depicting a procedure expected to make most readers squeamish, campaign sponsors hope to convince voters and elected officials that a proposed federal abortion-rights bill is so extreme that states would have no authority to limit abortions—even on potentially viable fetuses.

According to the Alan Guttmacher Institute, a research group affiliated with Planned Parenthood, about 10% of the estimated 1.6 million abortions done each year are in the second and third trimesters.

Barbara Radford of the National Abortion Federation denounced the ad campaign as disingenuous, saying its ''real agenda is to outlaw virtually all abortions, not just late-term ones.'' But she acknowledged it is having an impact, reporting scores of calls from congressional staffers and others who have seen the ads and brochures and are asking pointed questions about the procedure depicted.

The Minneapolis Star-Tribune ran the ad May 12, on its op-ed page. The anti-abortion group Minnesota Citizens Concerned for Life paid for it.

In a series of drawings, the ad illustrates a procedure called ''dilation and extraction,'' or D&X, in which forceps are used to remove second- and third-trimester fetuses from the uterus intact, with only the head remaining inside the uterus.

The surgeon is then shown jamming scissors into the skull. The ad says this is done to create an opening large enough to insert a catheter that suctions the brain, while at the same time making the skull small enough to pull through the cervix.

''Do these drawings shock you?'' the ad reads. ''We're sorry, but we think you should know the truth.''

The ad quotes Martin Haskell, MD, who described the procedure at a September 1992 abortion-federation meeting, as saying he personally has performed 700 of them. It then states that the proposed ''Freedom of Choice Act'' now moving through Congress would ''protect the practice of abortion at all stages and would lead to an increase in the use of this grisly procedure.''

ACCURACY QUESTIONED

Some abortion-rights advocates have questioned the ad's accuracy.

A letter to the Star-Tribune said the procedure shown ''is only performed after fetal death when an autopsy is necessary or to save the life of the mother.'' And the Morrisville, Vt., Transcript, which said in an editorial that it allowed the brochure to be inserted in its paper only because it feared legal action if it refused, quoted the abortion federation as providing similar information. ''The fetus is dead 24 hours before the pictured procedure is undertaken,'' the editorial stated.

But Dr. Haskell and another doctor who routinely use the procedure for late-term abortions told AMNews that the majority of fetuses aborted this way are alive until the end of the procedure.

Dr. Haskell said the drawing were accurate ''from a technical point of view.'' But he took issue with the implication that the fetuses were ''aware and resisting.''

Radford also acknowledged that the information her group was quoted as providing was inaccurate. She has since sent a letter to federation members, outlining guidelines for discussing the matter. Among the points:

Don't apologize; this is a legal procedure.

No abortion method is acceptable to abortion opponents.

The language and graphics in the ads are disturbing to some readers. ''Much of the negative reaction, however, is the same reaction that might be invoked if one were to listen to a surgeon describing step-by-step almost any other surgical procedure involving blood, human tissue, etc.''

LATE-ABORTION SPECIALISTS

Only Dr. Haskell, James T. McMahon, MD, of Los Angeles, and a handful of other doctors perform the D&X procedure, which Dr. McMahon refers to as ''intact D&E.'' The more common late-term abortion methods are the classic D&E and induction, which usually involves injecting digoxin or another substance into the fetal heart to kill it, then dilating the cervix and inducing labor.

Dr. Haskell, who owns abortion clinics in Cincinnati and Dayton, said he started performing D&Es for late abortions out of necessity. Local hospitals did not allow inductions past 18 weeks, and he had no place to keep patients overnight while doing the procedure.

But the classic D&E, in which the fetus is broken apart inside the womb, carries the risk of perforation, tearing and hemorrhaging, he said. So he turned to the D&X, which he says is far less risky to the mother.

Dr. McMahon acknowledged that the procedure he, Dr. Haskell and a handful of other doctors use makes some people queasy. But he defends it. ''Once you decide the uterus must be emptied, you then have to have 100% allegiance to maternal risk. There's no justification to doing a more dangerous procedure because somehow this doesn't offend your sensibilities as much.''

BROCHURE CITES N.Y. CASE

The four-page anti-abortion brochures also include a graphic depiction of the D&X procedure. But the cover features a photograph of 16-month-old Ana Rosa Rodriquez, whose right arm was severed during an abortion attempt when her mother was 7 months pregnant.

The child was born two days later, at 32 to 34 weeks' gestation. Abu Hayat, MD, of New York, was convicted of assault and performing an illegal abortion. He was sentenced to up to 29 years in prison for this and another related offense.

New York law bans abortions after 24 weeks, except to save the mother's life. The brochure states that Dr. Hayat never would have been prosecuted if the federal ''Freedom of Choice Act'' were in effect, because the act would invalidate the New York statute.

The proposed law would allow abortion for any reason until viability. But it would leave it up to individual practitioners—not the state—to define that point. Postviability abortions, however, could not be restricted if done to save a woman's life or health, including emotional health.

The abortion federation's Radford called the Hayat case ''an aberration'' and stressed that the vast majority of abortions occur within the first trimester. She also said that later abortions usually are done for reasons of fetal abnormality or maternal health.

But Douglas Johnson of the National Right to Life Committee called that suggestion ''blatantly false.''

''The abortion practitioners themselves will admit the majority of their late-term abortions are elective,'' he said. ''People like Dr. Haskell are just trying to teach others how to do it more efficiently.''

NUMBERS GAME

Accurate figures on second- and third-trimester abortions are elusive because a number of states don't require doctors to report abortion statistics. For example, one-third of all abortions are said to occur in California, but the state has no reporting requirements. The Guttmacher Institute estimates there were nearly 168,000 second- and third-trimester abortions in 1988, the last year for which figures are available.

About 60,000 of those occurred in the 16- to 20-week period, with 10,660 at week 21 and beyond, the institute says. Estimates were based on actual gestational age, as opposed to last menstrual period.

There is particular debate over the number of third-trimester abortions. Former Surgeon General C. Everett Koop, MD, estimated in 1984 that 4,000 are performed annually. The abortion federation puts the number at 300 to 500. Dr. Haskell says that ''probably Koop's numbers are more correct.''

Dr. Haskell said he performs abortions ''up until about 25 weeks' ''gestation, most of them elective. Dr. McMahon does abortions through all 40 weeks of pregnancy, but said he won't do an elective procedure after 26 weeks. About 80% of those he does after 21 weeks are nonelective, he said.

MIXED FEELINGS

Dr. McMahon admits having mixed feelings about the procedure in which he has chosen to specialize.

''I have two positions that may be internally inconsistent, and that's probably why I fight with this all the time,'' he said.

''I do have moral compunctions. And if I see a case that's later, like after 20 weeks where it frankly is a child to me, I really agonize over it because the potential is so imminently there. I think, 'Gee, it's too bad that this child couldn't be adopted.'

''On the other hand, I have another position, which I think is superior in the hierarchy of questions, and that is: 'Who owns the child?' It's got to be the mother.''

Dr. McMahon says he doesn't want to ''hold patients hostage to my technical skill. I can say, 'No, I won't do that,' and then they're stuck with either some criminal solution or some other desperate maneuver.''

Dr. Haskell, however, says whatever qualms he has about third-trimester abortions are ''only for technical reasons, not for emotional reasons of fetal development.''

''I think it's important to distinguish the two,'' he says, adding that his cutoff point is within the viability threshold noted in *Roe* v. *Wade*, the Supreme Court decision that legalized abortion. The decision said that point usually occurred at 28 weeks ''but may occur earlier, even at 24 weeks.''

Viability is generally accepted to be ''somewhere between 25 and 26 weeks,'' said Dr. Haskell. ''It just depends on who you talk to.

''We don't have a viability law in Ohio. In New York they have a 24-week limitation. That's how Dr. Hayat got in trouble. If somebody tells me I have to use 22 weeks, that's fine . . . . I'm not a trailblazer or activist trying to constantly press the limits.''

CAMPAIGN'S IMPACT DEBATED

Whether the ad and brochures will have the full impact abortion opponents intend is yet to be seen.

Congress has yet to schedule a final showdown on the bill. Although it has already passed through the necessary committees, supporters are reluctant to move it for a full House and Senate vote until they are sure they can win.

In fact, House Speaker Tom Foley (D, Wash.) has said he wants to bring the bill for a vote under a ''closed rule'' procedure, which would prohibit consideration of amendments.

But opponents are lobbying heavily against Foley's plan. Among the amendments they wish to offer is one that would allow, but not require, states to restrict abortion—except to save the mother's life—after 24 weeks.

Mr. SMITH of New Jersey. Mr. Speaker, I submit the following material for inclusion in the RECORD:

PARTIAL-BIRTH ABORTIONS: BEHIND THE MISINFORMATION

(By Douglas Johnson, NRLC Federal Legislative Director)

NOTE: The Partial-Birth Abortion Ban Act (HR 1833) has been approved in slightly different versions by the U.S. House of Representatives (Nov. 1, 1995, on a vote of 288–139) and by the U.S. Senate (Dec. 7, 1995, on a vote of 54–44). It is expected that the House will approve the Senate-passed bill on March 27 and send it to President Clinton soon thereafter. President Clinton will veto the bill because ''the President shares the view of many that it would represent an erosion of a woman's right to choose,'' White House Press Secretary Mike McCurry said on December 20, 1995.

Opponents of the bill have disseminated an extraordinary amount of misinformation regarding the partial-birth abortion procedure and the legislation—much of it starkly contradicted by the past writings and recorded statements of doctors who have performed thousands of partial-birth abortions. Some of this misinformation has been adopted and widely disseminated by some journalists, columnists, editorialists, and lawmakers. This factsheet addresses some of these issues.

WHAT IS THE PARTIAL-BIRTH ABORTION BAN ACT (HR 1833)?

The Partial-Birth Abortion Ban Act (HR 1833) would place a national ban on use of the partial-birth abortion procedure, except in cases (if there are any) in which the procedure is necessary to save the life of a mother.

The bill specifically defines a ''partial-birth abortion'' as ''an abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery.'' [emphasis added] Abortionists who violate the law would be subject to both criminal and civil penalties, but no penalty could be applied to the woman who obtained such an abortion.

The bill is aimed at a procedure that has often been utilized by Dr. Martin Haskell of Dayton, Ohio; by the late Dr. James McMahon of Los Angeles; and by others. This procedure is generally used beginning at 20 weeks (4½ months) into the pregnancy, is ''routinely'' used to 5½ months, and has often been used even during the final three months of pregnancy.

The Los Angeles Times accurately and succinctly described this abortion method in a June 16, 1995 news story:

The procedure requires a physician to extract a fetus, feet first, from the womb and through the birth canal until all but its head is exposed. Then the tips of surgical scissors are thrust into the base of the fetus' skull, and a suction catheter is inserted through the opening and the brain is removed.

In 1992, Dr. Haskell wrote a paper (''Dilation and Extraction for Late Second Trimester Abortion'') that described in detail, step-by-step, how to perform the procedure. Anyone who is seriously seeking the truth behind the conflicting claims regarding partial-birth abortions would do well to start by reading Dr. Haskell's paper, and the transcripts of the explanatory interviews that Dr. Haskell gave in 1993 to the publications American Medical News (the official AMA newspaper) and Cincinnati Medicine.

Regarding the procedure, Dr. Haskell wrote, ''Among its advantages are that it is a quick, surgical outpatient method that can be performed on a scheduled basis under local anesthesia.'' (p. 33). Dr. Haskell also wrote that he ''routinely performs this procedure on all patients 20 through 24 weeks LMP [i.e., from last menstrual period] with certain exceptions'' [i.e., from 4½ to 5½ months], these ''exceptions'' involving complicating factors such as being more than 20 pounds overweight.

Dr. Haskell also wrote that he used the procedure through 26 weeks [six months] ''on selected patients.'' [p.28]

Dr. James McMahon used essentially the same procedure to a much later point—even into the ninth month. (Dr. McMahon died of cancer on Oct. 28, 1995.)

In a letter to Congressman Charles Canady dated March 19, 1996, Dr. William Rashbaum of New York City wrote that he has performed the procedure ''routinely since 1979. This procedure is performed only in cases of later gestational age.''

DOES THE BILL CONTAIN AN EXCEPTION FOR LIFE-OF-THE-MOTHER CASES?

As originally passed by the House on November 1, 1995, HR 1833 contained an ''affirmative defense'' provision, which would have shielded an abortionist from civil and criminal liability if he showed that he had ''reasonably believed'' that utilization of the partial-birth abortion procedure was necessary to save the life of a mother.

Similar ''affirmative defense'' exceptions are found in literally dozens of federal criminal laws. Nevertheless, after bill opponents distorted this provision, NRLC endorsed and the Senate unanimously adopted the Smith-Dole Amendment, which provides that the ban ''shall not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, illness, or injury.''

Senator Barbara Boxer (D–Ca.), the lead Senate opponent of the HR 1833, immediately endorsed the Smith-Dole Amendment, saying:

And now here we have it. Here we have it, an exception now for life of the mother. I think that is progress, because when we started there was no exception. It was an affirmative defense. [Congressional Record, Dec. 5, 1995, p. S 18005]

Under the Smith-Dole Amendment, an abortionist could not be convicted of a violation of the law unless the government proved, beyond a reasonable doubt, that the abortion was not covered by this exception. (In addition, of course, the government would have to prove, beyond a reasonable doubt, all of the other elements of the offense—that the abortionist ''knowingly'' partly removed a baby from the womb, that the baby was still alive, and that the abortionist then killed the baby.)

In a Jan. 31 letter to Cardinal Anthony Bevilacqua of Philadelphia, President Clinton acknowledged that the Senate had added a life-of-mother exception.

WHAT FURTHER CHANGES DOES PRESIDENT CLINTON DEMAND IN THE BILL?

In a February 28, 1996 letter to certain Members of Congress, the President insisted that abortionists must be permitted to use the procedure, not only to save a mother's life, but also whenever they assert that the procedure is necessary to prevent unspecified ''serious health consequences.''

The President's letter proposed precisely the language of an amendment offered on the Senate floor by Sen. Barbara Boxer (D–Ca.), which was endorsed by the National Abortion and Reproductive Rights Action League (NARAL) as a ''pro-choice vote.''

NARAL and other pro-abortion advocacy groups clearly recognized that the Boxer Amendment amounted to a re-statement of the status quo. After the Boxer Amendment was defeated by only a two-vote margin (51 to 47), a spokeswoman for the pro-abortion Alan Guttmacher Institute said, ''We were almost able to kill the bill.'' (Congressional Quarterly Weekly Report, Dec. 9, 1995, page 3738)

President Clinton—a Yale Law School graduate who once taught constitutional law—understands very well that with respect to abortion, ''health'' is a legal term of art. In Doe v. Bolton (the companion case to Roe v. Wade), the Supreme Court defined ''health'' (in the abortion context) to include ''all factors—physical, emotional, psychological, familial, and the woman's age—relevant to the well-being of the patient.''

Thus, the Boxer Amendment (demanded by President Clinton) would allow abortionists to continue to perform partial-birth abortions, even during the seventh, eighth, and ninth months, for reasons such as ''depression.'' This is not a far-fetched hypothetical, as discussed below under ''For What Reasons Are Partial-Birth Abortions Usually Performed?''

Senator Boxer has added the word ''serious'' before ''health,'' for optical effect, but adding the word does not legally narrow the scope of ''health,'' since the amendment confers on the abortionist himself the unlimited power to define whether the ''depression'' or other ''health'' concern is ''serious.'' No partial-birth abortion would ever be blocked by the law, because the Boxer Amendment confers on the abortionist absolute authority to decide what the law means (''in the medical judgment of the attending physician'').

Thus, a ''life'' exception and a ''health'' exception are two vastly different things. For example: Prior to enactment of the Hyde Amendment in 1976, the federal Medicaid program paid for 300,000 ''health'' or ''medically necessary'' abortions a year; the term was construed to cover any physician-performed abortion. The Hyde Amendment limited reimbursement to ''life'' cases, which have been on the order of 100 to 200 annually. In other words, the ratio of ''health'' cases to ''life'' cases, under Medicaid, was more than 1,000 to 1.

HOW MANY PARTIAL-BIRTH ABORTIONS ARE PERFORMED?

Nobody knows. Pro-abortion groups have claimed that ''only'' 450 such procedures are performed every year. But the combined practices of Dr. Martin Haskell and the late Dr. James McMahon alone would have approximated that figure.

In a letter to Congressman Canady dated March 19, 1996, New York doctor William K. Rashbaum wrote that he has performed the procedure that would be banned by HR 1833 ''routinely since 1979. This procedure is performed only in cases of later gestational age.'' Moreover, The New York Times reported in a Nov. 6, 1995 news story about the bill:

''Of course I use it, and I've taught it for the last 10 years,'' said a gynecologist at a New York teaching hospital, who spoke on the condition of anonymity. ''So do doctors in other cities.''

It is impossible to know how many other abortionists have adopted the procedure, without choosing to write articles or grant interviews on the subject. Both Haskell and McMahon spent years trying to convince other abortionists of the merits of the procedure. That is why Haskell wrote his 1992 instructional paper. For years, Mr. McMahon was director of abortion instruction at the Cedar Sinai Medical Center in Los Angeles.

There are at least 164,000 abortions a year after the first three months of pregnancy, and 13,000 abortions annually after 4½ months, according to the Alan Guttmacher Institute (New York Times, July 5 and November 6, 1995), which is an arm of Planned Parenthood. These numbers should be regarded as minimums, since they are based on voluntary reporting to the AGI.

FOR WHAT REASONS ARE PARTIAL-BIRTH ABORTIONS TYPICALLY PERFORMED?

Some opponents of HR 1833, such as NARAL and the Planned Parenthood Federation of America (PPFA), have persistently disseminated claimed that the procedure is employed only in cases involving extraordinary threats to the mother of grave fetal disorders. Regrettably, more than a few reporters, commentators, and members of Congress have uncritically embraced such claims and disseminated them as ''facts.''

For example, PPFA said in a press release that the procedure is ''done only in cases when the woman's life is in danger or in cases of extreme fetal abnormality.'' (Nov. 1, 1995) But (as PPFA well knows), this claim is inconsistent with the writings and recorded statements of doctors who have performed thousands of these procedures, or with documents gathered by the House and Senate judiciary committees.

Dayton abortionist Dr. Martin Haskell, who wrote a paper describing step-by-step how to perform the procedure (he's done over 1,000), described it as ''a quick, surgical outpatient method that can be performed on a scheduled basis under local anesthesia.''

Dr. Haskell wrote that he ''routinely performs this procedure on all patients 20 through 24 weeks'' (4½ to 5½ months) pregnant [emphasis added], except on women who are more than 20 pounds overweight, have twins, or have certain other complicating factors.

In 1993, after NRLC's publicizing of Dr. Haskell's paper engendered considerable controversy, the American Medical News—the official newspaper of the AMA—conducted a tape-recorded interview with Dr. Haskell concerning this specific abortion method, in which he said:

And I'll be quite frank: most of my abortions are elective in that 20–24 week range * * * In my particular case, probably 20% [of this procedure] are for genetic reasons. And the other 80% are purely elective.

In testimony in a lawsuit in 1995, Dr. Haskell testified that women come to him for partial-birth abortions with ''a variety of conditions. Some medical, some not so medical'' Among the ''medical'' examples he cited was ''agoraphobia'' (fear of open places).

Moreover, in testimony presented to the Senate Judiciary Committee on November 17, 1995, ob/gyn Dr. Nancy Romer of Dayton (the city in which Dr. Haskell operates one of his abortion clinics) testified that three of her own patients had gone to Haskell's clinic for abortions ''well beyond'' 4½ months into pregnancy, and that ''none of these women had any medical illness, and all three had normal fetuses.''

Brenda Pratt Shafer, a registered nurse who observed Dr. Haskell use the procedure to abort three babies in 1993, testified that one little boy had Down Syndrome, while the other two babies were completely normal and their mothers were healthy. [Nurse Shafer's testimony before the House Judiciary subcommittee, with associated documentation, is available on request to NRLC.]

Dr. James McMahon voluntarily submitted to the House Judiciary Constitution subcommittee a breakdown of a self-selected sample of 175 partial-birth abortions that he performed for what he called ''maternal indications.'' Of these,the largest single category of ''maternal indication''—39 cases, or 22% of the total sample—were for ''depression.'' (Other ''maternal indications'' included ''spousal drug exposure'' and ''substance abuse.'') Dr. McMahon's self-selected sample of ''fetal indications'' cases showed he had performed nine of these procedures for ''cleft plate.'' Even though this data is cited in the official report of the committee, when NARAL President Kate Michelman was asked at a November 7, 1995 press conference about ''arguments . . . that these procedures . . . are given for depression or cleft palate,'' Ms. Michelman responded, ''That is . . . not only a myth, it's a lie.''

Dr. McMahon also wrote: After 26 weeks [six months], those pregnancies that are not flawed are still nonelective. They are interrupted because of maternal risk, rape, incest, psychiatric or pediatric indications. [Emphasis added.] [''Pediatric indications'' was Dr. McMahon's terminology for young teenagers.]

Dr. Pamela E. Smith, director of Medical Education, Department of Obstetrics and Gynecology, Mt. Sinai Hospital, Chicago, gave the Senate Judiciary Committee her analysis of Dr. McMahon's sample of 175 cases in which he said he had used the procedure because of maternal health indications. Of this sample, 39 cases (22%) were for maternal ''depression,'' while another 16% were ''for conditions consistent with the birth of a normal child (e.g., sickle cell trait, prolapsed uterus, small pelvis),'' Dr. Smith noted. She added that in one-third of the cases, the conditions listed as ''maternal indications'' by Dr. McMahon really indicated that the procedure itself would be seriously risky.

Reporter Karen Tumulty wrote an article about late-term abortions, based in large part on extensive interviews with Dr. McMahon and on direct observation of his practice, which appeared in the Los Angeles Times Magazine (January 7, 1990). She concluded: If there is any other single factor that inflates the number of late abortions, it is youth. Often, teen-agers do not recognize the first signs of pregnancy. Just as frequently, they put off telling anyone as long as they can.

Dr. George Tiller of Wichita, Kansas, specializes in late-term abortions, including third-trimester abortions. Dr. Tiller's spokeswoman, Peggy Jarman, told the Kansas City Star: About three-fourths of Tiller's late-term patients, Jarman said, are teenagers who have denied to themselves or their families they were pregnant until it was too late to hide it.

In 1993, the then-executive director of the National Abortion Federation (NAF) distributed an internal memorandum to the members of that organization which acknowledged that such abortions are performed for ''many reasons'': There are many reasons why women have late abortions: life endangerment, fetal indications, lack of money or health insurance, social-psychological crises, lack of knowledge about human reproduction, etc.''

Likewise, a June 12, 1995, letter from NAF to members of the House of Representatives noted that late abortions are sought by, among others, ''very young teenagers . . . who have not recognized the signs of their pregnancies until too late,'' and by ''women in poverty, who have tried desperately to act responsibly and to end an unplanned pregnancy in the early stages, only to face insurmountable financial barriers.''

It is true, of course, that some partial-birth abortions involve babies who have grave disorders that will result in death soon after birth. But these unfortunate members of the human family deserve compassion and the best comfort-care that medical science can offer—not a scissors in the back of the head. In some such situations there are good medical reasons to deliver such a child early, after which natural death will follow quickly.

IS A PARTIAL-BIRTH ABORTION EVER THE ONLY WAY TO PRESERVE A MOTHER'S PHYSICAL HEALTH?

Dr. Pamela E. Smith, Director of Medical Education, Department of Obstetrics and Gynecology, Mt. Sinai Hospital, Chicago, testified, ''There are absolutely no obstetrical situations encountered in this country which require a partially delivered human fetus to be destroyed to preserve the life or health of the mother.''

Dr. Harlan R. Giles, a professor of ''high-risk'' obstetrics and perinatology at the Medical College of Pennsylvania, performs abortions by a variety of procedures up until ''viability.'' In sworn testimony in the U.S. Federal District Court for the Southern District of Ohio (Nov. 13, 1995), Prof. Giles said:

After 23 weeks I do not think there are any maternal conditions that I'm aware of that mandate ending the pregnancy that also require that the fetus be dead or that the fetal life be terminated. In my experience for 20 years, one can deliver these fetuses either vaginally, or by Caesarean section for that matter, depending on the choice of the parents with informed consent . . . But there's no reason these fetuses cannot be delivered intact vaginally after a miniature labor, if you will, and be at least assessed at birth and given the benefit of the doubt. [transcript, page 240]

Opponents of H.R. 1833 have publicized the cases of several women whose babies suffered from severe hydrocephalus (enlargement of the head). But an eminent authority on such matters, Dr. Watson A. Bowes, Jr., professor of ob/gyn (maternal and fetal medicine) at the University of North Carolina, who is co-editor of the Obstetrical and Gynecological Survey, wrote to Congressman Canady:

Critics of your bill who say that this legislation will prevent doctors from performing certain procedures which are standard of care, such as cephalocentesis (removal of fluid from the enlarged head of a fetus with the most severe form of hydrocephalus) are mistaken. In such a procedure a needle is inserted with ultrasound guidance through the mother's abdomen into the uterus and then into the enlarged ventricle of the brain (the space containing cerebrospinal fluid). Fluid is then withdrawn which results in reduction of the size in the head so that delivery can occur. This procedure is not intended to kill the fetus, and, in fact, is usually associated with the birth of a live infant.

IS THE BABY ALIVE WHEN SHE IS PULLED FEET-FIRST FROM THE WOMB?

Yes, in most cases the baby is alive until the end of the procedure. American Medical News reported in 1993, after conducting interviews with Drs. Haskell and McMahon, that the doctors ''told AM News that the majority of fetuses aborted this way are alive until the end of the procedure.'' On July 11, 1995, American Medical News submitted the transcript of the tape-recorded interview with Haskell to the House Judiciary Committee. The transcript contains the following exchange:

American Medical News: Let's talk first about whether or not the fetus is dead beforehand.

Dr. Haskell: No it's not. No, it's really not. A percentage are for various numbers of reasons. Some just because of the stress—intrauterine stress during, you know, the two days that the cervix is being dilated [to permit extraction of the fetus]. Sometimes the membranes rupture and it takes a very small superficial infection to kill a fetus in utero when the membranes are broken. And so in my case, I would think probably about a third of those are definitely are [sic] dead before I actually start to remove the fetus. And probably the other two-thirds are not.

In an interview quoted in the Dec. 10, 1989 Dayton News, Dr. Haskell again conveyed that the scissors thrust is usually the lethal act: ''When I do the instrumentation on the skull . . . it destroys the brain tissue sufficiently so that even if it (the Fetus) falls out at that point, it's definitely not alive,'' Dr. Haskell said.

DOES ANESTHESIA GIVEN TO THE MOTHER KILL THE BABY? DOES THE BABY FEEL PAIN DURING THE PROCEDURE?

In Dr. Haskell's 1992 instructional paper, he lists among the ''advantages'' of the procedure that ''it is a quick, surgical outpatient method that can be performed on a scheduled basis under local anesthesia.'' [emphasis added] According to Prof. David H. Chestnut, editor of Obstetric Anesthesia: Principles and Practice, ''Rational use of local anesthetic drugs does not affect the fetus.'' (Testimony to House Judiciary Constitution Subcommittee, March 21, 1996).

Dr. James McMahon utilized general anesthesia, at least in some cases, but anesthesiologists say that these drugs do not harm the fetus/baby unless given in amounts that would kill the mother or place her in grave danger. (See below.)

Nevertheless, many critics of the bill have insisted that the unborn babies are killed by anesthesia given to the mother, prior to being ''extracted'' from the womb. For example, syndicated columnist Ellen Goodman wrote in November that, based on her review of statements by supporters of the bill, ''You wouldn't even know that anesthesia ends the life of such a fetus before it comes down the birth canal.''

The Planned Parenthood Federation of America (PPFA) has been among the most persistent purveyors of this mythology. Another leading proponent of the ''anesthesia myth'' has been Kate Michelman, president of the National Abortion and Reproductive Rights Act League (NARAL). For example, in an interview on ''Newsmakers,'' KMOX–AM in St. Louis on Nov. 2, 1995, Ms. Michelman explained that she thinks it is wrong to call the procedure a ''partial birth'' because (she claimed) the baby is already dead. Kate Michelman's verbatim statement follows:

The other side grossly distorted the procedure. There is no such thing as a 'partial birth'. That's, that's a term made up by people like these anti-choice folks that you had on the radio. The fetus— I mean, it is a termination of the fetal life, there's no question about that. And the fetus, is, before, the procedure begins, the anesthesia that they give the woman already causes the demise of the fetus. That is, it is not true that they're born partially. That is a gross distortion, and it's really a disservice to the public to say this.

However, the claim that anesthesia can kill an unborn fetus has been emphatically refuted in congressional testimony by the heads of the leading professional societies of anesthesiologists. These exports have criticized both pro-abortion leaders and certain journalists and commentators, for disseminating these bogus claims, while failing to publicize the authoritative statements of experts that these claims are entirely bogus.

In testimony before the Senate Judiciary Committee on November 17, 1995, Dr. Norig Ellison, president of the 34,000-member American Society of Anesthesiologists (ASA), said that such claims have ''absolutely no basis in scientific fact.'' On behalf of the ASA, Dr. Ellison testified that regional anesthesia (used in many partial-birth abortions and most normal deliveries) has virtually no effect on the fetus. General anesthesia has some sedating effect on the fetus, but much less than on the mother; even pain relief for the fetus is doubtful, and certainly anesthesia would not kill the baby, Dr. Ellison testified. (In March 1996, Dr. Ellison said that his testimony had been reported in the medical press and that not one anesthesiologist had contacted ASA to express any disagreement.)

In testimony before the House Judiciary Constitution Subcommittee on March 21, 1996, Dr. David J. Birnbach, president-elect of the Society for Obstetric Anesthesia and Perinatology, testified, ''I have never witnessed a case of fetal demise that could be attributed to an anesthetic. . . . In order to cause fetal demise, it would be necessary to give the mother dangerous and life-threatening doses of anesthesia.''

Recently, the Planned Parenthood Federation of America (PPFA) and NARAL have tried to ''explain'' that they were really just referring to the practice of the late Dr. James McMahon—who, they claimed, used massive doses of narcotic anesthesia. But Dr. Birnbach said, ''Although there is no evidence that this massive dose will cause fetal demise, there is clear evidence that this excessive dose could cause maternal death.''

Brenda Pratt Shafer, a registered nurse from Dayton, Ohio, stood at Haskell's side while he performed three partial-birth abortions in 1993. In testimony before the Senate Judiciary Committee (Nov. 17), Shafer described in detail the first of the three procedures—which involved, she said, a baby boy at 26½ weeks (over 6 months). According to Mrs. Shafer, the abortionist delivered the baby's body and the arms—everything but the head. The doctor kept the baby's head just inside the uterus. The baby's little fingers were clasping and unclasping, and his feet were kicking. Then the doctor stuck the scissors through the back of his head, and the baby's arms jerked out in a flinch, a startle reaction, like a baby does when he thinks that he might fall. The doctor opened up the scissors, stuck a high-powered suction tube into the opening and sucked the baby's brains out. Now the baby was completely limp.

Since the baby is usually not dead before being removed from the womb, does the baby experience pain? Yes, according to experts such as Professor Robert White, Director of the Division of Neurosurgery and Brain Research Laboratory at Case Western Reserve School of Medicine, who testified before the House Judiciary Constitution Subcommittee: ''The fetus within this time frame of gestation, 20 weeks and beyond, is fully capable of experiencing pain.'' After analyzing the partial-birth procedure step-by-step for the subcommittee, Prof. White concluded: ''Without question, all of this is a dreadfully painful experience for any infant subjected to such a surgical procedure.''

Similar testimony was presented to the subcommittee on March 21, 1996, by Dr. Jean A. Wright, associate professor of pediatrics and anesthesia at the Emory University School of Medicine in Atlanta. Recent research shows that by the stage of development that a fetus could be a ''candidate'' for a partial-birth abortion (20 weeks), the fetus ''is more sensitive to pain than a full-term infant would be if subjected to the same procedures,'' Prof. Wright testified. These fetuses have ''the anatomical and functional processes responsible for the perception of pain,'' and have ''a much higher density of Opioid (pain) receptors'' than older humans, she said.

IS THERE A MORE ''OBJECTIVE'' TERM FOR THE PROCEDURE THAN ''PARTIAL-BIRTH ABORTION''?

Congressman Charles Canady (R-FL), the author of H.R. 1833 and the chairman of the subcommittee that conducted hearings on the bill, said on March 23, ''It it time for some in the media to stop editing or denigrating the legal terminology that has been adopted by the U.S. House and the U.S. Senate, which is partial-birth abortion.''

(When Congress defined certain firefarms as ''assault weapons,'' that terminology was readily accepted by most journalists and editors—even though manufacturers of such devices utilize other terms.)

Some opponents of the Partial-Birth Abortion Ban Act (H.R. 1833) insist that anyone writing about the bill should say that it bans a procedure ''known medically as intact dilation and evacuation.'' But when journalists comply with this demand, they do so at the expense of accuracy. The bill itself makes no reference whatever to ''intact dilation and evacuation'' abortions. More importantly, the term ''intact dilation and evacuation'' is not equivalent to the class of procedures banned by the bill.

The bill would make it a criminal offense (except to save a woman's life) to perform a ''partial-birth abortion,'' which the bill would define—as a matter of law—as ''an abortion in which the person performing the abortion partially vaginally delivers a *living* fetus before killing the fetus and completing the delivery.'' [emphasis added]

In contrast, the term ''intact dilation and evacuation'' was invented by the late Dr. James McMahon, and until recently, was idiosyncratic to him. It appears in no standard medical textbook or database, nor does it appear anywhere in the standard textbook on abortion methods, Abortion Practice by Dr. Warren Hern.

Because ''intact dilation and evacuation'' is not a standard, clearly defined medical term, the House Judiciary Constitution Subcommittee staff (which drafted the bill under Congressman Canady's supervision) rejected it as useless for purposes of defining a criminal offense. Indeed, it is worse than useless—a criminal statute that relied on such a term would be stricken by the federal courts as ''void for vagueness.''

Although there is no clear definition of the term, we know enough to say that it is inaccurate to equate ''intact dilation and evacuation'' abortions with the procedures banned by HR 1833, since in his writings Dr. McMahon clearly used the term so broadly as to cover certain procedures which would not be affected at all by HR 1833 (e.g., removal of babies who are killed entirely in utero, and removal of babies who have died entirely natural deaths in utero). Indeed, some of the specific women highlighted by opponents of HR 1833 had various types of ''intact D&E'' abortion procedures that were not covered by HR 1833's definition of ''partial-birth abortion.''

The term chosen by Congress is in no sense misleading. In sworn testimony in an Ohio lawsuit on Nov. 8, 1995, Dr. Martin Haskell—who has done over 1,000 partial-birth abortions, and who authored the instructional paper that touched off the controversy over the procedure—explained that he first learned of the method when a colleague described very briefly over the phone to me a technique that I later learned came from Dr. McMahon where they internally grab the fetus and rotate it and accomplish—be somewhat equivalent to a breach type of delivery.

In short, it is a misguided notion of objectivity for the any journalist to denigrate the term for a criminal offense that has been adopted and explicitly defined by the U.S. House and the U.S. Senate, in favor of a undefined term recently manufactured by the very special-interest that would be ''regulated'' by the legislation.

[In his 1992 instructional paper, Dr. Haskell referred to the method as ''dilation and extraction'' or ''D&X''—noting that he ''coined the term.'' The term ''dilation and extraction'' does not appear in medical dictionaries or databases.]

ARE THE FIVE LINE DRAWINGS OF THE PROCEDURE CIRCULATED BY NRLC ACCURATE, OR ARE THEY MISLEADING?

American Medical News (July 5, 1993) interviewed Dr. Martin Haskell and reported: Dr. Haskell said the drawings were accurate ''from a technical point of view.'' But he took issue with the implication that the fetuses were ''aware and resisting.''

Moreover, at a June 15, 1995, public hearing before the House Judiciary Subcommittee on the Constitution, Dr. J. Courtland Robinson, a self-described ''abortionist'' who testified on behalf of the National Abortion Federation, was questioned about the drawings by Congressman Charles Canady (R–Fl.). Mr. Canady directed Dr. Robinson's attention to the drawings, which were displayed in poster size next to the witness table, and asked Dr. Robinson if they were ''technically correct.'' Dr. Robinson responded:

That is exactly probably what is occurring in the hands of the two physicians involved. [Hearing record, page 89.]

Professor Watson Bowes of the University of North Carolina at Chapel Hill, co-editor of the Obstetrical and Gynecological Survey, wrote in a letter to Congressman Canady:

Having read Dr. Haskell's paper, I can assure you that these drawings accurately represent the procedure described therein. . . . Firsthand renditions by a professional medical illustrator, or photographs or a video recording of the procedure would no doubt be more vivid but not necessarily more instructive for a non-medical person who is trying to understand how the procedure is performed.

On Nov. 1, 1995, Congresswoman Patricia Schroeder and her allies actually tried to prevent Congressman Canady from displaying the line drawings during the debate on HR 1833 on the floor of the House of Representatives. But the House voted by nearly a 4-to-1 margin (332 to 86) to permit the drawings to be used.

DOES THE BILL CONTRADICT U.S. SUPREME COURT DECISIONS?

The Supreme Court has never said that there is a constitutional right to kill human beings who are mostly born.

In its official report on HR 1833, the House Judiciary Committee makes the very plausible argument that HR 1833 could be upheld by the Supreme Court without disturbing Roe. In Roe, the Supreme Court said that ''the word 'person,' as used in the Fourteenth Amendment, does not include the unborn.'' Thus, under the Supreme Court's doctrine, a human being becomes a legal ''person'' upon emerging from the uterus.

But a partial-birth abortion does not involve an ''unborn fetus.'' A partial-birth abortion, by the very definition in the bill, kills a human being who is partly born. Indeed, a partial-birth abortion kills a human being who is four-fifths across the 'line-of-personhood' established by the Supreme Court.

Moreover, in Roe v. Wade itself, the Supreme Court took note of a Texas law that made it a felony to kill a baby ''in a state of being born and before actual birth,'' and the Court did not disturb that law.

Thus, the Supreme Court could very well decide that the killing of a mostly born baby, even if done by a physician, is not protected by Roe v. Wade.

SHOULD CONGRESS EVER BAN SPECIFIC ''SURGICAL PROCEDURES''?

Some prominent congressional opponents of the bill to ban partial-birth abortions, including Rep. Schroeder (D-Co.), argue that Congress should not attempt to ban a specific surgical procedure. But Rep. Schroeder is the prime sponsor of HR 941, the ''Federal Prohibition of Female Genital Mutilation Act.'' (The Senate companion bill is S. 1030.) This bill generally would ban anyone (including a licensed physician) from performing the procedure known medically as ''infibulation,'' or ''female circumcision.'' (Some physicians perform the procedure in response to requests from immigrants from certain countries, based on the rationale that those involved otherwise will probably obtain the procedure from persons without medical training.) The bill provides a penalty of up to five years in federal prison. Supporters of this bill argue, persuasively, that subjecting a little girl to infibulation is a form of child abuse. But then, so too is subjecting a baby to the partial-birth abortion procedure.

Mr. WELDON of Florida. Mr. Speaker, I submit the following material for inclusion in the RECORD:

MOUNT SINAI HOSPITAL
MEDICAL CENTER
Chicago, IL, October 28, 1995.

Hon. CHARLES CANADY,
Chairman, Subcommittee on the Constitution, House Committee on the Judiciary, Longworth House Office Building, Washington, DC

DEAR CONGRESSMAN CANADY: It has recently been brought to my attention that opponents of HR 1833 have stated that this particular abortion technique should maintain its legality because it is sometimes employed by physicians in the interest of maternal health. Such an assertion not only runs contrary to facts but ignores the reality of the risks to maternal health that are associated with this procedure which include the following:

1. Since the procedures entails 3 days of forceful dilatation of the cervix the mother could develop cervical incompetence in subsequent pregnancies resulting in spontaneous second trimester pregnancy losses and necessitating the placement of a cerclage (stitch around the cervix) to enable her to carry a fetus to term.

2. Uterine rupture is a well known complication associated with this procedure. In fact, partial birth abortion is a ''variant'' of internal podalic version . . . a technique sometimes used by obstetricians in this country with the intent of delivering a live child. However, internal podalic version, in this country, has been gradually replaced by Cesarean section in the interest of maternal as well as fetal well being (see excerpts from the standard text Williams Obstetrics pages 520, 521, 865 and 866).

Furthermore, obstetrical emergencies (such as entrapment of the head of a hydrocephalic fetus or of a footling breech that has partially delivered on its own) are never handled by employing this abortion technique. Cephalocentesis, (drainage of fluid from the head of a hydrocephalic fetus) frequently results in the birth of a living child. Relaxing the uterus with anesthesia, cutting the cervix (Duhrssen's incision) and Cesarean section are the standard of care for a normal, head entrapped breech fetus.

There are absolutely no obstetrical situations encountered in this country which require a partially delivered human fetus to be destroyed to preserve the health of the mother. Partial birth abortion is a technique devised by abortionists for their own convenience . . . ignoring the known health risks to the mother. The health status of women in this country will thereby only be enhanced by the banning of this procedure.

Sincerely,

PAMELA E. SMITH, MD,
Director of Medical Education, Department of Obstetrics and Gynecology.

THE UNIVERSITY
NORTH CAROLINA,
Chapel Hill, July 11, 1995.

Hon. CHARLES CANADY,
Chairman, Subcommittee on the Constitution, House Committee on the Judiciary, Washington, DC.

DEAR CONGRESSMAN CANADY: I have reviewed the Partial-Birth Abortion Ban Act (HR 1833, S. 939) and the related materials that you submitted to me.

Your bill would ban the use of the ''partial-birth abortion'' method, which you define as ''an abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery.''

As regards the use of the term ''partial-birth abortion'' to describe the procedure: The term ''partial-birth abortion'' is accurate as applied to the procedure described by Dr. Martin Haskell in his 1992 paper entitled ''Dilation and Extraction for Late Second Trimester Abortion,'' distributed by the National Abortion Federation.[1] Dr. Haskell himself refers to that procedure as dilation and extraction,'' but that is only a term, as he wrote, he ''coined.'' Another practitioner, Dr. James McMahon, who uses a similar technique, uses the term ''intact dilation and evacuation.''[2]

There is no standard medical term for this period. The method, as described by Dr. Haskell in his paper, involves dilatation of the uterine cervix followed by breech delivery of the fetus up to the point at which only the head of the fetus remains undelivered. At this point surgical scissors are inserted into the brain through the base of the skull, after which a suction catheter is inserted to remove the brain of the fetus. This results in collapse of the fetal skull to facilitate delivery of the fetus. From this description there is nothing misleading about describing this procedure as a ''partial-birth abortion,'' because in most of the cases the fetus is partially born while alive and then dies as a direct result of the procedure (brain aspiration) which allows completion of the birth.

As regards when fetal death occurs during this procedure: Although I have never witnessed this procedure, it seems likely from the description of the procedure by Dr. Haskell that many if not all of the fetuses involved in this procedure are alive until the scissors and the suction catheter are used to remove brain tissue.[1] Dr. Haskell, explicitly contrasts his procedure with two other late abortion methods that do induce fetal death prior to removal of the fetus (these alternative methods being intra-amniotic infusion of urea, and rupture of the membranes and severing of the umbilical cord).[1] Also, Doctor Haskell, in an interview with Diane Gianelli of American Medical News that the majority of the fetuses aborted this way are alive until the end of the procedure.''[2] This is consistent with the observations of Brenda Shafer, R.N. who, in a letter to Congressman Tony Hall, described partial-birth abortions performed by Dr. Haskell which she observed.[3]

Footnotes follow at end of Article.

Moreover, in a document entitled ''Testimony Before the House Subcommittee on the Constitution'', June 23, 1995, Dr. James McMahon states that narcotic analgesic medications given to the mother induce ''a medical coma'' in the fetus, and he implies that this causes ''a neurological fetal demise.''[4] This statement suggests a lack of understanding of maternal/fetal pharmacology. It is a fact that the distribution of analgesic medications given to a pregnant woman result in blood levels of the drugs which are less than those in the mother. Having cared for pregnant women who for one reason or another required surgical procedures in the second trimester, I know that they were often heavily sedated or anesthetized for the procedures, and the fetuses did not die.

Dr. Dru Carlson, a maternal/fetal medicine specialist from Cedars-Sinai Medical Center in Los Angeles, writes that she has personally observed Dr. McMahon perform this procedure. In a letter to Congressman Henry Hyde she described the procedure and wrote that after the fetal body is delivered, it is removal of cerebrospinal fluid from the brain that causes instant brain herniation and death.[5] This statement clearly suggests that the fetus is alive until the suction device is inserted into the brain.

As regards whether the fetus experiences pain during this procedure: Dr. McMahon states that the fetus feels no pain through the entire series of procedures.[4] Although it is true that analgesic medications given to the mother will reach in the fetus and presumably provide some degree of pain relief, the extent to which this renders this procedure pain free would be very difficult to document. I have performed in-utero procedures on fetuses in the second trimester, and in these situations the response of the fetuses to painful stimuli, such as needle sticks, suggest that they are capable of experiencing pain. Further evidence that the fetus is capable of feeling fetal pain is the response of extremely preterm infants to painful stimuli.

As regards the accuracy of the illustrations of this procedure which have been distributed by the National Right to Life Committee: I have read the letters dated June 12, 1995 and June 27, 1995 sent to members of Congress by the National Abortion Federation, which state that the drawings of the partial-birth abortion procedure that have been distributed by you and by the National Right to Life Committee are ''highly imaginative . . . with little relationship to the truth'' and ''misleading.''[7]

Having read Dr. Haskell's paper[1], I can assure you that these drawings accurately represent the procedure described therein. Furthermore, Dr. Haskell is reported as saying that the illustrations were accurate ''from a technical point of view.''[2] First hand renditions by a professional medical illustrator, or photographs or a video recording of the procedure would no doubt be more vivid, but not necessarily more instructive for a nonmedical person who is trying to understand how the procedure is performed.

As regards the impact of the banning of the procedure on other indicated standard medical procedures: Critics of your bill who say that this legislation will prevent doctors from performing certain procedures which are standard of care, such as cephalocentesis (removal of fluid from the enlarged head of a fetus with the most severe form of hydrocephalus) are mistaken. In such a procedure a needle is inserted with ultrasound guidance through the mother's abdomen into the uterus and then into the enlarged ventricle of the brain (the space containing cerebrospinal fluid).

Fluid is then withdrawn which results in reduction in the size of the head so that delivery can occur. This procedure is not intended to kill the fetus, and, in fact, is usually associated with the birth of a live infant. This is an important distinction between a needle cephalocentesis which is intended to facilitate the birth of a living fetus as contrasted with the procedure described by Doctors Haskell and McMahon, which is intended to kill a living fetus which has been partially delivered.

The technique of the partial-birth abortion could be used to remove the fetus that had died in utero of natural causes or accident. Such a procedure would not be covered by the definition in your bill, because it would not involve partially delivering a live fetus and then killing it.

As regards viability of preterm infants in the second trimester of pregnancy: I have reviewed a ''fact sheet'' distributed by the National Abortion and Reproductive Rights Action League (NARAL) in opposition to your legislation.[8] This document states, ''Very few premature infants born at 24 weeks' gestation actually survive. The chance for survival at 25 weeks' gestation is 10–15%; one week later—at 26 weeks—the chances of survival double to 24–45%. A survival rate of 50% is achieved only in live births at 27 or more weeks gestation.'' These figures are outdated and misleading. In a recent study from the National Institute of Child Health and Human Development Neonatal Network, survival was documented in a large number of premature infants born at the seven participating institutions.[9] At 23 weeks gestation the neonatal survival was 23 percent and at 24 weeks' gestation survival was 34 percent. As you can see in Figure 3 in the enclosed article by Maureen Hack et al., there are wide inter-institutional variations in neonatal survival at east gestational age. For example, at 24 weeks' gestation neonatal survival varied from a low of 10 percent to a high of 57 percent. This data applies to infants born without major congenital defects.

I trust this information will be helpful.

Respectfully,

WATSON A. BOWES, Jr., M.D.
Professor.

FOOTNOTES

[1] Haskell M. Dilation and extraction for late second trimester abortion. Presented at the National Abortion Federation Risk Management Seminar, Dallas, Texas, September 13, 1992.

[2] Gianelli D.M. Shock-tactic ads target late-term abortion procedures. American Medical News, July 5, 1993, p 3 ff.

[3] Shafer B. Letter written to Congressman Tony Hall, July 9, 1995.

[4] McMahon JT. Written submission to the House Subcommittee on the Constitution, Washington, D.C., June 23, 1995.

[5] Carlson DE. Letter to the Honorable Henry Hyde, Chairman, House Judiciary Committee, June 27, 1995.

[6] Saporta V, Prohaska G. Letter to Members of Congress, U.S. House of Representatives, June 12, 1995.

[7] Saporta V. Letter to Members of Congress, U.S. House of Representatives, June 27, 1995.

[8] National Abortion and Reproductive Rights Action League. Third-Trimester Abortion: The Myth of ''Abortion on Demand''. (Date not listed)

[9] Hack M, Hobar JD, Malloy MH, et al. Very low birth weight outcomes of the National Institute of Child Health and Human Development Neonatal Network. Pediatrics. 1991; 87:587–597.

Mr. ABERCROMBIE. Mr. Speaker, today I rise to discuss H.R. 1833, the Partial-Birth Abortion Ban Act. During the course of the debate, gory and graphic descriptions are going to be used to exaggerate and manipulate emotions to obscure the real issues. In fact, the title itself is misleading. This is not about abortion on demand, the issue is about women and their families facing a tragic situation. Women who chose to have a dilation and extraction or a dilatation and evacuation preformed late in their pregnancy, do so only as a last resort. These surgical procedures are rarely ever utilized. Fewer than 500 a year are performed. These procedures are used in the case of desired pregnancies gone tragically wrong due to severe fetal anomaly or severe risk to the health or life of the mother.

I have read the personal testimony of Coreen Costello and Mary-Dorothy Line.These women and others like them wanted their child and were willing to have a child with disabilities. However, once they realized that the baby could not survive outside of the womb, they had to make a soul searching decision. This was a very difficult decision made by the women and their husbands, but because they chose to have a late term abortion procedure they saved their lives and preserved their ability to have more children. Without the surgical procedures H.R. 1833 outlaws, neither of these women would be pregnant today or even healthy.

Under H.R. 1833, Congress would intrude into the lives of Coreen Costello, Mary-Dorothy Line and other women by denying them surgical procedures which ensure their ability to conceive more children. H.R. 1833 says to American women: your health and fertility mean nothing to us.This bill flagrantly violates women's rights and demotes them to second class citizenry.

The Supreme Court ruled in the cases of *Roe* v. *Wade,* and *Planned Parenthood* v. *Casey* that if a woman's life or health is endangered, late term abortions can not be banned. Yet even as amended by the Senate, H.R. 1833 does not have a genuine life exception. Pregnancy does not qualify as a physical disorder, illness or injury. In addition, H.R. 1833 also does not provide an exception for when the mother's health is at serious risk. The language in H.R. 1833, under legal scrutiny, clearly violates the Supreme Court's rulings since it does not provide life or health exemptions. This bill prevents women from receiving the safest possible medical care in the rare instances when such care is called for in the most trying of personal circumstances and anguish.

The bill is an example of the impossibility of writing a law of general application for situations which clearly demand individualized professional judgement in consultation with the parties personnely effected. To interfere in such conditions is an affront to moral sensibility and it disregards the profound consequences both physicians and their patients must resolve.

Mr. POSHARD. Mr. Speaker, I rise today in strong support of the ban on partial birth abortions, and urge my colleagues to follow suit in passing this important legislation.

I sincerely believe this late-term abortion procedure goes beyond the usual scope of debate we in the House have heard on the issue of abortion. This ban is not only about respecting life, it's about using humane and ethical medical practices. In fact, a number of historically pro-choice Members of this body joined in supporting this ban when it first was conducted by the House because of the nature of the procedure.

As amended by the Senate, this bill continues to allow for such a procedure should the life of the mother be endangered by a physical disorder, illness, or injury. So let us not argue today about the health and well-being of our prospective mothers, because this bill protects

those very rights. To include an exception for the health of a mother versus her life, does nothing more than allow this procedure to continue to be used as an elective form of abortion.

For this reason, the Partial Birth Abortion Ban Act deserves the support of every Member of Congress, regardless of your stance on the issue of abortion.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in opposition to H.R. 1833. In 1973, and more recently in 1992, the Supreme Court held that a woman has a constitutional right to choose whether or not to have an abortion. H.R. 1833 is a direct attack on the principles established in both Roe versus Wade and Planned Parenthood versus Casey.

H.R. 1833 is a dangerous piece of legislation which would ban a range of late-term abortion procedures that are used when a woman's health or life is threatened or when a fetus is diagnosed with severe abnormalities incompatible with life. Because H.R. 1833 does not use medical terminology, it fails to clearly identify which abortion procedures it seeks to prohibit, and as a result could prohibit physicians from using a range of abortion techniques, including those safest for the woman.

H.R. 1833 is a direct challenge to Roe versus Wade (1973). This legislation would make it a crime to perform a particular abortion method utilized primarily after the 20 week of pregnancy. This legislation represents an unprecedented and unconstitutional attempt to ban abortion and interfere with physicians' ability to provide the best medical care for their patients.

If enacted, such a law would have a devastating effect on women who learn late in their pregnancies that they are carrying have severe, often fatal, anomalies.

Woman like Coreen Castello, a loyal Republican and former abortion protester whose baby had a lethal neurological disease; Mary-Dorothy Lines, a conservative Republican who discovered her baby had severe hydrocephalus; Claudia Ades, who had to terminate her pregnancy in the sixth month because her baby was riddled with fetal anomalies due to a fatal chromosomal disorder; Vicki Wison, who discovered at 36 weeks that her baby's brain was growing outside his head; Tammy Watts, whose baby had no eyes, and intestines developing outside the body; and Vikki Stella, who discovered at 34 weeks that her baby had nine severe anomalies that would lead to certain death. These are not elective procedures. These are the women who would be hurt by H.R. 1833—women and their families who face a terrible tragedy—the loss of a wanted pregnancy.

In Roe, the Supreme Court established that after viability, abortion may be banned by States as long as an exception is provided in cases in which the woman's life or health is at risk. H.R. 1833 provides no true exceptions for cases in which a banned procedure would be necessary to preserve a women's life or health.

The Dole amendment does not cover all cases where a woman's life is in danger. This narrow life exception applies only when a woman's life is threatened by a physical disorder, illness or injury and when no other medical procedure would suffice. By limiting the life exception in this way, the bill would omit the most direct threat to a woman's life in cases involving severe fetal anomalies—the pregnancy itself.

In fact, none of the women who submitted testimony during the Senate and House hearings on this bill would have qualified for the procedure under the Dole life exception. Instead, this bill would require physicians to use an alternative life-saving procedure, even if the alternative renders the woman infertile, or increases her risk of infection, shock or bleeding. Thus, the result of this provision is that women's lives would be jeopardized not saved.

This bill would create an unwarranted intrusion into the physician-patient relationship by preventing physicians from providing necessary medical care to their patients. Furthermore, it would impose a horrendous burden on families who are already facing a crushing personal situation.

Furthermore, the term ''Partial birth abortion'' is not found in any medical dictionaries, textbooks or coding manuals. It is a term made up by the author of H.R. 1833 to suggest that a living baby is partially delivered and then killed. The definition in H.R. 1833 is so vague as to be uninterpretable, yet chilling. Many OB/GYNs fear that this language could be interpreted to ban all abortions where the fetus remains intact. The supporters of this bill want to intimidate doctors into refusing to do abortions. Given the bill's vagueness, few doctors will risk going to jail in order to perform this procedure. As a result, women and their families will find it even more difficult, if not impossible, to find a doctor who will perform a late-term abortion, and women's lives will be put in even more jeopardy.

Late term abortions are not common; 95.5 percent of abortions take place before 15 weeks. Only a little more than one-half of 1 percent take place at or after 20 weeks. Fewer than 600 abortions per year are done in the third trimester and all are done for reasons of life or health of the mother, severe heart disease, kidney failure, or rapidly advancing cancer, and in the case of severe fetal abnormalities incompatible with the life—no eyes,no kidneys, a heart with one chamber instead of four or large amounts of brain tissue missing or positioned outside of the skull, which itself may be missing.

An abortion performed in the late second trimester or in the third trimester of pregnancy is extremely difficult for everyone involved. However, when serious fetal anomalies are discovered late in a pregnancy, or the mother develops a life-threatening medical condition that is inconsistent with the continuation of the pregnancy, abortion—however heart-wrenching—may be medically necessary.

In such cases, the intact dilation and extraction procedure [IDE]—which would be outlawed by this bill—may provide substantial medical benefits. It is safer in several respects than the alternatives, maintaining uterine integrity, and reducing blood loss and other potential complications. In addition, the procedure permits the performance of a careful autopsy and therefore a more accurate diagnosis of the fetal anomaly. Intact delivery allows geneticists, pathologists, and perinatalogists to determine what exactly the fetus's problems were. As a result, these families, who are extremely desirous of having more children, can receive appropriate genetic counseling and more focused prenatal care and testing in future pregnancies. Often, in these cases, the knowledge that a woman can have another child in the future is the only thing that keeps families going in their time of tragedy.

Political concerns and religious beliefs should not be permitted to take precedence over the health and safety of patients. The determination of the medical need for, and effectiveness of, particular medical procedures must be left to the medical profession, to be reflected in the standard of care.

In passing H.R. 1833, this Congress would set an undesirable precedent which goes way beyond the scope of the abortion debate. Will we someday be standing here debating the validity of a triple bypass or hip replacement procedure? Aren't these dangerous and unpleasant procedures?

The legislative process is ill-suited to evaluate complex medical procedures whose importance may vary with a particular patient's case and with the state of scientific knowledge. The mothers and families who seek late term abortions are already severely distressed. They do not want an abortion—they want a child. Tammy Watts told us that she would have done anything to save her child. She said, ''If I could have given my life for my child's I would have done it in a second.''

Unfortunately, however, there was nothing she could do. For Tammy, and women like her, a late term abortion is not a choice it is a necessity. We must not compound the physical and emotional trauma facing these women by denying them the safest medical procedure available.

This bill unravels the fundamental constitutional rights that American women have to receive medical treatment that they and their doctors have determined are safest and medically best for them. By seeking to ban a safe and accepted medical technique, members of Congress are intruding directly into the practice of medicine and interfering with the ability of physicians and patients to determine the best course of treatment. The creation of felony penalties and Federal tort claims for the performance of a specific medical procedure would mark a dramatic and unprecedented expansion of congressional regulation of health care.

H.R. 1833 contains no exception for adverse health consequences and no true life exception. The Dole amendment is dangerously narrow and it would force doctors to forgo the safest choice for a woman whose life is at risk.

This bill is bad medicine, bad law, and bad policy. Women facing late term abortions due to risks to their lives, health or severe fetal abnormalities incompatible with life must be able to make this decision in consultation with their families, their physicians, and their God. Women do not need medical instruction from the Government. To criminalize a physician for using a procedure which he or she deems to be safest for the mother is tantamount to legislating malpractice. I urge my colleagues to defeat this dangerous legislation.

Mrs. SMITH of Washington. Mr. Speaker, this evening the House will be voting on the partial birth abortion ban legislation. As a nation, we have created a veil of silence when it comes to the reality of abortion procedures. It is easy to be pro-choice when one can claim ignorance about the ways and means of abortion: whether it is a saline abortion, dilation and extraction, or suction, just to name a few.

Tonight, we are talking about a particular procedure commonly referred to as the ''partial

birth abortion.'' The very use of the word ''birth'' should be a clue as to how this procedure is performed. By inducing a ''breech'' birth, and I would like to note that I was a ''breech'' baby, a doctor is able to deliver a baby feet first and while the child's head is still in the birth canal, insert surgical scissors into the base of the baby's skull and remove the brain tissue, thus collapsing the skull and then finishing the delivery of a now dead baby. We are tantalizing a young life as it enters the world, only to collapse its skull and end its life.

I used to be pro-choice, but I am confident that I would have changed my views years earlier had I been aware of the truly horrid nature of abortion. Had I known that this procedure was being performed, my decision to choose life would have been that much simpler. As a mother and grandmother, it is mind boggling to imagine having labor induced, to be giving birth, only to have the opportunity to be a mother stopped in midstream. One mother, Brenda Pratt Shafer, is a nurse who witnessed this procedure. In her own words, she has stated that she ''had often expressed strong pro-choice views to my two teenage daughters.'' However, upon witnessing the partial delivery and death of a baby, she realized that it is easy to be pro-choice when one does not now what abortion is all about.

Some will say that this procedure is only used on children who would otherwise have serious birth defects or other abnormalities. The testimony of the doctors who have performed this procedure say otherwise. One such doctor, Martin Haskell of Ohio, has stated that 80 percent of abortions he has performed using this procedure were elective. Furthermore, as Americans, what is our life ethic if we continue down this slippery slope of wanting only the ''perfect'' child? I am fearful that as we increasingly hear terms like ''gender selection'' and the like, we will be banishing more innocent lives to a grisly death. As a mother, I know that there are no ''perfect children.'' Health alone does not make the perfect child. If nothing else, the parents of a child whose life may only last a few hours or days or weeks have the opportunity to bond with their child and then say ''goodbye.''

Banning this procedure does not mean that other forms of abortion are acceptable. However, I challenge my colleagues in the House and Americans everywhere to justify the partial birth abortion. I ask my colleagues tonight to face the facts and accept this procedure for what it is. Many of us would like to turn the other way and have found ourselves angry that we are being ''forced'' to look at first hand the graphic nature of this act. I can only respond by saying that man's inhumanity to man is never pleasant. It is necessary to understand what we are up against.

I ask my colleagues in the House to accept the reality of the partially birth abortion and join with me in banning this procedure. It is just plan sick and does not reflect the values upon which this Nation was founded and still embraces to be true today.

Thank you and please join with me in supporting H.R. 1833, the Partial Birth Abortion Ban Act.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise in opposition to this misguided and deceptive legislation before us known as H.R. 1833, the Partial Birth Abortion Ban Act. I believe this bill is both bad politics and bad policy.

Mr. Speaker, it is critical to protect women's health and preserve the ability of these women to have future healthy pregnancies. H.R. 1833 prevents women from receiving the safest medical care in the rare cases when a wanted pregnancy has gone tragically wrong. Women need access to the safest medical procedure. Under Roe versus Wade and later reaffirmed in Planned Parenthood versus Casey the Supreme Court explicitly declared that States can ban late term abortions, unless the woman's life or health is endangered, and in fact 41 States have already done so. As passed by the Senate, and earlier by the House, H.R. 1833 is a direct constitutional challenge to both Roe and Casey because it fails to provide a health exception.

Mr. Speaker, we must not be misled by the Senate's addition of language purporting to be a ''life exception.'' As drafted, the ''life exception'' language is so narrowly crafted that a doctor would still risk criminal prosecution to perform this procedure. It is important to note that the Senate, by a narrow margin, rejected a true ''life and adverse health'' amendment that would have protected women who face life and health threatening pregnancies.

Mr. Speaker, since the House has considered this bill, public debate on the issue has shifted. The House acted to ban a specific abortion procedure and jail doctors after only brief debate and a prohibition on all amendments. When the far-reaching effects of this legislation were more fully debated both in the Senate and in the news media the bill passed the Senate by only a thin margin. The statements of the bill's proponents both in Congress and in anti-choice movements make it clear that H.R. 1833, far from being a moderate measure, is in fact the first step in an ambitious strategy to use the new congressional anti-choice majority to overturn Roe. I ask my colleagues to stop that from happening.

Mrs. VUCANOVICH. Mr. Speaker, as many of you know, I have 15 grandchildren. Two of my grandchildren, the miracle twins as I call them, were born prematurely at 7 months. They were so tiny that they could fit in your hands but they were perfectly formed little human beings and they are now 14 years old.

It makes me shudder to think that somewhere, perhaps even today, in this country that there are other little pre-born human beings 7 months old in their mothers womb that are going to be subject to this brutal, horrible procedure known as a partial birth abortion.

I am not the only one who finds this procedure horrifying. The American Medical Association's Legislative Council unanimously decided that this procedure was not ''a recognized medical technique'' and that ''this procedure is basically repulsive''. This is especially true when you realize that 80 percent of these types of abortion are done as a purely elective procedure. It is important to note that this bill does make exception for this type of abortion if it is necessary to save the life of the mother however, this is an exception that will have to be used rarely.

I think we can all agree that it is inhuman to begin the birthing process and nearly complete the delivery of the baby, only to suck the life out of the child.

I strongly urge my colleagues to support H.R. 1833, with the Senate amendments, which would ban this brutal procedure known as partial birth abortion.

Mr. ZELIFF. Mr. Speaker, I rise today in support of the conference report to H.R. 1833, the Partial Birth Abortion Ban Act, which will prohibit the use of a single medical procedure in the performance of abortions. I do believe that this particular procedure is unnecessary and a particularly cruel method of ending a late-term abortion. I believe that saying no to one procedure (with exemptions for life-threatening situations) in this case is appropriate, and does not affect the reproductive rights of women with regard to the *Roe* v. *Wade* decision, which I support. Enactment of this legislation will not in itself have significant impact on those Constitutionally-guaranteed rights.

But let me be clear, Mr. Speaker, that I will not support a strategy in this body to slowly dismantle reproductive rights under *Roe* v. *Wade* piece by piece, and I will oppose further measures that are part of such a strategy. Having an abortion is a right as guaranteed under the Constitution and upheld by the Supreme Court. To embark on a congressional strategy aimed at slowly striking down that right is not only wrong-headed, it is backhanded. The American people support the right to choose and that fact would make any effort in this House to further restrict the right to choose an effort without the support of the American public.

In sum, Mr. Speaker, while I support this legislation today I will not continue to support an effort by anti-choice forces to slowly dismantle the constitutional rights of women in the country.

Mr. STOCKMAN. Mr. Speaker, I raise in support of the motion and ask you insert this information into the RECORD.

''FETAL DEATH'' OR DANGEROUS DECEPTION? THE EFFECTS OF ANESTHESIA DURING A PARTIAL-BIRTH ABORTION

The claim that anesthesia given to a pregnant woman kills her fetus/baby before a partial-birth abortion is performed has ''absolutely no basis in scientific fact,'' according to Dr. Norig Ellison, the president of the American Society of Anesthesiologists. It is ''crazy,'' says Dr. David Birnbach, the president-elect of the Society for Obstetric Anesthesia and Perinatology.

Despite such authoritative statements, this medical misinformation is still being disseminated. Here are a few examples:

ABORTION ADVOCATES

KATE MICHELMAN OF THE NATIONAL ABORTION RIGHTS ACTION LEAGUE (NARAL)

One of the leading proponents of the ''anesthesia myth' is Kate Michelman, president of the National Abortion Rights Action League (NARAL). For example, in an interview on ''Newsmakers,'' KMOX–AM in St. Louis on Nov. 2, 1995, Ms. Michelman said:

The other side grossly distorted the procedure. There is no such thing as a 'partial-birth'. That's that's a term made up by people like these anti-choice folks that you had on the radio. The fetus—I mean, it is a termination of the fetal life, there's no question about that. And the fetus, is, before the procedure begins, the anesthesia that they give the women already causes the demise of the fetus. That is, it is not true that they're born partially. That is a gross distortion, and it's really a disservice to the public to say this.

DR. MARY CAMPBELL OF PLANNED PARENTHOOD

Prior to the November 1, 1995, House vote on the bill, Planned Parenthood circulated to lawmakers a ''fact sheet'' titled, ''H.R. 1833, Medical Questions and Answers,'' which includes this statement:

''Q: When does the fetus die?

''A: The fetus dies of an overdose of anesthesia given to the mother intravenously. A dose is calculated for the mother's weight which is 50 to 100 times the weight of the fetus. The mother gets the anesthesia for each insertion of the dilators, twice a day. This induces brain death in a fetus in a matter of minutes. Fetal demise therefore occurs at the beginning of the procedure while the fetus is still in the womb.''

THE PRESS

THE NEW YORK DAILY NEWS

The fetus is partially removed from the womb, its head collapsed and brain suctioned out so it will fit through the birth canal. The anesthesia given to the woman kills the fetus before the full procedure takes place. But you won't hear that from the anti-abortion extreme. It would have everybody believe the fetus is dragged alive from the womb of a woman just weeks away from birth. Not true. (Editorial, Dec. 15, 1995)

USA TODAY

''The fetus dies from an overdose of anesthesia given to its mother.''

THE ST. LOUIS POST-DISPATCH

''The fetus usually dies from the anesthesia administered to the mother before the procedure begins.'' (News story, Nov. 3, 1995)

SYNDICATED COLUMNIST ELLEN GOODMAN

Syndicated columnist Ellen Goodman wrote in mid-November that, if one relied on statements by supporters of the bill, ''You wouldn't even know that anesthesia ends the life of such a fetus before it comes down the birth canal.''

THE TRUTH

''Medical experts contend the claim is scientifically unsound and irresponsible, unnecessarily worrying pregnant women who need anesthesia.'' (American Medical News, January 1, 1996)

''[A]nesthesia does not kill an infant if you don't kill the mother.'' (Dr. David Birnbach quoted in American Medical News, January 1, 1996)

''I am deeply concerned, moreover, that widespread publicity . . . may cause pregnant women to delay necessary and perhaps life-saving medical procedures, totally unrelated to the birthing process, due to misinformation regarding the effect of anesthetics on the fetus.'' (Dr. Norig Elisson, Nov. 17, 1995, testimony before Senate Judiciary Committee)

''Drugs administered to the mother, either local anesthesia administered in the paracervical area or sedatives/analgesics administered intramuscularly or intravenously, will provide no-to-little analgesia [relief from pain] to the fetus.'' (Dr. Norig Ellison, November 22, 1995, letter to Senate Judiciary Committee)

STATEMENT OF NORIG ELLISON, M.D., PRESIDENT, AMERICAN SOCIETY OF ANESTHESIOLOGISTS

Chairman CANADY, members of the Subcommittee. My name is Norig Ellison, M.D., I am the President of the American Society of Anesthesiologists [ASA], a national professional society consisting of over 34,000 anesthesiologists and other scientists engaged or specially interested in the medical practice of anesthesiology. I am also Professor and Vice-Chair of the Department of Anesthesiology at the University of Pennsylvania School of Medicine in Philadelphia and a staff anesthesiologists at the Hospital of the University of Pennsylvania.

I appear here today for one purpose, and one purpose only; to take issue with the testimony of James T. McMahon, M.D., before this Subcommittee last June. According to his written testimony, of which I have a copy, Dr. McMahon stated that anesthesia given to the mother as part of dilation and extraction abortion procedure eliminates any pain to the fetus and that a medical coma is induced in the fetus, causing a ''neurological fetal demise'', or—in lay terms—''brain death''.

I believe this statement to be entirely inaccurate. I am deeply concerned, moreover, that the widespread publicity given to Dr. McMahon's testimony may cause pregnant women to delay necessary, even lifesaving, medical procedures, totally unrelated to the birthing process, due to misinformation regarding the effect of anesthetics on the fetus. Annually over 50,000 pregnant women are anesthetized for such necessary procedures.

Although it is certainly true that some general analgesic medications given to the mother will reach the fetus and perhaps provide some pain relief, it is equally true that pregnant women are routinely heavily sedated during the second or third trimester for the performance of a variety of necessary surgical procedures with absolutely no adverse effect on the fetus, let alone death or ''brain death''. In my medical judgment, it would be necssary—in order to achieve ''neurological demise'' of the fetus in a ''partial birth'' abortion—to anesthetize the mother to such a degree as to place her own health in serious jeopardy.

As you are aware, Mr. Chairman, I gave the same testimony to a Senate committee 4 months ago. That testimony received wide circulation in anesthesiology circles and to a lesser extent in the lay press. You may be interested in the fact that since my appearance, not one single anesthesiologist or other physician has contacted me to dispute my stated conclusions. Indeed, two eminent obstetric anesthesiologists appear with me today, testifying on their own behalf and not as ASA representatives. I am pleased to note that their testimony reaches the same conclusions that I have expressed.

Thank you for your attention. I am happy to respond to your questions.

Mr. GEJDENSON. Mr. Speaker, today I rise to express my opposition to H.R. 1833, the so-called ''Partial-Birth'' Abortion bill. I voted against this measure last year when it was first considered by the House and I will do so again today because I do not believe that Congress is the proper authority to decide the appropriateness of a particular medical procedure. This decision should be made by a woman, her family and her physician.

Further, in addition to being the first step in an all-out assault on a woman's right to choose, this bill is also unconstitutional since it fails to make an exception for the life and health of the mother as required by Roe v. Wade. For that reason, President Clinton has indicated that he will veto this measure.

Proponents of H.R. 1833 would like the public to believe that the women who have third trimester abortions do so because after 6 months of pregnancy, they suddenly decide that they do not want a baby. This could not be further from the truth. The women I have heard speak about their experiences—Mary-Dorothy Line, Tammy Watts, Coreen Costello—all desperately wanted their babies, but severe fetal abnormalities left no chance of the child surviving outside of the womb. Nevertheless, they have all insisted that while their decision to have this procedure was a painful one, it was their decision, not one forced upon them by the Federal Government.

With this in mind, it is ironic that while the Republican majority in Congress has spent much of the past year denouncing Government intervention in an individual's private life, they are intent on passing this bill which is the ultimate imposition of Government on a woman's health care choices.

The SPEAKER pro tempore. Pursuant to the rule, the previous question is ordered.

The question in on the motion offered by the gentleman from Florida [Mr. CANADY].

The question was taken; and the Speaker pro tempore announced that the ayes appear to have it.

Mr. CANADY of Florida. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 286, nays 129, answered ''present'' 1, not voting 15, as follows:

[Roll No 94]

YEAS—286

Allard	Cunningham	Hobson
Archer	Danner	Hoekstra
Armey	Davis	Hoke
Bachus	de la Garza	Holden
Baesler	Deal	Hostettler
Baker (CA)	DeLay	Houghton
Baker (LA)	Diaz-Balart	Hunter
Ballenger	Dickey	Hutchinson
Barcia	Dingell	Hyde
Barr	Doolittle	Inglis
Barrett (NE)	Doyle	Istook
Barrett (WI)	Dreier	Jacobs
Bartlett	Duncan	Jefferson
Barton	Dunn	Johnson (SD)
Bass	Ehlers	Johnson, Sam
Bateman	Ehrlich	Jones
Bereuter	Emerson	Kanjorski
Bevill	English	Kaptur
Bilbray	Ensign	Kasich
Bilirakis	Everett	Kennedy (RI)
Bliley	Ewing	Kildee
Blute	Fawell	Kim
Boehner	Fields (TX)	King
Bonilla	Flake	Kingston
Bonior	Flanagan	Kleczka
Bono	Foglietta	Klink
Borski	Foley	Klug
Brewster	Forbes	Knollenberg
Browder	Fox	LaFalce
Brownback	Franks (NJ)	LaHood
Bryant (TN)	Frisa	Largent
Bunn	Frost	Latham
Bunning	Funderburk	LaTourette
Burr	Gallegly	Laughlin
Burton	Ganske	Lazio
Buyer	Gekas	Leach
Callahan	Gephardt	Lewis (CA)
Calvert	Geren	Lewis (KY)
Camp	Gilchrest	Lightfoot
Canady	Gillmor	Lincoln
Castle	Goodlatte	Linder
Chabot	Goodling	Lipinski
Chambliss	Gordon	Livingston
Chenoweth	Goss	LoBiondo
Christensen	Graham	Longley
Chrysler	Gunderson	Lucas
Clement	Gutknecht	Manton
Clinger	Hall (OH)	Manzullo
Coble	Hall (TX)	Martinez
Coburn	Hamilton	Martini
Collins (GA)	Hancock	Mascara
Combest	Hansen	McCollum
Condit	Hastert	McCrery
Cooley	Hastings (WA)	McDade
Costello	Hayes	McHale
Cox	Hayworth	McHugh
Cramer	Hefley	McInnis
Crane	Hefner	McIntosh
Crapo	Heineman	McKeon
Cremeans	Herger	McNulty
Cubin	Hilleary	Metcalf

Mica
Miller (FL)
Minge
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Murtha
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thornberry
Thornton
Tiahrt
Traficant
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff

NAYS—129

Abercrombie
Ackerman
Andrews
Baldacci
Becerra
Beilenson
Bentsen
Berman
Bishop
Boehlert
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Cardin
Chapman
Clay
Clayton
Clyburn
Coleman
Collins (MI)
Conyers
Coyne
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dixon
Doggett
Dooley
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Frank (MA)
Franks (CT)
Frelinghuysen
Furse
Gejdenson
Gilman
Gonzalez
Green
Greenwood
Gutierrez
Hastings (FL)
Hilliard
Hinchey
Horn
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Johnson (CT)
Johnson, E. B.
Johnston
Kelly
Kennedy (MA)
Kennelly
Kolbe
Lantos
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney
Markey
Matsui
McCarthy
McDermott
McKinney
Meehan
Meek
Menendez
Meyers
Miller (CA)
Mink
Morella
Nadler
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Pickett
Rangel
Reed
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Shays
Skaggs
Slaughter
Stark
Studds
Thompson
Thurman
Torkildsen
Torres
Towns
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wynn
Yates
Zimmer

ANSWERED ''PRESENT''—1

Richardson

NOT VOTING—15

Bryant (TX)
Collins (IL)
Dornan
Filner
Ford
Fowler
Gibbons
Harman
Roukema
Smith (WA)
Stokes
Thomas
Torricelli
Ward
Weldon (PA)

□ 2008

The Clerk announced the following pairs:

On this note:

Mr. Thomas of California for, with Ms. Harman against.

Mr. Fowler of Florida for, with Mr. Stokes against.

Mr. MYERS of Indiana changed his vote from ''nay'' to ''yea.''

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ROGERS). Pursuant to the provisions of clause 5 of rule I, the chair will now put the question on each motion to suspend the rules on which further proceeding were postponed on Tuesday, March 26, 1996, in the order in which that motion was entertained.

Votes will be taken in the following order: House Resolution 379, by the yeas and nays: and House Concurrent Resolution 102, by the yeas and nays.

The Chair will reduce to 5 minutes the time for the second electronic vote.

ANNIVERSARY OF MASSACRE OF KURDS BY IRAQI GOVERNMENT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution, House Resolution 379.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. GILMAN] that the House suspend the rules and agree to the resolution, House Resolution 379, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 409, nays 0, not voting 22, as follows:

[Roll No. 95]

YEAS—409

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (MI)
Combest
Condit
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Flake
Flanagan
Foglietta
Foley
Forbes
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise

Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—22

Borski
Bryant (TX)
Clinger
Collins (IL)
Conyers
DeLay
Dornan
Filner
Ford
Fowler
Gibbons
Harman
McDermott
Pickett
Smith (WA)
Stark
Stokes
Studds
Thomas
Torricelli
Waters
Weldon (PA)

☐ 2027

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ROGERS). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on the additional motion to suspend the rules on which the Chair had postponed further proceedings.

EMANCIPATION OF IRANIAN BAHAI COMMUNITY

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, House Concurrent Resolution 102.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. GILMAN] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 102, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 408, nays 0, not voting 23, as follows:

[Roll No 96]

YEAS—408

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dickey
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Flanagan
Foglietta
Foley
Forbes
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—23

Berman
Borski
Brewster
Bryant (TX)
Clinger
Collins (IL)
DeLay
Dicks
Dornan
Filner
Flake
Ford
Fowler
Gibbons
Gunderson
Harman
McDermott
Smith (WA)
Stokes
Studds
Thomas
Torricelli
Weldon (PA)

☐ 2036

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3136, CONTRACT WITH AMERICA ADVANCEMENT ACT OF 1996

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 104–500) on the resolution (H. Res. 391) providing for consideration of the bill (H.R. 3136) to provide for enactment of the Senior Citizens' Right to Work Act of 1996, the Line-Item Veto Act, and the Small Business Growth and Fairness Act of 1996, and to provide for a permanent increase in the public debt limit, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3103, HEALTH COVERAGE AVAILABILITY AND AFFORDABILITY ACT OF 1996

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 104–501) on the resolution (H. Res. 392) providing for consideration of the bill (H.R. 3103) to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term care services and coverage, to simplify the administration of health insurance, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2854, FEDERAL AGRICULTURE IMPROVEMENT AND REFORM ACT OF 1996

Mr. GOSS, from the Committee on Rules submitted a privileged report (Rept. No. 104–502) on the resolution (H. Res. 393) waiving points of order against the conference report to accompany the bill (H.R. 2854) to modify the operation of certain agricultural programs, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 956, COMMON SENSE PRODUCT LIABILITY LEGAL REFORM ACT OF 1996

Mr. GOSS, from the Committee on Rules submitted a privileged report (Rept. No. 104–503) on the resolution (H. Res. 394) waiving points of order against the conference report to accompany the bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT OF DEPARTMENT OF HEALTH AND HUMAN SERVICES REGARDING RADIATION CONTROL FOR HEALTH AND SAFETY ACT OF 1968—MEASSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Commerce:

To the Congress of the United States:

In accordance with section 540 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360qq) (previously section 360D of the Public Health Service Act), I am submitting the report of the Department of Health and Human Services regarding the administration of the Radiation Control for Health and Safety Act of 1968 during calendar year 1994.

The report recommends the repeal of section 540 of the Federal Food, Drug, and Cosmetic Act that requires the completion of this annual report. All the information found in this report is available to the Congress on a more immediate basis through the Center for Devices and Radiological Health technical reports, the Radiological Health Bulletin, and other publicly available sources. The Agency resources devoted to the preparation of this report could be put to other, better uses.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 27, 1996.*

1996 TRADE POLICY AGENDA AND 1995 ANNUAL REPORT ON TRADE AGREEMENTS PROGRAM—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Ways and Means:

To the Congress of the United States:

As required by section 163 of the Trade Act of 1974, as amended (19 U.S.C. 2213), I transmit herewith the 1996 Trade Policy Agenda and 1995 Annual Report on the Trade Agreements Program.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 27, 1996.*

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
March 27, 1996.

Hon. NEWT GINGRICH,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you, pursuant to Rule L (50) of the Rules of the House of Representatives, that I, as custodian of records for the Office of the Clerk, U.S. House of Representatives, have been served with three grand jury subpoenas duces tecum issued by the U.S. District Court for the Eastern District of Michigan.

After consultation with the Office of General Counsel, I have determined that the Clerk's Office has no documents responsive to the subpoenas. Through counsel, I will so notify the appropriate Assistant U.S. Attorney.

Sincerely,

ROBIN H. CARLE,
Clerk of the House of Representatives.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

FDA REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. FOX] is recognized for 5 minutes.

Mr. FOX of Pennsylvania. Mr. Speaker, I appreciate the opportunity to address my colleagues tonight on a very important topic. Today it was announced that legislation will be introduced this week on FDA reform. This is long overdue here in the Congress, to make sure we help protect the health and safety of our constituents.

□ 2045

Today Congressman GREENWOOD, the task force chairman under Congressman BLILEY started out with a discussion of our mission and was followed with remarks from Chairman BILIRAKIS, Chairman BARTON, Congressman KLUG, Congressman BUYER, Congressman PALLONE, and Congressman RICHARDSON.

It is a bipartisan effort, Mr. Speaker, for the purpose of making sure that we stop the insidious problem we have had in the country with the FDA treatment delayed become FDA treatment denied. We need to save lives, extend the years, and improve quality of life for all of our constituents. An idea whose time has arrived is FDA reform, not just for food, but for medical devices and pharmaceuticals as well.

It may well be the most extensive and important piece of legislation we will deal with in the second session of the 104th Congress, that being FDA reform. If we can hasten the approval process for drugs and medical devices while patients await a cure or a vaccine, we will certainly have accomplished much as Congressman and Senators.

Mr. Speaker, lest anyone believe otherwise, we are certainly not going to reduce in any way the safety of drugs, the efficacy of those drugs, but we want to speed up the process of the approval. It can be done through streamlining the clinical research, through third-party review and through working with international harmonization, by accepting certified results of tests by other countries.

I am hopeful the many people who came to Washington today who had illnesses such as cancer, ALS, epilepsy, AIDS, and a myriad of other conditions they have come to us saying, look, we need to make sure we can live longer, please, do not stop us from getting the experimental drugs, the miracle drugs we need in order to live a little longer and hope for a cure.

I believe today, ladies and gentleman, that we have heard from the American people, that we can work together in a bipartisan fashion, House and Senate together, working with the White House and working with the FDA. Dr. Kessler has a very important organization that he heads. We need to work with him to make sure the reforms we need are ones that can be embraced by all, because what we are talking about is the health care and the life of all of our constituents across this United States, in the country where 85 percent of the new drugs to extend life and to sustain life are being created. We want to make sure those discoveries stay here and the jobs of the people who are, thankfully, making those discoveries every day.

I thank you for the opportunity to address my colleagues, and I hope that we will fast-track this important legislation and it does in fact become passed before the end of the session.

TRIBUTE TO DAVID PACKARD

The SPEAKER pro tempore (Mr. COLLINS of Georgia). Under a previous

order of the House, the gentleman from California [Mr. FARR] is recognized for 5 minutes.

Mr. FARR of California. Mr. Speaker, it is with deep sorrow that I rise today to salute a man who, without question, represented the very best of California creativity and American ingenuity. David Packard, who revolutionized both the computer industry and modern-management practices died Tuesday in Palo Alto, CA. He was 83.

For anyone familiar with computers in the 20th century, the name Hewlett-Packard is synonymous with innovation, and with excellence. Founded in 1939 in a Palo Alto garage by Mr. Packard and his good friend William Hewlett, the company is now a recognized leader in its field, employing more than 100,000 workers. The ''HP Way,'' Mr. Packard's standard for corporate practices and employee relations, is commonly cited as one of the best by business experts.

In creating his company, Mr. Packard said, ''Get the best employees, stress the importance of teamwork, and fire them up with the will to win.'' Though many in business may take such words lightly, for Mr. Packard, they represented the only way to succeed.

There were no conventional offices at Hewlett-Packard, not even for the most senior engineers. To stress collaboration and creativity, employees were grouped together in close proximity where they could freely exchange ideas. This respect for the H-P employee also applied in a number of other ways. Hewlett-Packard was among the first in the business world to provide catastrophic medical coverage, flexible work hours and decentralized decision-making.

David Packard also took a keen interest in his global community and was a generous philanthropist. He established the Packard Foundation in 1964 to support community organizations, education, health care, conservation, population projects, the arts, and scientific research.

But while the Nation and the world are remembering David Packard for his business and industrial achievements, the people of the Monterey Bay are remembering David Packard as an ocean pioneer—our nation's Jacques Cousteau. He recently said that ''I spent my entire business life in the technology field, and in my industrial career I have seen my share of revolutions in human understanding. I now realize that the ocean is the most important frontier we have.''

David Packard used this scientific vision and $55 million to help his daughter Julie develop and open the Montery Bay Aquarium—the world's best example of top science education as good business. David took his vision a step further and built a state of-the-art marine lab at Moss Landing to pioneer new deep ocean exploration technologies. All told, David and his late wife Lucile donated over $450 million to scientific research, education, health care, conservation and the arts.

On a personal note, let me just say that I will sorely miss the many contributions of David Packard. A good family friend, he was one of those few people you cross in life who not only touches our hearts, but also inspires our minds. David was one of a kind. My thoughts and prayers go out to his four children, David, Nancy, Susan and Julie, his colleagues and his many, many friends.

TRIBUTE TO DAVID PACKARD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado [Mr. MCINNIS] is recognized for 5 minutes.

Mr. MCINNIS. Mr. Speaker, I have just heard the gentleman from California [Mr. FARR] speak, and I want to say with some great deal of pride that Mr. Packard was born in Pueblo, CO. He was indeed a fine, fine gentleman and certainly a leader in our country and a leader in business.

THE STRENGTH OF FAMILY AND RELIGION

But I wanted to speak tonight to my colleagues about a couple of things that over the weekend inspired me about family and about duty to our country. Over the weekend I had an opportunity to visit with a very good friend of mine. His name is Jake. Jake is about 20 years old. He is a young man. He sees opportunity in this world. He is one of our kids. I think I call him a kid; he is a young man. But this young man wants to go into this society and continue in this society and accomplish things that he has dreamed of all of his life.

I was particularly pleased to visit with him this weekend because his friend, her name is Kara, and he is intending to propose to her tonight. Jake and Kara, I think, are good examples of the young people that we have in this country, of the assets that we have. I will come back to youth in just a minute.

The second event I went to this weekend was in Pueblo, CO. Pueblo is called the home of heroes. In Pueblo, CO, we have had four of our people, four citizens from Pueblo, who have won the United States Medal of Honor.

This weekend I got to be the guest at the Medal of Honor dinner, which we do have here in Pueblo, CO, where we honored 18. We had 18 Medal of Honor winners in this room. You talk about inspiration, to sit in here, you see people, such as Mr. Di Havera. Mr. Di Havera not only won the U.S. Medal of Honor but he won the Medal of Honor in the country of Mexico.

But the common thread that I saw at the medal of Honor dinner and with my friends Jake and Kara and with my own family was that they had the foundation of family and not only of the foundation of family but the foundation of religion. Regardless of the type of religion that you practice, it was amazing this weekend to see at the Medal of Honor dinner, how strong the families were in this large ballroom that we had. It was exciting to see the young people, such as Jake and Kara, who want to start out their lives together in this fine country. And what do they talk about? They talk about family. You know, a lot of times up here when we deal with these young people and they come to visit us in our offices, the questions they ask and the issues we talk about are a lot of things going wrong with this country, we have got a deficit, a budget deficit accumulating at a rate of about $30 million an hour, we have got a crime problem, we have got problems with the economy.

But what we oftentimes forget to stress to these young people is that in this country there are a lot more things going right than there are wrong. I think that this generation, the generation of Jake and Kara, is a generation that is going to have opportunities that were never there before for any other generation in the history of this country.

But I think that you have got to give credit for those opportunities to people like those brave people, men and women, on the Medal of Honor winners and the people who have set in this country the importance of family and the importance of religion as a foundation for responsibility, for moral values, and for duty to this country.

In conclusion, Mr. Speaker, I just wanted to share with my colleagues the kind of excitement I feel being around a positive setting, there with the Medal of Honor winners, people who gave it their all and then there with young people who are excited about the future of this country. I, too, share their excitement, and I, too, share the privilege of being able to sit with 18 Medal of Honor winners.

REINTRODUCTION OF THE NATIONAL INFRASTRUCTURE DEVELOPMENT ACT OF 1996

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Hawaii [Mr. ABERCROMBIE] is recognized for 5 minutes.

Mr. ABERCROMBIE. Mr. Speaker, I yield to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, I thank the gentleman from Hawaii for yielding.

Mr. Speaker, today I am reintroducing the National Infrastructure Development Act, which I first introduced at the end of the 103rd Congress. This bill will create more than 250,000 jobs, and help mend our Nation's crumbling infrastructure. I am pleased to be joined by Democratic Leaders DICK GEPHARDT, VIC FAZIO, and DAVID BONIOR, who have lead countless job creation efforts in this country. During this time of debate over the role of our Federal Government, I am proud to bring a bill to the floor which shows that Government can work for America.

At a time when jobs are disappearing and when we face intense international

competition from abroad we badly need to create new jobs and make the investments in our roads, bridges, airports, and sewers to make our Nation more competitive.

I want to remind Americans that since the election of President Clinton, the economy has continued to grow. Nearly 8 million jobs were created since his election; the unemployment rate has fallen from 7.3 percent to 5.5 percent; and, the Federal deficit has been cut in half—reducing interest rates and increasing purchasing power.

Yet, despite this good economic news, there are too many regions of the country where job growth remains slow, wages are stagnant, and people are hurting financially. Although the unemployment rate continues to decline in my home State of Connecticut, the continued threat of job loss is damaging the economic security of many families. The Federal Government must help identify new markets, and expand job opportunities for these hardworking Americans.

The National Infrastructure Development Act meets the needs of America by providing the financing mechanism needed to construct roads, bridges, sewers, schools, and airports. My bill works by leveraging a limited public investment in infrastructure to attract private capital investors. In particular, this legislation targets the pension community and other institutional investors. Together, these investors represent $4.5 trillion in investment potential.

Investments in infrastructure create good, high paying jobs, and enable businesses to perform at full capacity. With a small Federal investment, the National Infrastructure Development Act will improve our nation's infrastructure and create 250,000 jobs.

A public investment in infrastructure will succeed in spurring private sector investments. As evidence, we are already seeing private sector investors beginning to finance major infrastructure projects, such as toll roads. Further, a number of American pension plans are looking overseas to countries like China, where infrastructure investment is common. The United States must make private sector infrastructure investments even more attractive in this country.

My bill will make domestic infrastructure investments more attractive by investing in and insuring infrastructure projects through a government sponsored corporation. The National Infrastructure Corporation—or NIC—would be funded by an annual $1 billion government investment over a 3-year period. Construction or repair of schools, toll roads, airports, bridges, sewage treatment facilities, and clean-water projects are potential NIC investments.

Municipalities and states could borrow from the NIC, or be insured by the NIC for infrastructure projects. These projects would be sound investments for pension funds. In return, these investments would strengthen the U.S. economy, and improve our Nation's infrastructure. Over time, the NIC itself would be a solid investment for pension funds. The goal of this legislation is for private investors to eventually buy the Corporation from the Federal Government, repaying the taxpayer's original investment.

In addition, my bill would enable cities or states to offer bonds to pension funds for infrastructure construction. These bonds, called Public Benefit Bonds, would be attractive investments for pension funds because the bonds enable them to pass on tax benefits to their pensions.

To be clear, the National Infrastructure Development Act is not intended to replace the traditional means of funding infrastructure projects. Federal and State assistance will still be needed to fund highways and mass transit projects, sewers, and other infrastructure projects. My bill in only intended to meet the projected $30 billion annual shortfall of funds that are available for infrastructure projects. The NIC will supplement, not supplant, traditional methods of financing domestic infrastructure development.

Investments through the NIC will enable states to make better use of Federal funds they currently receive for these projects by using a small Federal investment to leverage large private investments. More infrastructure will be funded as a result of this legislation.

The National Infrastructure Development Act builds on President Clinton's goals for improving this Nation's infrastructure. The administration has enabled 32 States to construct 70 projects using a variety of innovative financing techniques. In addition, the Department of Transportation is completing a competition for 11 States to be able to establish State infrastructure banks that have a function similar to the National Infrastructure Corporation. Fifteen States entered this competition, and another 5 States wrote to express interest in entering future competitions.

This Congress has already given its approval of these efforts. The fact that so many States are looking for innovative financing methods should send a clear signal to this Congress that we must do more to meet these national infrastructure needs. The National Infrastructure Development achieves this objective.

This is a good government bill that benefits every American.

American workers benefit through good jobs. Under traditional government transportation and infrastructure investment programs, every billion dollars invested creates 35,000 to 50,000 new jobs. Under my bill, every dollar in Federal investment will result in $10 of actual construction. So each billion dollars in Federal investment will create 240,000 to 450,000 new jobs.

American businesses benefit from reliable infrastructure. Businesses depend on airports, roads, wastewater treatment facilities, and clean water projects. Stronger infrastructure will aid economic expansion.

American taxpayers benefit from better modes of transportation for fewer tax dollars, and better environmental quality.

Pension investors benefit because they can look for investment opportunities in the United States instead of overseas.

Every Member of Congress knows that Federal resources are scarce. The National Infrastructure Development Act will fill a major funding gap with a short term, limited investment and rebuild our Nation's infrastructure. Private investors need to have the opportunity to invest in America, and the Federal Government can work in partnership with the private sector.

This partnership will help us rebuild our country's aging infrastructure, create great jobs, and promote good investments.

I urge my colleagues on both sides of the aisle to closely examine this bill. Now is the time for us to move this important piece of legislation.

Mr. GEPHARDT. Mr. Speaker, I am pleased to join Congresswoman DELAURO in cosponsoring the National Infrastructure Development Act.

A fundamental governmental function is to create an economic environment conducive to growth and the creation of new opportunities and good jobs. No aspect of this function is more important than investing in the human and physical capital of the country.

To prosper, our country must invest in upgrading our public works and transportation systems. With the growing importance of high value added industry and just-in-time manufacturing, a strong transportation system is more vital to economic growth than ever. Unfortunately, we face a $300-billion backlog in transportation investment alone. According to recent studies, our national investment in transportation falls $17 billion short of the amount needed just to maintain current levels of performance.

During the 1980's, real Federal investment in infrastructure fell 16 percent. As the Federal Government reduced its investment, greater burdens fell on the states and municipalities. And many of them—not just inner cities or small towns but suburbs as well—have been unable to meet their needs. The result: falling productivity and a diminished quality of life. People spend hours in traffic jams instead of in offices or at home with their families. Traffic congestion now costs drivers in our largest cities over $40 billion per year. And long-promised road improvements needed to lower accident and fatality rates remain undelivered.

While we have made some progress in recent years, numerous studies document the need for additional investment. Bringing our bridges and highways up to current safety standards would require a doubling of the current highway program. The Bipartisan Commission to Promote Investment in America's Infrastructure reported that America's total investment shortfall in its infrastructure amounts to between $40 billion and $80 billion per year. At the same time, Federal resources are limited. As discretionary spending caps are lowered, the Federal capital investment program will come under enormous pressure.

The purpose of the National Infrastructure Development Act is to increase the public works investment critical to our long-term economic growth. It does so by using innovative financing and techniques already used in the private secton to encourage more investment in our roads, bridges and transit systems.

The National Infrastructure Development Act establishes an innovative, investment-oriented Foreign infrastructure strategy to help States and municipal governments finance needed infrastructure. In creates a National Infrastructure Corporation to provide a broad array of financing for infrastructure projects.

The Clinton administration's innovative investment program shows that there is tremendous interest among States and local governments in new methods that would make Federal capital dollars go further. In the past year along, the administration has given approval to over 70 innovative financing projects in over 30 States. Moreover, 20 States have expressed interest in establishing State infrastructure banks that would enable them to make more created use of Federal transportation funds.

While the Congress in ISTEA provided greater flexibility in our highway program, we have only scratched the surface of the potential. The recent experiences with privately-financed toll roads in California and Virginia and my many discussions with State officials, business leaders, and local leaders lead me to believe that there is a strong need for creative Federal leadership.

By leveraging private and other public sector monies, the corporation would substantially increase the amount of infrastructure created by each Federal public works dollar. Experts estimate that the corporation would leverage up to $10 in private investment for every $1 it receives from the Federal Government. Under this legislation, the corporation's capitalization would be $3 billion. It is anticipated that this could support generate tens of billions in new investment and hundreds of thousands of jobs, while eliminating hundreds of infrastructure bottlenecks that stifle growth.

Congresswoman DELAURO has proposed an innovative mechanism to address the national problem of underinvestment in our public works. The legislation make a valuable contribution to understanding the issue and attaining this goal. I urge my colleagues to join in our effort to boost the Nation's public investment and productivity.

Mr. FAZIO of California. Mr. Speaker, I rise in strong support of legislation creating the National Infrastructure Corporation [NIC], of which I am an original cosponsor.

Today, it is estimated that there are over $30 billion in unfunded infrastructure projects throughout the United States. Due to increasing Federal, State, and local budget constraints, important infrastructure projects are being delayed or not considered at all. While it is clear that the United States is becoming increasingly a technology and information driven based economy, the necessity to build, repair and upgrade our roads, bridges, rail system, schools, and water treatment projects are just as important today as they ever have been.

That is why I have joined my colleagues today to address this important issue. This bill established the National Infrasture Corporation to foster more public/private construction projects and to help create good jobs. The NIC will provide credit assistance in the form of direct loans, bond insurance, and development risk insurance for critically needed infrastructure projects throughout the country.

The creation of the NIC is an innovative or smart financing mechanism to help augment existing Federal and State grant programs. As we in Congress look for better ways to leverage Federal resources, the NIC is a prime example of how the Federal Government can provide initial financial and significant in-kind resources to build new infrastructure and strengthen our old and outdated infrastructure.

To that end, I look forward to working with Representative ROSA DELAURO to bring this legislation to the country's attention and make it a priority in Congress.

□ 2100

REPORT FROM INDIANA ON HOOSIER HEROES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. MCINTOSH] is recognized for 5 minutes.

Mr. MCINTOSH. Mr. Speaker, I rise today to give my report from Indiana. Every weekend Ruthie and I travel around my district and often meet amazing people, individuals who are truly dedicated to being the backbone of our community.

These are good people, taking responsibility for the future of our community. I like to call them Hoosier heroes. Today I want to praise leaders of the Stop the Violence movement in Anderson, IN, who have come together to help their community. With their persistence and dedication, they have created a very special group called Stop the Violence. Members of the community like Garrett Williams, Rev. Ray Wright, and Al Simmons have joined with schoolteachers and students at the Shadeland Elementary School. They were fed up with gangs and drug dealers and the violence in their streets, and they came together and said, ''Stop the violence now.'' They marched through their streets wearing purple ribbons, purple T-shirts, and a purple ball cap to symbolize peace in our community.

They sent a message to the drug dealers. They were not going to take it anymore. Today, the Stop the Violence movement, which is spearheaded by Rudy Porter in the mayor's office, sends a message to the schoolchildren of Anderson: You do not have to carry guns, you do not have to fight with your classmates, you do not have to buckle under to the pressure of drug dealers to be cool.

Stop the Violence gives schoolchildren and parents hope. They give our entire Nation hope, and I am proud to have been able to march with Rudy and those students, and I wish all Americans could witness the pride and joy that came from those children's faces as they set out to stand up to the criminals and the drug dealers who roam their streets.

They said no. No more violence, no more drugs, no more crime. Hoosier heroes like Rudy Porter and Stop the Violence Committee give us hope that America's best days are indeed yet to come.

That is why I would like to commend not only Rudy, but also the schoolteachers, Karen Crawford and Freddie Williams, and a principal at Shadeland School, Sharon Taylor Martin, who cares deeply about her children. And let us not forget the children, the children in Shadeland School, whose small, tiny voices, spoke out loudest of all. You made us proud. You are all Hoosier heroes.

If every community in America had Hoosier heroes like Rudy Porter and the students and the leaders of the Stop the Violence movement, our young people would get a message from us, a message loud and clear, we care about you, we have not forgotten who you are.

Thank you, Mr. Speaker. That is my report from Indiana for today. God bless.

NIKE'S RACE TO THE BOTTOM

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio [Ms. KAPTUR] is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, in support of our ''Come Shop with Me'' campaign, the New York Times fortunately ran a story this month on the business page with the subtitle ''Low Wages Would Foreign Business, But the Price Is Worker Poverty.'' The story, which I will enter in the Record tonight, describes how a 22-year-old Indonesian man named Tongris was dismissed from his job making Nike shoes for export to the United States because he was organizing his fellow workers to demand more than the government-dictated poverty wage.

How much was Tongris and his coworkers getting paid to make Nike shoes? Twenty cents an hour. And that is with no benefits.

More than 5,000 workers turn out Nike shoes at this plant in Indonesia, shoes which often sell for over $100 a pair here in the United States. Nike and thousands of other manufacturers have been lured to set up business in Indonesia by the pitifully low wage level, along with the assurance by the Indonesian government that it will tolerate no strikes or independent worker associations. But as the Indonesian government itself admits in the article, it sets its wage purpose fully extremely low to only provide the minimum calories the worker need to survive each day.

My friends, this is no different from how plantation owners though about feeding their slaves. Feed them enough so that they will not die on the job. In fact, I remember visiting the Auschwitz death camp and reading the sign above the entry gate that read ''Work will make you free.''

Nike would like you to believe that they are truly a great American company. Nike in fact has been spending

over $250 million a year in advertising to sell you, the consumer, the message that they are a good American corporate citizen. Nike has virtually bought off the entire American sporting world. Just look at how many college coaches and athletes in the NCAA basketball tournament now being played have been paid to wear Nike's trademark, the Gold Swoosh. Your people across this Nation are literally killing people to acquire Nike products.

The truth of the matter is, Nike does not produce one athletic shoe in this country, not one. It has shut down all its U.S. production while siphoning off billions of dollars in this marketplace through sales. But it employs 75,000 workers in places like Indonesia and China, hidden from view of the news media of this country. And they pay their workers exceedingly low wages, 10 cents an hour in China, 20 cents an hour in Indonesia, work them 7 days a week, under complete control of those employers. And yet though the shoes cost only $6 to make and ship to the United States from Indonesia, we end being asked to pay up to $150 a pair.

So it is fair game to ask who is benefiting from this kind of production system? It is not the American worker who is no longer employed making Nike shoes. It is not the worker in Indonesia or China who earns poverty wages. Finally, it is not the American consumer, who is being gouged to pay outrageous prices for Nike.

As Hakeem Olajuwon, the star basketball player from the Houston Rockets courageously pointed out when he refused to endorse Nike shoes, he said, I saw the prices go from $40 to $90 to $150, and in full cognizance that people were dying for these shoes, including inner-city kids, the kids that Nike was targeting with their inner-city role models. There is one sports figure with a conscience in this country. Thank God for that.

We as American workers and consumers could do one better. We could stop buying Nike shoes until Nike pledges allegiance again to the workers of this country and to its producers around the world. Is it not time we put a little bit of conscience back into corporate America?

Mr. Speaker, I include for the RECORD the New York Times article.

[From the New York Times, March 16, 1996]

AN INDONESIAN ASSET IS ALSO A LIABILITY

(By Edward A. Gargan)

SERANG, Indonesia.—Many days Tongris Situmorang, in his blue baseball hat with a large X on the front hangs around the gates of the enormous Nike sport shoe factory here, talking to friends leaving the assembly lines at the end of the work day.

The gangly 22-year-old used to work inside the well-guarded gates, but five months ago he was dismissed for organizing workers to demand more than the 4,600 rupiah they are paid each day, about $2.10, the Government-dictated minimum wage. Then, after being dismissed, he was locked in a room at the plant and interrogated for seven days by the military, which demanded to know more about his labor activities.

''We went on strike to ask for better wages and an improvement in the food,'' Mr. Situmorang explained ''Twenty-two of us went on strike. They told us not to demand anything. They said we wouldn't get any money. But I have sued to get my job back.''

Low wages are a big attraction for foreign companies doing business in Asia as high labor costs in the industrialized nations make the manufacturing of many consumer goods uneconomical. Like a wave washing over Asia, labor-intensive factories have swept south and west as incomes and living standards have risen from Hong Kong, Taiwan and South Korea, across Asia to China, Vietnam and Indonesia.

And across the region, businesses in developing economies are felling pressure from workers like Mr. Situmorang to lift wages. Clashes erupt between workers who want more and businesses and governments that fear that rising wages will drive away jobs to even-lower-wage countries. As strikes and worker-organizing attempts have increased here, the Government has taken a harsher line by cracking down on workers with police and military force.

For some companies, like Levi Strauss, worker complaints, were enough to prompt it to leave Indonesia two years ago. But others, like Nike, whose shoes are made in 35 plants across Asia, have expanded in the region to take advantage of cheap labor.

For the Indonesian Government, the long-term solution may be to find manufacturers of products that can support higher wages. ''Our strategy is to improve our products so we are not producing products that are made in China, Vietnam, India or Bangladesh,'' said Tunghi Ariwibowo, the powerful Minister of Industries and Trade. ''We cannot compete on wages with them.''

More than 5,000 workers churn out Nike shoes here, shoes that often sell in stores in Asia, Europe and North America for perhaps $100 a pair. Nike and thousands of other manufacturers have been lured to set up business in Indonesia by the low wages—and the assurance that the Government will tolerate no strikes or independent unions.

Yet even at a little more than $2 a day, there is a widespread sense in Government circles that even that is too high for Indonesia to stay competitive.

As the Government tries to hold down wages—wages the Government admits provide only 93 percent of the earnings required for subsistence for one person—strikes and worker organizing have increased. And with the increase in labor agitation have come harsher crackdowns by the Government.

A spokeswoman for Nike in the United States, Donna Gibbs, said she was not aware of Mr. Situmorang's case or of the detention and interrogation of workers for a week. However, when pressed, she said, ''Our information is that workers were not held for a week.''

All the plants that manufacture Nike shoes in Asia, Ms. Gibbs said, are owned by subcontractors, mostly Koreans. Each subcontractor is required to adhere to a code of conduct drawn up by Nike, she said, and managers from Nike are involved in the daily oversight of subcontractors' operations, including not simply quality control matters, but the treatment and working conditions of the labor force.

Nike's code of conduct, Ms. Gibbs said, requires compliance with all local laws, the prevention of forced labor, compliance with local regulations on health and safety and provisions of workers insurance. She said she was unaware of 13- and 14-year-old girls working at the Nike plant here.

''Certainly we have heard and witnessed abuses over time,'' she said ''and typically what happens is that we ask the contractor to rectify the situation and if it is not resolved we can terminate the business.

Ms. Gibbs said Nike has four to six subcontractors in Indonesia, a number that varies according to production needs. She said the minimum monthly wage was 115,000 rupiah, about $52.50, although the average was 240,000 ripiah, about $110. For a pair of shoes costing $80 in the United States, she said, labor accounts for $2.60 of the total cost.

''The problem is that the minimum wage does not provide for minimum subsistence,'' an Asian diplomat here said. ''And beyond that, the companies don't always pay what is required by law. The level of unrest is not reported, but there are lots of reports from around the country of strikes.''

''The philosophy of the minimum wage is to make sure the minimum calorie need per day is fulfilled,'' said Marzuki Usman, who heads the finance and monetary analysis body for the Finance Ministry and was the first chairman of the Jakarta Stock Exchange. ''That is the formula.''

On April 1, the minimum wage is to rise in many places to 5,200 rupiah, about $2.37.

''There are so many labor strikes,'' said Apong Herlima, a lawyer for the Indonesian Legal Aid Foundation who specializes in labor cases in Jakarta. ''Employers always call the police and they come and interrogate the workers. Then, the workers are fired.''

Because Indonesia's press treads carefully around sensitive issues—and social unrest is among the tenderest of subjects—it is difficult to gauge precisely the level of labor unrest. The Government reported that there were 297 strikes last year, although it did not provide the number of workers involved. Independent labor organizes insist the actual number is far higher.

''The number of strikes is increasing,'' said Leily Sianipar, a labor organizer in nearby Tangerang. ''Most factories don't actually pay the minimum wage. Garment factories should pay 4,600 rupiah each day, but there is usually underpayment. So there are strikes. We try to organize workers. The factory owners use the police and the military to crack down. They try to intimidate the workers.''

The Indonesian Government recognizes only one Government-sponsored union, the Federation of All Indonesian Workers Union. But most workers and independent activists maintain that the Government union does nothing to represent Indonesia's 40 million workers.

''Since they don't come from the bottom, and they aren't elected by the workers, there is no hope for the Government union,'' said Indera Nababan, the director of the Social Communication Foundation, a labor education group sponsored by the Communion of Churches of Indonesia. ''I don't think over 10 years there has been any considerable change. The workers have no rights here to argue for their rights.''

Not far from the Nike factory here, Usep, a lean man of 25, leaned against the cement wall of the tiny room he shares with his 19-year-old wife, Nursimi. Together, said Mr. Usep, who like most Javanese has only one name, the couple earn about $4.10 a day—or $82 a month. Of that, they must pay about $23 for the 6-foot-by-6-foot cement room they live in, with the remainder for their food and other needs.

A single bare bulb dangles from the ceiling, its dim glare revealing a plain bed, a single gas burner, and a small plastic cabinet. Their room, one of a dozen in a long cement building, is provided with one container of water daily. If they want more water, each jug costs 100 rupiah, about 5 cents.

''Of course we're not satisfied with this,'' Mr. Usep said, his words coming quietly. ''We

tried to talk to friends about this, but there is no response. Probably they are worried they will lose their jobs.''

It is workers like these whom Ms. Sianipar has been trying to organize for the last seven years, a task that entails the constant risk of arrest.

''If we have a meeting, the police take us to the station and want to know if we want to make a revolution,'' she said, a laugh breaking over her words. ''We had a meeting here last week and the police came. So we changed the topic of the meeting, but they took me to the station anyway. The police got angry and banged the table. But they let me go at 4 in the morning. They had the idea that we were doing underground organization.''

Still, she admitted, the attitude of the police has moderated somewhat over the years. ''Five years ago,'' she said, ''we would have had much more trouble.''

Not all foreign investors who use cheap Indonesian labor have ignored workers' complaints. In 1994, the American clothing company Levi Strauss withdrew its orders from a local garment contractor after reports that the management had strip-searched women to check if they were menstruating.

But many factories that manufacture clothing, shoes or electronic goods for American companies are owned by Taiwan or Korean companies, and labor organizers contend that conditions in these factories are much worse than in factories directly owned by Americans.

''American companies are here because they have to pay very little,'' said an American who works for a private aid organization, but who did not want his name used. ''But American companies are not the worst violators of basic working conditions. The Koreans really stand out for poor conditions in their factories.''

Outside the Nike factory, Mr. Situmorang continues his vigil, waiting for a court decision on whether he can get his job back. ''I've gone to the labor department and the court,'' he said. He paused and sighed. ''I really don't think in the end I will get my job back. This is Indonesia.''

COMPARING 104TH CONGRESS TO 103D CONGRESS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Georgia [Mr. KINGSTON] is recognized for 60 minutes as the designee of the majority leader.

Mr. KINGSTON. Mr. Speaker, I have a couple of topics we wanted to talk about tonight, and have with me my colleague from Arizona [Mr. HAYWORTH], and we may have others joining us. But what we were going to do is talk about some of the difference between the 103d Congress, the Congress that was here in 1993 and 1994, and contrast that with the current Congress that was elected and began to serve in 1995.

If you look back 2 years ago, which was my first term in Washington, and think about the changes, in 1993 the President had just passed the largest tax increase in the history of the country and then turned around and tried to nationalize or socialize medicine.

At the same time, the bureaucracy did not want to get left out of the action, and OSHA, the Occupational Safety and Health Administration, came up with a proposal that said if you smoke in your own house and you have a domestic employee, then you must have a smoke ventilator in your own kitchen.

The EEOC, meanwhile, came out with a ruling that one of the most dangerous hazards in the workplace today is religious symbols. So if you were working at the Ford plant and you had a ''Jesus saves'' T-shirt on, or if you had a necklace that had a Star of David, that was offensive. EEOC decided it was time to go after those doggone religious symbols in the workplace. That was the kind of thing that we had going on in the 103d Congress.

Now, contrast that with the 104th Congress. We have a Congress that has cut staff by one-third, reduced its operating expenses by $67 million, and put Congress and all of its Members under the same workplace laws as the private sector.

Now instead of debating should we reform welfare, we are debating how to reform welfare; instead of debating should we balance the budget, we are debating how to balance the budget. And when the crisis with Medicare came that was pointed out to us by a bipartisan committee, this Congress did the responsible thing and acted to protect and preserve it.

This Congress, Mr. Speaker, is night and day compared to that that was the 103d Congress. But we have our criticism. A lot of the criticism comes from the press and its allies over at the White House, Mr. Clinton. What we were going to do tonight is talk about some of the criticism.

Education, apparently Republicans do not have children, we do not care if they get educated or not. Seniors, apparently we all came from test tubes and none of us have moms or dads and we do not care what happens to their Social Security or Medicare, according to the President. Of course, the environment, we want to pave Old Faithful and level the Rocky Mountains.

But what is really going on with these issues, Mr. Speaker? We want to talk a little bit about the environment tonight, we want to talk a little bit about taxes and the middle class, and we will continue through a series of discussions to talk about some of these other issues.

I will yield the floor to Mr. HAYWORTH at this time.

Mr. HAYWORTH. I thank my friend from Georgia. I am heartened by the fact that other colleagues from the majority join us tonight to talk about a variety of topics.

Mr. Speaker, the gentleman from Georgia is absolutely correct. There could not be a greater difference in Government than the difference that exists between the 103d Congress, held captive by the proponents of big Government and more and more centralized planning and more and more taxation and more and more spending, and those of us now in the majority in the 104th Congress, unafraid to offer America, Mr. Speaker, a clear, commonsense approach to Government, an approach which really beckons and harkens back to our founders, an approach typified in the first act this Congress passed, which simply said this: Members of Congress should live under the same laws every other American lives under.

Indeed, as my friend from Georgia pointed out, with a litany of progress on a variety of issues, there is one inescapable fact that we confront at this juncture in the second session of the 104th Congress, and that is the criticism, the carping, the complaining, of liberals, both in this city and nationwide, of the powerful special interests who have as their mission in life the maintenance of the welfare state, the maintenance and enhancement and growth of centralized planning; those disciples of big Government who now would criticize the new commerce in this new majority and paint our agenda, indeed, our contract for America, as somehow being extreme.

Mr. Speaker, it is time to point to this simple fact: The only thing extreme about the agenda of the new majority is the fact that it makes extremely good sense.

I take, for example, the comments of my friend from Georgia, who talked about the fact that in the wake of the 1992 election the incoming President, as one of his first acts, chose to proposed and this Chamber approved by one vote the largest tax increase in American history. Emboldened by that victory, our friend at the other end of Pennsylvania Avenue worked in secret to devise a plan of government, that is to say, socialized medicine.

The American people said ''Enough,'' and in November 1994 gave this new Congress a mandate.

Mr. Speaker, I can vouch as one who watched with interest my colleague from Georgia and my other colleagues here who served in the 103d Congress and served valiantly to point out the absurdity of the extremism of those who always endorse the liberal welfare state, I saw with my eyes their valiant efforts.

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But more importantly, through the votes of the good people of the United States of America with a new majority, we have moved to do simple things, ironically, the same things that a candidate for the Presidency, who was ultimately elected in 1992, talked about. My friend from Georgia remembers this well. Remember the campaign rhetoric: I will balance the budget in 5 years?

Mr. KINGSTON. Larry King Live, June 4, 1992.

Mr. HAYWORTH. My friend from Georgia offers the attribution. And if he would continue to yield, we would know that the President has had to be persuaded by Members of his own party to offer a phantom budget that would come into balance in 7 years, and using a personal analogy that I am sure my friend from Georgia can appreciate,

since he is a physical fitness buff, the budget that the gentleman at the other end of Pennsylvania Avenue now advocates to try and bring our budget into balance would be akin to me saying I need to go on a diet. I think we can all acknowledge that fact. I think I am going to lose 50 pounds over the next 2 months, but I am going to lose 2 of those pounds in several weeks' time, and I will save the 48 remaining pounds for the final 2 days of the diet. It just does not work.

Theoretically, you can write down numbers on a sheet of paper, but what this new majority has offered is a clear, commonsense plan to bring this budget into balance in 7 years, which this President vetoed; a clear, commonsense plan to reform welfare as we know it, which this President vetoed; and now yielding to my friend from Georgia, I would gladly listen to his points.

Mr. KINGSTON. Mr. Speaker, I think it is important really when we do have a dialog to be factual about it. We have been accused of cutting student loans, and yet our budget calls for increasing student loans from $24 to $36 billion. We have been accused of cutting Medicaid, and yet our budget calls for an increase from $89 to $124 billion. Of course, we have been accused of cutting Medicare, but our budget goes from $180 billion to $290 billion. I think it is important that when we talk about this that we divide the facts from the rhetoric.

Now, one of the things that we have been trying to do with our reforms is to balance things, and I know our friend from Michigan [Mr. EHLERS] is here, and we wanted to talk about yes, there are things we are trying to fix, but we are not trying to destroy things, specifically in the environment. I do a lot of camping, and I plan to continue to do a lot of camping. I have 4 children, and my 12-year-old daughter last year started hunting with me. My 10-year-old son is coming along, and I want that environment there for them. I want there to be plenty of species out there. I want the endangered species to be protected. I want private property rights to be protected as well.

Mr. Speaker, I really get offended when the President accuses us of trying to gut environmental legislation when the Clean Water Act, the Endangered Species Act, and the Environmental Protection Agency all were created in the early 1970's under a Republican administration.

Let me yield to the gentleman from Michigan.

Mr. EHLERS. Thank you very much. I appreciate the gentleman yielding me time, and I would like to take a few moments to talk about some Republican ideas on the environment.

As the gentleman correctly pointed out, we have been criticized severely over the past 2 years for some of the actions taken and some of the votes that were held, but I would like to discuss from my perspective, first of all, as a scientist. I am sure the gentleman is aware of my scientific background. Perhaps not all of my colleagues are. But I would just simply mention I have a doctorate in nuclear physics, and I worked in the field for a number of years, both in research and teaching, before I entered the political arena. That does not make me an environmentalist or an ecologist automatically, but it at least indicates that I have the ability to establish fact from fiction when dealing with environmental issues.

Mr. Speaker, back in 1968, I first became concerned about the environment, and I noticed a little notice in the newspaper in Grand Rapids, MI, my hometown, that there was going to be a meeting to discuss environmental issues. I went to that meeting. There were a group of citizens concerned about some pollution that was taking place at that time in various areas of the State, and we formed an organization called the West Michigan Environmental Action Council, and I served as a charter member of that and I have also served on the board.

That whetted my interest in what was happening to the environment, and I had a good deal of interest in government but had never thought of running for office. But when our county developed a severe landfill problem and we had the possibility of raw garbage piling up in the streets, I decided to run for the county commission, and I used that as a means to straighten out the solid-waste situation in my county. It took the work of a lot of other people, too. I do not want to claim the credit for it. But it shows what a citizen activist who is concerned about the environment can do.

The interesting thing is, when I was elected to office and came up with some solutions, I soon lost many of my environmental friends who thought I was going to be a total purist and save the world. The gentleman knows as well as I, from working on issues here, there are many sides to issues and you have to use a reasonable, logical approach. When you are faced with mounds of garbage coming in the gate and the threat of it piling up on the sidewalks, you have to make some tough choices.

But over a period of time, we managed to totally revamp the solid waste disposal system. In fact, I suggested renaming it the solid waste storage system, because the gentleman knows as well as I that if you put it in the landfill, you have not disposed of it; you have simply stored it, and it is still there to create problems in the future. But in any event, we did resolve the environmental issues, and I will not go into all the details of that.

Later I moved on to the State senate. I was made chairman of the Environmental Affairs and Natural Resources Committee, and in the course of several years, with the help of John Engler, who was senate majority leader at that time, now the Governor of the State of Michigan, we got landmark legislation passed and probably had more environmental legislation passed in those 4 years than at any time in the history of the State of Michigan.

Mr. Speaker, I am giving this not to brag about my accomplishments but simply to point out that those people who think the environment is a Democrat issue and not a Republican issue are sorely mistaken. We have different approaches perhaps, but I believe that we can accomplish a great deal in the end on the environment by working together.

Mr. KINGSTON. I want to emphasize what the gentleman is saying by pointing out that President Theodore Roosevelt started the National Park System, and, of course, he was a great Republican at the time.

Mr. EHLERS. He was a great Republican, and also started in some ways the political meaning of the term conservationist. I always love to point out to my friends that the root word for conservation is the same as the root word for conservative and that any true conservative should be an environmentalist, because it is important for all of us to conserve what we have for the advantage of future generations.

During my time in the political arena and working on environmental issues, I have learned some lessons which I just want to share with my colleagues here. First of all, the environment is extremely important. I can perhaps draw an analogy to something that we discuss here an awful lot: The balanced budget. We approach this, as Republicans, from the standpoint that we want to protect this economy, this Nation for our children and grandchildren. It is simply not right for us to continue to live in debt and expect our children and grandchildren to pay that debt. We want to leave them a promising future and not a huge debt. Well, that is also true of the environment. That is one of the reasons I am a confirmed environmentalist .

It is absolutely wrong for us to leave a polluted country to our children and grandchildren and to other future generations. We have to give them the same resource opportunities that we inherited from our ancestors. We have to give them the same clean environment that we have inherited from those who came before us. That is why the environment is very important to me. I want my children and grandchildren and their grandchildren to inherit a clean country, a clean planet, and to be able to have enough resources to use and enjoy this planet.

Mr. Speaker, another lesson I have learned is that energy, energy and energy use, are probably the single-most important component of the environment. Not everyone realizes this. But once you begin analyzing the sources of pollution, where it comes from, a lot of it is from improper use of energy or inefficient use of energy, and that is something this Congress has to spend

more time and energy on, just recognizing the importance of energy and working on the efficient use of energy.

Now, let me make it clear, I am not here talking about energy conservation. Some people confuse those. Somehow they think if they are freezing in the dark, they are helping the environment. Well, that may be true, but it certainly is an uncomfortable way to save the environment. What I am talking about is simple, common-sense efficiency of use of energy which can result in less pollution and less cost and a better environment. Everyone wins in that situation.

Another lesson I have learned is that we have to work together on the environment. This is not a partisan issue. I happen to believe that the current Congress is far too polarized on many issues and sometimes polarized on the environment. But they should not be. The Congress should recognize this is a universal problem. The public certainly recognizes. Eighty percent of them favor a clean environment, and we should work together on this issue and recognize it is not partisan but it is important.

As a scientist, I have also learned that correct science is essential. You cannot ignore science and say there is no problem. You also should not manipulate science to prove your point of view, if it happens to be wrong. The facts are the facts, and you have to deal with it.

But another issue that arises when you are dealing with environmental issues is what I call trans-scientific issues, issues that do not have a ready scientific response because the problems are so immensely complicated, and there we simply have to use our best judgment in trying to come up with a workable solution.

Something else that has developed in science is tremendous improvements in detection of toxic materials or other sorts. But out of that comes a big mistake very frequently. A good example is the Delaney clause, which was passed years ago, said no substance used for human consumption can have any carcinogenic or mutagenic element in it at all. Well, as our detection methods got so much better, and we can now detect one part in a quadrillion, that law no longer makes any sense.

Mr. KINGSTON. If the gentleman will yield on that, I think that that is a real important idea or concept.

How it has been explained to me is that if you take, say, a wading pool that kids are in, not a swimming pool but a wading pool, the little blue, pink plastic kind, and you pour a gallon of pesticide in there, then back in the 1930s, that is what they detect. But today, if you take an eyedropper and into mom and dad's big swimming pool, 34,000 gallons, and you put a little drop of the pesticide in that pool, today we could detect it. Yet in many, many cases, that trace of pesticide is negligible, it is noncarcinogenic, it will not hurt anybody. But because our technology is so advanced, we can detect it, and yet our laws have not kept up with that.

That is what revamping the Delaney clause is all about, and it is so important because there are so many fertilizers that have been taken off the market because of this red tape interpretation of the Delaney clause, and yet other countries are still using those pesticides. So it is affecting us already, and we do need to resolve the issue, again, in a balanced way, protecting the consumer above everything else, but also utilizing the technology for our advantage and not against it.

Mr. EHLERS. Thank you very much. I appreciate that comment, because that is precisely what has happened. I am certainly not arguing for putting toxic materials in food or using the wrong fertilizers or anything like that. I am simply saying that our laws have to keep up with scientific changes, and if you demand a zero tolerance, as we did originally with the Delaney clause, it is a mistake, because there is no such thing in this life as zero risk.

Mr. Speaker, that leads to my next point, and that is, we have to learn as a nation to prioritize, to decide what is good and what is bad, and recognize, everyone has to recognize that there are certain risks to every part of life. For example, it is commonly assumed by many that natural is good. Something that is natural is good. Something that is artificial is bad. That is not necessarily true. For example, peanut butter. Perhaps I should not mention this in the hearing of those who are from Georgia. But peanut butter is a fairly carcinogenic material, and the lab tests have shown that. And if we truly enforce the Delaney clause, we would probably have to ban peanut butter.

Mr. KINGSTON. I do want to ask how you people in Michigan consume peanut butter. I would like to know more about that.

Mr. EHLERS. Well, in fact, everyone consumes peanut butter, and that is why it has not been banned. It is a food staple for so many people. I am simply pointing out that what we have to do is analyze the risks in every situation and prioritize the risks. There is a great deal of concern, of course, in our Nation about toxic waste, but yet, if you analyze in a hard-headed manner what really are the environmental risks we have today, what is the highest environmental risk, you are likely to find that there are many things other than improper disposal of waste that are higher up on the list.

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For example, urban sprawl with its destruction of habitat, and destruction of habitat of course is key in the endangerment of species, and that leads to something that my colleague from Maryland sitting here is an expert on, the Endangered Species Act. These are all very, very complex issues. We have to look at all aspects of these and recognize precisely what the problems are, and what the dangers are, and what this leads to, as my final point in this list before I summarize, and that is what we need is common sense regulation. That is something I have strived for throughout my legislative career.

It is very easy to adopt what is called the command and control approach where you simply say something is bad, let us regulate it out of existence. If you do that without looking at the benefits and the costs, you can go down a very dangerous path, dangerous both in terms of health and our economy.

What we, what I, typically did in the Michigan Senate, when we encountered a problem, I would get representatives gathered. I would get scientists together, environmentalists, industrialists, everyone possible, get a representative group together, sit down in a room and pound it out, week, after week, after week, educate each other about the problem and come up with a solution.

Mr. Speaker, frankly, that is what I believe that we have to have the Congress doing as well. That really results in good common sense regulation which gives the maximum return on laws and the maximum return on the investment of time and energy as well as money.

Mr. KINGSTON. If the gentleman would yield, I wanted to illustrate that on a true case that happened in Riverside, CA, where the residents in a neighborhood were not allowed to dig fire trenches because it would endanger kangaroo rat habitat. And so fire breaks were not dug, and a fire came. Thirty homes were destroyed, but, in addition to that, over 20,000 acres of kangaroo rat habitat was destroyed.

Clearly, using what you are saying, common sense approach, this certainly does not benefit the home owners, but it also defeated the whole objective, which was to protect the rat.

So we can clearly, without endangering the animal, we can clearly have more flexibility of the law and get away from the command and control which leaves out common sense.

Mr. EHLERS. Let me give an example, too, that occurred in Michigan.

Years ago it was discovered that the Kirtland's warbler in Michigan was an endangered animal. Everyone loved the Kirtland's warbler, a wonderful bird, beautiful song. It was endangered because of some very peculiar mating habits. This bird is very selective about its habitat for mating. It would only mate in jack pine trees which were less than 6 feet tall. As the forest grew, the jack pine were too tall, and the birds would not mate. So they were becoming extinct.

The initial approach suggested setting aside vast acreages so that there be at any given time enough jack pine available so that the birds would nest and proliferate. In fact, a different approach was developed, and that was to

use smaller acreage and provide for selective cuttings of timber in such a fashion that there is always ample jack pine of the appropriate height.

The Kirtland's warbler has flourished. It is no longer endangered. It has become a major tourist attraction in that area. So we find that we have improved the habitat for the Kirtland's warbler. It has benefited the community as well, and it is a good example of meeting the needs of the environment, meeting the needs of the endangered species, and yet not with any undue takings, or anything of that sort.

Mr. Speaker, that is what I mean by commonsense regulation. There are ways of handling most of these problems if we simply take the time to address them properly and study them thoroughly, use scientific evidence, and do not get all wrapped up in rhetoric, or taking sides, or polarizing the issue.

Now this will not be true in every case, but it is true in many cases. Sometimes we will have really tough issues, but if we remember our environmental principles of saying the environment is very important, we have to find a solution, let us find the best possible solution, I think it will serve all of us well.

Well, I have given this as an example of a Republican approach to the environment, and I think it is the approach that we have to take here, that we have to follow, get away from some of our polarization.

To summarize, I would make a few key points. First of all, we must protect the environment; we have no choice about that; for the betterment of our planet and for the benefit of our children, grandchildren and future generations. We must do it scientifically. We cannot do it haphazardly. We have to analyze the risks as best we can and not simply say, ''Oh, that is a terrible danger, let us address that and ignore something over here that might be even worse.''

We must do it in priority order. We have to develop a method of prioritizing the demands, the problems in the environment, so we are putting our money where it makes sense, and we must use common sense in doing it.

But above all, we must do it for our children, our grandchildren and for any future generations. I thank the gentleman for yielding.

Mr. KINGSTON. Mr. Speaker, I thank the gentleman from Michigan.

We have also been joined by the gentleman from Maryland [Mr. GILCHREST] who wanted to comment on a couple of points as well.

Mr. GILCHREST. I thank the gentleman for yielding. I wanted to just say a few things.

Mr. Speaker, we are here talking about a number of issues, one of which is policy relating to environmental issues. The gentleman from Michigan, the gentleman from Arizona, and the gentleman from Georgia, I think, all discussed the direction that we need to move in. The gentleman from Michigan said we need to protect the environment. There is no one in this room that wants to dirty the air, and I do not think there is anybody in this room that says the water is too clean, and I do not think there is anybody in this room that wants to do away with species that we are able to enjoy in the wild so that in years to come they will become extinct.

But there is a way that we can go about doing this in a fundamental manner that will bring more people into the process, and in the long run and in the short run, I believe, we will be more successful.

A hundred years from now, and I am sure that there are people out there listening, Mr. Speaker, that knew people that were alive in 1896. And we will know people that will know people in 2096. I am not sure any of us will know people that are alive in 2096, but our great grandchildren, perhaps our grandchildren, will know people that will be alive in the year 2096. So a hundred-year time span is not very long. And for us to protect the resources that we have right now, I think, is crucially important so that future generations will be able to enjoy the blessings that we have inherited.

Now in order to do that I do not think you can do that from a centralized authority like the Federal Government. We have been accumulating more and more responsibility with the States and the local governments and even private citizens. So, we create environmental legislation which is important for a lot of reasons.

For example, about 40 percent of the pollution problem in the Chesapeake Bay, where I come from, the Chesapeake Bay watershed; I live on the eastern shore of Maryland; about 40 percent of the problem in the Chesapeake Bay is air deposition. That means air pollution, and there is very little you can do about that, and about 60 percent of that air pollution which pollutes the Chesapeake Bay from the air is from automobiles.

We are increasing the number of cars every year; we are increasing the number of people that live in the watershed every year. So we have to begin to find solutions to problems that are difficult to solve because very often, if not always, the problems are as a result of increased population.

The way to do that, I think, is to begin cooperating and consulting with these environmental pieces of legislation, with the State government, with the local government and private citizens developing policies that can actually work. Future generations will not care who cleaned up the pollution, or even who polluted. The fact is they are going to live with what we do.

One other comment about clean air and clean water. Very often the Republicans are tagged with causing gridlock in Washington, with causing partisan politics in Washington, especially when it relates to environmental issues. I would just like to send this message, and that is gridlock. Arguments in Washington are not bad. You do not see the North Koreans arguing. You do not see gridlock in Cuba. What you see here in Washington is an argument about the best way that America should move forward. These arguments are actually bringing out more information. In fact, I would say that the people with the most credibility in Washington right now are not the ones with long years behind them. They are not the powerful committee chairmen that might have been elected in the 1950's. We do not have that anymore.

Mr. Speaker, the people with the most power in Washington right now are the ones with credibility, and people with credibility are people with information. If we can begin to share information from Member to Member and develop legislation so that we can share responsibility, cooperate with the States, have consultations to do the best that we can with environmental legislation, then I think we are going to move forward to protect the environment.

Mr. HAYWORTH. Mr. Speaker, if the gentleman will yield on that point, first of all, I have the utmost respect for my colleague from Maryland. We serve together on the Committee on Resources. It is no secret that we may not agree on every single jot and tittle with reference to policy.

Yet at the same time I am heartened by the fact that the gentleman from Maryland, as well as my friend from Michigan and my friend from Georgia, all recognize this central theme, that it is not centralization of power or a one-size-fits-all philosophy that oft times is outdated with reference to new technologies that develop, but, instead, the realization that there must be a spirit of conciliation, a spirit of cooperation and the notion that is really quite common sensical when you think about it, the acknowledgment that Phoenix is not the same as Philadelphia, that Monroe, LA, may not be the same as Grand Rapids, MI, that Savannah, GA, may not be the same as St. Louis, MO. There are different issues that confront us all.

So in that spirit, even while there may be some disagreements on how we get to a cleaner environment, how we recapture for the American people the true spirit of conservation, let us start with that premise, and also what the gentleman from Michigan talked about, and that is the sense of balance that must be there, preservation of the environment, a true spirit of conservation, and at the same time a preservation, if you will, of the fragile rural economies this Nation has; for example, in the Sixth District of Arizona.

So it is a challenge. It is not easy to face up to many of these questions, although common sense will rule the day, I believe, and we will ultimately come to some agreements. But let us also categorically reject even amidst the gridlock that my friend from Maryland talked about this need on the part

of some within this body and at the other end of Pennsylvania Avenue to try and demonize those who will take another approach, indeed along the same lines of the school lunch debate, really the school lunch scare, and with reference to the mediscare debate. I have yet to see starving children in the streets or the elderly thrown in the streets. And by the same token, I do not believe the vast majority of Americans are turning on their taps and drinking sludge.

So let us articulate up front that, while there may be some slight differences in approaches, the bottom line remains true for members of the new majority. We want to find constructive, common sense solutions that preserve the environment, that preserve the economy and do exactly what the gentleman from Maryland talks about, offers an environment to generations yet unborn that is clean and that may be used, not only for emotional well-being, but for economic well-being for that is the challenge we face in the last decade of the 20th century.

So I am heartened by my friend's remarks and look forward to working with him, even acknowledging some differences along the way. I yield to my friend from Georgia.

Mr. KINGSTON. What is important though is we bring our laws up with our technology and bring our laws up with other levels of government to realize that when the Environmental Protection Agency started in the very early 1970's, it was just about the only and certainly the premier environmental protection agency in the country. Today in Georgia, in Maryland, in Michigan, and Arizona you have narrow groups. You have your own Environmental Protection Agency, which probably is about 10, 15 years old at this point.

□ 2145

Mr. Speaker, I had the honor to speak to the Association of State Environmental Protection Divisions a couple of months ago. I was a little bit worried because I was afraid that, well, I do not know if I am walking into a lion's den or not. They said, ''We are ready. We can handly this. We can probably do a better job of attacking pollution cleanup because we are closer to the sites, we can work with turning, or the State legislative, we can get it turned around. Do not run from it, but do not get in our way, either.'' I think that is important.

Mr. EHLERS. Mr. Speaker, if the gentleman will yield, I would just like to comment on this little discussion, and especially commend the gentleman from Marylandy [Mr. GILCHREST], who is, I believe, without doubt, the wetlands expert of the Congress. He knows a great deal about it, and has made some very important contributions to that.

As I mentioned earlier, Mr. Speaker, I have been involved in the founding of the West Michigan Environmental Council. That group plus another group were instrumental in making Michigan the leader in writing State laws, in many cases before any other State or the Federal Government had. We wrote a wetlands law in Michigan over two decades ago. Michigan still is the only State that has been delegated authority by the EPA to administer its own wetlands law, and is not subject to Federal wetlands law.

It has always puzzled me why other States have not done that because, precisely as the gentleman from Maryland pointed out, each State is often better able to judge the situation within their State. Michigan is a very wet State. We are surrounded by Great Lakes, we have many inland lakes, we have many wetlands, and we have developed a wetlands law that works very well. I do not want to imply that it is without trouble and without dispute, but I can tell the Members from my experience in working with that and slogging through wetlands and working with the laws and working with the people, we managed to work things out.

Mr. Speaker, I was astounded when I came to Washington and discovered the antagonism toward the EPA in most parts of this country with regard to wetlands. I think part of it is, as the gentleman from Arizona mentioned, we have tried to pass one-size-fits-all legislation, and certainly the wetlands requirements in South Dakota and Arizona are different from those in Michigan and in Maryland. I think it is important for us to recognize that. It is also important for the States to take on that responsibility, as Michigan has done in passing its own wetlands law.

Similarly with takings laws, that is a real legal morass, and I regret the takings legislation that passed this body earlier this year, because I think, again, it was an attempt to be a one-size-fits-all, and it certainly did not fit my State. We have struggled with that for years with the wetlands law, with the Sand Dune Protection Act. We have come to a reasonable working arrangement on that, and keep working on trying to improve it.

Again, realize that the real objective is to protect the environment and work in a common-sense fashion that works, that gets the job done. When you were talking about clean water and clean air a moment ago, I was reminded, when I moved to Grand Rapids, Michigan, in 1966, the Grand River, which was a beautiful river flowing right through downtown, was filthy. No one would swim in it. No one boated on it. No one would think of catching fish from it. Now the river is clean enough so it has become a major fishing attraction. People boat on the river, and some even dare to swim in the river.

So we have made considerable progress in the past couple of decades, and I think it is a tribute to the progress we have made. We should never forget that. We have cleaned up most of the biological pollutants in the water and in the air. Now we are working on the chemical pollutants. It is a much tougher problem and much more scientific in nature. We have to, as I said earlier, use good science to do that.

Mr. KINGSTON. Mr. Speaker, as the gentleman points out, though, the need for honesty and integrity in the debate is so important. We have a Superfund bill we have been trying to get reauthorized now for 2 years, and while we are speaking, only about five of the national priority sites get cleaned up each year. Only 12 percent of the polluted national prioritized sites have been cleaned up, after 15 years and $25 billion of Superfund law. It is broken. Let us fix it. There is going to be a little bit of disagreement between the manufacturers in the private sector and the environmental community, but I would suspect there is still 75 percent or 80 percent of the issue that could be moved forward right now.

Mr. Speaker, I am very frustrated by the fact that in Washington, we always have to have this debate from both sides of any issue, ''The sky is falling,'' and the other side wants to accelerate the fall, join me in this fight. It is very difficult in that kind of atmosphere to have an honest debate.

I know the gentleman from Maryland has been in the very center of some of these things.

Mr. GILCHREST. Mr. Speaker, the gentleman from Georgia is correct about the Superfund situation. I think this Congress has begun the process of resolving the vast differences in that complex piece of legislation so we can have as our priority spending the money on cleanup costs rather than litigation costs.

I would like to mention just one thing to the gentleman from Michigan. I know Michigan has assumed the enforcement of the Federal wetlands regulations, and Maryland is about to do the same thing. I would like to make a comment on wetlands, the Endangered Species Act, and these other pieces of environmental legislation which are sometimes very emotionally discussed.

In the State of Maryland, as a result of the Chesapeake Bay improving and having clean water, much of that is attributed to wetlands filtering out a good deal of the nitrogen that comes in as a result of farming, or filters out a variety of other pollutants that get into the groundwater and spawning areas for fish, but wetlands is key to the economic boom in Maryland. There is about $2 billion worth of tourism, commercial fishing, recreational fishing, hunting, boating that comes to the State of Maryland as a result of the type of environment we have, so wetlands regulations help us to manage our resources.

The Endangered Species Act, which in the State of Maryland is actually stricter than the Federal Endangered Species Act, that might cause some alarm for some people, but for the State of Maryland, it assumes that our rural areas, through certain management tools on the Federal, State, and

local level, when we work in a pretty cooperative consulting fashion, ensures that our number one industry, or number one and number two industries in the State of Maryland are fishing, tourism, and agriculture. To save these particular industries, we need to work together and now apart.

We do need to recognize the differences in a regional way, but people in Louisiana want clean water, as the people in Maryland want clean water, so it is the consulting process. It is getting involved from all the different levels, including elected officials getting involved in the consulting process.

I just want to close with this one point, Mr. Speaker. I read recently a book from a Montana mayor, and I can't remember his name, the mayor of Missoula, Montana, wrote a book about community and place, and how we can reconcile the difference, especially that seem to become political differences. The essence of the book, without going into it, and I recommend the book to people to read, it is called ''Community and the Politics of Place,'' I think that is the name of it. But the essence of the book is, he said that America used to be a frontier. People used to be able to go places if they did not like where they were. if they had religious differences or had any kind of quarrel or wanted to seek adventure, they could go to the frontier that seemed endless. Now America does not really have a frontier. America is filling up with people, and we are a prosperous Nation, so the next frontier will be the frontier that is based on our ability to consult, to cooperate, to use our intellectual skills to manage the limited resources that we have so that they will still exists for future generations. We cannot do that and argue.

My son told me a couple of years ago when he was in high school, when he sort of was getting ready to look at the world, he said the world to him seemed like two people in a big truck driving down the highway at 90 miles an hour, and the highway ended at a huge precipice, a 10,000-foot drop, and the people were not only not paying attention to where they were going, they were arguing.

So if we are going to be legislators that are going to deal with the problem of the Nation, we have to, together, set the example so we can cooperate here and disseminate that sense of policy to the rest of the country.

Mr. EHLERS. Mr. Speaker, if the gentleman will continue to yield, I simply wanted to comment that I agree wholeheartedly with that. I think, getting back to the theme of what we have been talking about, we are simply trying to demonstrate that we are Republicans are trying to develop a responsible approach to the environment here.

I appreciate the comments that have been made. I thank the gentleman from Maryland especially for his views on wetlands, and obviously, it is very similar to Michigan. There is just one minor correction, by the way. Michigan has its own wetlands law, whereas Maryland and New Jersey will administer the Federal wetlands law.

It was interesting, when I was in office there I heard a lot of complaints about the wetland law, and one legislator proposed repealing the Michigan wetland law. The two groups that argued the most against that were the sportsmen, who think the wetlands law is wonderful, because Michigan has great hunting and fishing and so forth, and business. They said, ''We know this law. It works for Michigan. We do not want to be under the Federal law.'' That shows how each State can design the law that accomplishes the goals better than we can with a one-size-fits-all approach from Washington.

I think we have to set a minimum standard, but encourage the States to go beyond that. As Republicans who are talking about devolution of power, of letting the people in the communities have a say, I think this fits in beautifully with that.

Mr. HAYWORTH. Mr. Speaker, if the gentleman will yield, I appreciate the gentleman making this point, and I simply want to make this point that I think it transcends almost every debate we have here, and it is a philosophical point of view that I think rings true with the majority of the American people.

As you relate to us the experiences of Michigan, as our colleague from Maryland relates the experiences in his State, certainly none among us would argue that at certain time in our history, the Federal Government has played a genuinely worthwhile role in serving as a catalyst to deal with some dramatic issues, but history does not occur in a vacuum.

Therefore, the challenge for us at this juncture in our history is to ask this question: Who do we trust? Do we trust the American people, do we trust local officials, elected by the people close to home, officials elected to State government, the State agencies that have grown up in the last 25 years to confront these problems, or do we always and forever turn these problems over to Washington bureaucrats to offer a Washington solution which may fit Washington, DC, but which might not fit Washington State? that is the essence of the debate that we have on a variety of topics.

I thank the gentleman from Michigan for drawing that distinction yet again when it comes to environmental legislation, the true meaning of conservation, and what it will mean to protect and preserve the environment as we move into the next century.

Mr. EHLERS. I would simply say, Mr. Speaker, we need both. Take clean air, for example. We have to have a Federal law, because the transport across distances is so huge, but we also need local law to regulate how this is applied locally, and do it in a commonsense fashion. Only with everyone working together are we truly going to achieve a clean environment.

THE URGENT NEED FOR MEANINGFUL TAX REFORM

Mr. KINGSTON. Mr. Speaker, we wanted to touch base on the tax situation, with April 15 approaching quickly. I will yield to the gentleman from Arizona on this, but I want to start off with a couple of fun facts, first, about out tax system, because if you are like many of your American friends this last week or two, you took time filling out your tax form.

On an average, it takes 12 hours for you and your family to fill out your tax forms to the degree that you can, and then you take it to your accountant, and pay anywhere from $150 to $700 or $800, depending on where you are and how much you own and so forth. If you are a small business, it takes you 22 hours.

Here is a statistic that I really like, Mr. Speaker. The IRS has 480 tax forms, and 280 of them are forms that tell you how to fill out the other forms. That is absolutely absurd. The West Publishing Co., one of the official publishers of the Federal Tax Code, published the 1994 Tax Code in two volumes. Volume 1 contains sections 1 through 1,000, and it is printed in 1,168 pages. Volume 2 is page 1,500—1,500. We have a 1,564-page Tax Code, Mr. Speaker. It is absolutely absurd. The need for tax reform is urgent, it is great, it is right now. It is appropriate to look at while we are trying to balance the budget.

Mr. Speaker, I yield to the gentleman from Arizona [Mr. HAYWORTH].

□ 2200

Mr. HAYWORTH. I thank my friend the gentleman from Georgia.

In this Chamber where it is oft decried, the level of verbosity that often emanates within this Chamber, you have not seen words, Mr. Speaker, until you take a look at the Tax Code. The gentleman from Georgia talked about it. By wording, the Tax Code as it exists today consists of 555 million words, 555 million words in the last 10 years. In the wake of tax reform of a decade ago there have been 4,000 changes, resulting in the verbiage piling up.

Mr. Speaker, if you think you are paying by the word, that is certainly the case. Because in the wake of our last tax increase, the largest tax increase in American history, the President of the United States, who talks about tax breaks for the middle-class, offered a tax increase so regressive that with the retroactivity attached to it, people who had passed away still owed more from beyond the grave due to retroactivity.

It is the height of absurdity when the American family in 1948, an average family of four, surrendered about 3 percent of its income in taxes to the Federal Government, to where last year the average American family of four surrendered virtually one quarter of its income in taxes to the Federal government. That affects everyone.

Mr. Speaker, we need to make a change. We have taken a look at priorities and we see that clearly, in the wake of these expenditures, Washington's priorities have totally gotten out of whack.

Mr. KINGSTON. What is so important is that the average family in the 1950's paid 3 percent and today pays 24 percent in Federal income taxes. When you add in the other taxes, State and local taxes, the average middle-class family pays about 25-percent taxes.

I had an opportunity to talk to a driver with UPS, United Parcel Service, in my district. He said, ''My wife works. She teaches school and has a good job, and I get a lot of overtime driving this truck. We have got three kids, and at the end of the month we do not have anything because it goes into washers and dryers and taxes and regulations and so forth.''

That is the story of the middle-class American family today. All they are doing is working for the government. Then we turn around and make them fill out a tax form that is absurd, which they cannot do.

Mr. Speaker, you are on the Committee on Ways and Means. I bet you most Members of Congress cannot even fill out their own tax form. I believe that is real important. If we cannot do it, we who are setting the law, what do we expect of the American people?

Mr. HAYWORTH. If my friend would yield, there is something fundamentally wrong when the average American family pays more in taxes than on food, shelter and clothing combined. There is something wrong when Washington sends its resources to pay for 111,000 IRS employees, and yet can only have 6,700 DEA employees and only 5,900 border patrol employees.

What does that say to the American people? The Washington bureaucrats are saying, ''Oh, we do not have time to staunch the flow of illegal drugs. We do not have time to guard the borders, though that is one of the prerogatives of the Federal Government as mandated in the constitution. But we do have time to audit you, Mr. and Ms. America. We do have time to cast aspersions on your honesty. We do have time to try and find our way into your pocketbook again and again and again and again.''

Mr. Speaker, there is nothing ignoble or dishonorable about hard-working American taxpayers hanging onto more of their hard-earned money and sending less here to Washington, DC. Indeed, in the days to come once again, I know my friend Georgia disagrees with this notion, we extend our hand in cooperation to the minority. We extend our hand in cooperation to the President of the United States.

We have talked the talk for too long. Now, Mr. Speaker, it is time for us to walk the walk. We voted that way in this Chamber. We hope that those who would give lip service to these ideals would join with us and get about the business of governing. The American people deserve no less.

Mr. KINGSTON. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, we have worked to repeal the 1993 Clinton tax increase on Social Security recipients. We have worked to increase the earnings limitations for American seniors. We have worked to increase the estate tax threshold from $600,000 to $750,000, and we have worked to end the marriage tax penalty and the capital gains tax, and the President vetoed that. Along with that, he vetoed a $500 per child tax credit for middle-class families.

Right now in America households all over this land, from Maine to Miami to California, you can reach in your pocket and say here is $500 that was a dividend for my work this year, but it was vetoed by this President of the United States.

We are not going to stop, Mr. Speaker, and talking about taxes is going to take a lot more time. We have with us the gentleman from California who wants to talk about another waste of manpower and money, and that is illegal immigration, so I want to yield to him.

Mr. BILBRAY. Mr. Speaker, I would first like to echo my colleagues' comments. My wife runs our family business which happens to be an income tax business. I heard a lot of talk in 1993 that the Clinton tax increase was only going to be a tax on the rich and the seniors who were wealthy. Well, I do not think the Members of the House really realized what they were doing. I will say this, and I need to say this so that I can go home to my bride in California this weekend.

The fact is that she showed me one individual and talked to one individual who was a classic example of the so-called tax on the rich. This person made less than $14,000 a year, but because he happened to be a Latino who had very strong religious beliefs, he did not divorce his wife. He was married and filing separate. Eighty-five percent of his Social Security is being taxed.

You remember in 1993 they told those of my colleagues who were here, this is only a tax on the wealthy Social Security recipients; it is not on the poor. Well, this man would like to ask: Would somebody in Congress tell him how rich he is?

I think that that is one issue that is not discussed enough and we need to start bringing it up. As somebody who is involved in doing tax returns for the working class in my community in San Diego, Mr. Speaker, I hope to bring up more of those items, talking with the constituents who are being taxed by this Congress under the guise of taxing the rich, when it is the working class that is getting harmed by this unfair and unjust legislation.

Mr. Speaker, another item that is unfair and unjust is that we have been trying to address this last week the fact that this Government of the United States has in the past rewarded people for coming across the border and breaking our immigration laws and then getting welfare, free education and free medicine, to the point where it is costing the State of California immense amounts of revenue, and the Federal Government has been walking away from this expense. The people in States across this country are paying this expense because the Federal Government has ignored it.

Mr. Speaker, with the passage of H.R. 2202, Mr. SMITH's bill, we are finally now seeing this Congress recognizing its responsibility under the constitution to address the fact of illegal immigration. But there is one part of the illegal immigration issue, Mr. Speaker, that has not been addressed.

Mr. Speaker, I will just ask that we all consider the fact that giving automatic citizenship to children of illegal aliens is a problem we need to address. My bill, H.R. 1363, will address that, and we hope to work on that in the very near future.

WOMEN, WAGES, AND JOBS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentlewoman from the District of Columbia [Ms. NORTON] is recognized for 60 minutes.

Ms. NORTON. Mr. Speaker, this special order on women, wages, and jobs comes during Women's History Month, but more pertinently it comes because finally the issue of declining wages in our country has made it onto the national agenda.

The underlying discontent that has been there for two decades have come forward, and we see it in the Republican primaries. It is interesting that at least since the early 1980's many of us have been pointing to this un-American phenomenon where the stock market does well and people do poorly. Somehow or other it never caught on. There has been some attention paid to it as it affects men because the manufacturing sector has been so decimated as jobs have moved offshore. Now that the country is beginning to recognize that something different is happening, it is important that we look at all of those of whom something different is happening, and that is why I choose to raise it in relation to women.

As a former chair of the Equal Opportunity Employment Commission, I have long had an interest in discrimination against women. More is at work here than simple discrimination, however. What is at work here is the nature of our economy itself, some historic changes that are underway that reflect upon the kinds of jobs that are being produced and who gets those jobs.

The effect is felt in the widest gap in incomes we have seen since we have been keeping these records. We need to look at how this phenomenon affects women in particular because with the change in the economy there have been the greatest changes in women in the work force.

I want to point to a bill I have introduced, the Fair Pay Act, which in its

own way is to the 1990's or seeks to be to the 1990's what the Equal Pay Act was to the 1960's.

This body in 1963 passed the Equal Pay Act in order to close the wage gap between men and women, and the Equal Pay Act has done a very good job for its limited mandate. Essentially, it was to look at people doing the same job and being paid differently for it. Some progress has been made, partly because of the Equal Pay Act, so that we have gone from about a 62-percent gap now to something like a 71-percent gap. That is the good news until we hear the bad news.

The bad news is that the closing of the gap itself reflects an alarming decrease in male wages as well as the new presence of highly educated women or highly skilled women in entry-level positions only. In other words, the average woman is just where she was. The average woman is experiencing what the average man is, stagnant or declining wages. But at entry levels, highly educated women like doctors and lawyers make the same as men, although those women have a gap that develops within their profession after the entry level.

I am this evening interested in the average woman, the silent worker out there every day. The Fair Pay Act is directed specifically to her and to part of what she is experiencing.

The Fair Pay Act simply says if you are doing comparable work you ought to get paid the same. The Fair Pay Act says if you are an emergency services operator, that is a female-dominated profession, you should not be paid less than if you are a fire dispatcher, that is a male-dominated profession.

Under the Fair Pay Act if you are a social worker, you would not earn less than a probation officer simply because you are a woman and he happens to be a man. Should not the market set the rates? That is precisely what the Fair Pay Act tries to do, even as the Equal Pay Act intervened in order to have the market set the rates.

Too often the habits of employers over the decades have built in distortions to the market. Women and minorities paid the price in reduced wages.

I want to emphasize that the Fair Pay Act that is H.R. 1507, would not, in fact, intervene into normal market processes, and that has been the problem people thought they saw in comparable worth work.

□ 2215

My bill would allow the extraction only of the discrimination factor, and the burden would be on the plaintiff, on the woman, as is always the case in discrimination cases, to show that the difference in wage she is experiencing is because of discrimination and not because of unbiased market factors.

I offer that this evening for inspection as one approach to the problem I raise in women and jobs.

I want to move to another remedy as well. We are finally beginning to talk about raising the minimum wage. Here is a subject covered with my mythology. If we are going to talk about women workers, we must talk about the minimum wage. Indeed, if we are going to talk seriously about welfare reform, we must talk about the minimum wage. Who are we talking about when we talk about a minimum wage worker? Some Americans would say, well, I think you are talking about a bunch of teenagers working at McDonald's. The typical minimum wage worker is a white woman over 20 years of age, likely to live in the South, who has not had the opportunity to attend college and who works in a retail trade, agriculture, or service job. That is who the minimum wage worker is. She is your wife and you daughter. She is your aunt and your young friend who has just graduated from high school.

Most minimum wage workers are women; 5.75 million women are paid between $4.25 and $5 per hour. That means 17 percent of all hourly paid female workers earn the minimum age and only the minimum wage. Most female minimum wage workers are not teenagers. They are adults. And when we say women are earning the minimum wage, we are talking about almost certainly the guardians of poor children. Often, most often, these minimum wage workers are women who are raising the poor children.

Now, Mr. Speaker, I am not here talking about the favorite subject of this body, deficit reduction. The minimum wage will add not 1 cent to the United States deficit. What it will do is take 300,000 children immediately out of poverty, 58 percent, almost 60 percent, of minimum wage workers are women. Nearly half of full-time jobs, and the statistics will show that many, if not most, of the others wished they could get full-time jobs, but of part-time minimum wage jobs 15 percent are black, 44 percent of minimum wage workers are Hispanic. What would we do, what would I have us do? Simply to raise the minimum wage to $5.15 per hour. Is there anybody in this body who would think that is too much for them to earn or too much for anyone they know to earn, too much for any constituent of theirs to earn? It would not have to come in one fell swoop. It could go to $4.70 an hour by July 5 this year and to $5.15 an hour by July 1, 1997.

Understand who we are talking about when we say the minimum wage worker. We are talking about the traditional way in which we have set a marker of what it means to be an American below which you shall not be forced to work. We are talking about a person who works typically 40 hours a week, 52 weeks a year, and earns $8,840. The impact of lifting the minimum wage would be that immediately 300,000 people, I want to correct what I said before, 300,000 people would be lifted out of poverty; 100,000 would be children. Only one-third of those affected by such an increase would be teenagers, because almost 70 percent of minimum wage workers are 20 years old or older. They are adults going out to work every day with less than a poverty wage. That is who they are.

Since 1979, we have found that 97 percent of the Nation's increase in wealth has gone to the wealthiest 20 percent. The remaining 3-percent increase in wealth is left to the other 97 percent of the Nation's workers, and who has taken the brunt are those at the very bottom.

The value of the minimum wage has dropped 30 percent, my colleagues, since 1979. I want to put this graphically to you. I want us to face who we are talking about. Let us look at a family of four and consider what would happen if the sole earner is a minimum wage worker above the poverty line. The current poverty line for a family of four is $15,600. Now, if that family of four has one worker earning the minimum wage, $4.25 an hour, working full time the year around, about $8,500 a year, that worker would receive a tax credit, thanks to legislation passed by this body, if we do not cut it terribly much, and there are proposals to cut it, but today that worker would receive a tax credit of $3,400 under the 1996 provisions of the earned income tax credit.

That worker is so poor, that worker, single wage earner in a family of four, that she could collect food stamps worth $3,516. She would nevertheless still pay $650 in payroll taxes after qualifying for benefits and paying her payroll taxes. This family ends up $834 below the poverty line.

This is America, my friends. We cannot continue to send people to work every day, working hard, working in work you do not want to do and I do not want to do, and have them come home below the poverty line. That is dangerous. You are hearing the rumblings of it out there in the Republican primaries. Answer the call now.

In every State there will be large percentages that will benefit from an increase in the minimum wage. In my own city, a fairly small percentage, 7.8 percent, would benefit, and as I look at what would happen in some of the States, I am simply amazed. Idaho, almost 14 percent of the workers would benefit. In Louisiana, almost 20 percent of the workers would benefit. In Michigan, 10.5 percent; in Mississippi, 17 percent of the workers would benefit. In North Dakota, 18.2 percent of the workers would benefit.

I see my good friend and colleague from Georgia, Representative MCKINNEY, here. In Georgia, 11.9 percent of the workers would benefit. Very substantial percentages all across the United States, regardless of sex, regardless of your preconceptions about the place, regardless of whether you think of it as a poor State or a rich State, you have substantial proportions of the population that would immediately benefit from a raise from the minimum wage, not 1 cent added to the deficit, a sharing of income of the kind

that has been typical in the United States that as companies become more prosperous there is a greater sharing of the profits with the workers. That is what has not been happening. That is why we are having a growing income gap.

The number of African-Americans who would benefit is important to note. Seventeen percent of all hourly paid African-American workers are minimum wage workers, and most of these low-wage workers are female. Twenty-one percent of all hourly paid Latino workers are minimum wage workers. And Latino women are especially likely to be paid very low wages; 25 percent of hourly paid Latino women earn at the minimum wage.

Now, I want to examine the critique of an increase in the minimum wage that is most often made, and that is that you reduce job opportunities. The answer is that that is not the case. I refer to nearly two dozen independent studies that have found that the last two increases in the minimum wage had a insignificant effect on employment. The Nobel Laureate economist Robert Solow recently told the New York Times that the evidence of job loss is weak, and I am quoting him, ''The fact that the evidence is week suggest that the impact on jobs is small.'' Prof. Richard Freeman of Harvard said the following: At the level of the minimum wage in the late 1980's, moderate legislative increases did not reduce employment and were, if anything, associated with higher employment in some locales. We remember the 1980's, do we not, when there was a plethora of minimum wage jobs breaking out all over in this country? Minimum wage seems not to do what the conventional wisdom tells us. Kind of look at the facts. We have got to look at the studies.

There is also the myth that the blow will be to small businesses. First of all, 90 percent of workers in small business already earn more than the current minimum wage. Do not think that people in small businesses are simply looking for the cheapest labor they can find. They are looking for the best labor they can find. They have got to have people who give them the biggest bang for the buck. In any case, the law does not apply to businesses that do not have annual sales in excess of 4500,000 or employees that participate in interstate commerce. You have got to be in that category even to be covered. That means that many small businesses are simply not affected by the minimum wage at all. Ninety percent of workers in small businesses earn more than the current minimum wage. Indeed, half of minimum wage workers work in firms with more than 100 employees. That is cheating workers.

What this means is, we are giving a break to moderate and larger employers, because we are allowing them to hire people at minimum wage and keep more of the profit for themselves and they pass that on to us, ladies and gentlemen, because those people qualify for supplemental welfare, those people qualify for the supplemental benefits, food stamps and the rest. So go right ahead the way you are doing it, because what is means you are doing when you are allowing people to pay the present minimum wage is your are subsidizing that employer yourself. That is us, we, the taxpayers.

□ 2230

That is us, we, the taxpayers. Let them pay for the labor. Business is doing well. President Clinton has had an extraordinary effect on the stock market because of the way in which he has reduced the deficit. That is one of the factors that is yielding large gains in the stock market.

Where are those gains reflected in the pay envelope of the minimum wage worker? Why should the taxpayers subsidize that worker with food stamps or other supplements, rather than have the employer, who has profited from that worker pay? Let that employer pay.

This line is stark enough so that even without it being a big poster, I think I will make my point that a higher minimum wage does not cost jobs. This is the job level in 1991. This is the job level in 1996 since the last minimum wage increase. What we are seeing is there has been an extraordinary rise in jobs.

By the way, many of these are part-time, temporary, low-wage jobs. Whatever happened to the notion that if you raise the minimum wage, you will not make jobs? This is what has not been proved. This is the myth that is helping to sustain the minimum wage.

This is the myth that means the taxpayers are supplementing people who should be paid for their labor by the companies, almost all of them larger companies, or certainly medium-sized companies at least for whom they work.

Let me take a pause now, because I am very pleased to see that the gentlewoman from Georgia has come to the floor. I am very pleased to welcome the gentlewoman from Georgia, who always does her homework, and who has joined me in this special order.

I yield to the gentlewoman from Georgia, Representative CYNTHIA MCKINNEY.

Ms. MCKINNEY. Thank you very much. I certainly want to commend you for the role that you play in terms of being a role model for the newer Members and for people like me who have long looked up to you and now find myself working right next to you. I just want to say thank you for your leadership.

I have got some posters that I think punctuate what you have said. Here I have a chart that shows how from 1979 to 1995 the wages of men have decreased. The wages of women increased, and then began to decrease. The gap that was closing between men and women was basically because the wages of men were dropping.

Then, of course, as you have pointed out, the income gap. We have not seen the kind of income gap that we are experiencing now since the days just prior to the Great Depression. Here we see that the top 25 percent receive more than 95 percent of the income growth. The other 75 percent of Americans receive less than 5 percent of the income growth. Meanwhile, the top 5 percent of American families got more than 40 percent of America's growth.

Just as you so correctly pointed out about the impact that the President's policies have had on the deficit, the decrease in the deficit, and Wall Street, Wall Street sizzles, and Main Street fizzles.

I have another chart. Again, as you so correctly point out, the subsidies, the social safety net that we have painstakingly constructed or woven, is there because there are some corporations that are getting away with not paying their fair share. Certainly they are not paying their workers what they are worth. What we have seen here just in terms of the corporate income tax is that corporate income taxes have gone down, and, of course, individual income taxes have had to take up the slack.

In the previous special order we had one of our colleagues discussing about the diet that he was on, trying to lose 50 pounds, and he was going to lose 2 pounds and then save the other 48 pounds for the last 2 days of the diet.

Well, I think that is about the way the Republicans have run this ship of state, because they in their budget put off the hard decisions until the out years. But the Progressive Caucus has come up with a budget plan that does not put off the hard decisions into the off years. It goes right in by cutting defense spending and cutting corporate welfare. We demonstrate that you can have a downward trend, a steady downward decline in the deficit, if you make the hard choices, and you make them early.

So basically I would just say that when the economy is bad, nothing else is good. The work that you have put together with the legislation will improve the lives of working women all over this country.

I come from a family where my mother worked. She worked for 40 years at Grady Memorial Hospital as a nurse. I am a single female head of household, and I am a working woman. I suspect that if my son grows up and marries, as I suspect that he will, he will also marry a working woman.

We just want to make sure that the leadership of this country is aware and sensitive of the needs of working women, and that is what your legislation provides for.

I would also say, as the only one in the Georgia delegation, that after we were elected, we had women come to our office for issues that ranged from access to credit, to child support enforcement, to sexual harassment, and

even something as simple as a role model who showed to them that, yes, it could be done.

So just as we plead with our colleagues to make sure that the plight of working women is not forgotten, we plead for ourselves, and I commend you for your legislation and the work that you do as a role model for the rest of us.

Ms. NORTON. I want to thank the gentlewoman not only for those very kind remarks, and coming from her they are treasured, but also for that very compelling statement. I very much appreciate her coming forward, particularly this late in the evening. But we have got to use what opportunities we have in order to make these important points at this critical time.

Let me continue then. What has happened to women? The gentlewoman from Georgia indicated that women were in fact beginning to improve, and that is true. But women have now been caught in the same spiral that has dragged men's wages down, and that is why we have really got to step up and take notice.

Until the 1970's women came into the work force drawn there by rising real wages. In order words, they came into the work force because they could earn more money and they were drawn to the work force by virtue of the lure of greater income.

Since the 1970's, there has been sluggish wage growth. Still they come. They come because they must. They come even though the wage gap for them, for the average one of them, is not closing.

Now, it is very interesting, in the 1980's we did see a rather precipitous narrowing of the wage gap. It is not altogether clear why, but we do know this, that 50 percent of the gap remains unexplained. We believe that possible explanations may be occupational segregation, women's jobs versus men's jobs, you are in a woman's occupation. That has typically had low-wage discrimination. Women having secondary rather than primary jobs, internal labor market influences.

In any case, the figures tell you about the creation of a whole new work force in our lifetime. In the 1950's, 30 percent of the work force was women. Today, 45 percent of the work force is women. In other words, we have come to the point where half of the people who go to work every day are men and half of the people who go to work every day are women. Yet the reward of wages is simply not there for the average woman.

Indeed, if we look at where women are employed, the lower the earnings, the greater percentage of women in that occupation. That is whether they are making goods or performing services.

Why are women working? I can tell you this much, they must be working, because there is no other choice, because half of all married women with children under 3 are in the labor force. Few women, unless they are highly educated and making a lot of money, and that is rather few, are going to go to work if they have a child under 3. In the 1970's, it was not half of all married women, it was a quarter. That means we have doubled. They are there because they have to be there. They are there because they are single head of household, or they are there because one wage earner cannot do it any longer in a family of two wage earners.

Women are to the new service economy what men were to the economy of the Industrial Revolution. Let us face it. That is what women are. We have fueled the new economy with women. Except in a very real sense, they look exactly like the male industrial workers, low paid, poor benefits of the 19th century. The conversion is itself remarkable. The conversion I speak of is in the economy itself, which has prepared the way to accept women workers.

In the 1960's three-quarters of all the nonfarm job creation was in services. That is a lot. But by the 1970's, 80 percent of all the nonfarm job creation was in services. By the 1980's, 100 percent of all the net job growth was in the services. Four out of every five women work in a service job.

What do I mean by a service job? Because what I mean by a service job is in fact or tells in fact the story of declining and low wages.

□ 2245

A service job for a woman is a fast-food job. It is a job in a department store. It is a job as a health aide. It is a job as an insurance company clerk. It is a job in residential day care. It is a job as a beautician. It is a job as a clerical. The next time you go into the department store, look at that woman. Look at her closely, and you will know what I mean.

Mr. Speaker, the interesting thing is that historically, women tended to be in school and hospital jobs. There are proportionally few workers there because there are so many other workers in these other service jobs now that they have overwhelmed these school workers and the hospital workers, but watch out.

The school workers and the hospital workers very often were teachers and nurses, and those are relatively high-paid women's jobs, compared with health aides, insurance company clerks, fast-food clerks and department store clerks. These are honorable jobs. These are often good jobs. They just do not pay well. They do not pay what they are worth.

Listen to your constituents. They are hurting. They are hurting because they are not earning what they are worth. We have the only answer, is to get a greater sharing of the benefits of the labor with those who perform the labor. That is the American way, and unless it works that way, you get a disgruntled working class. There is no getting around it. You cannot continue to have a democratic society with a greater and greater share of the wages going to the top and almost none going to those at the bottom.

Now, do we have a situation where the money simply isn't there, that is the problem? That, my friends, is not the problem. You need only open your paper and look at what the stock market is doing, and you will see that the money is there. If anything, downsizing should have resulted in workers who were there getting paid more. It did not. That is why many companies are taking a second look at downsizing, because they have done it on the cheap. They have done it at the expense of workers and have not, in fact, increased productivity, have not done it the old-fashioned way, the American way.

Mr. Speaker women have become the indispensable new workers who are fodder for the new economy. The last time the country needed the kind of labor supply we have gotten from women in the last two decades were, No. 1, at the time of the great immigration from Europe in the late 19th and early 20th century and No. 2, at the time the black workers in the South left and came North. Today, instead of asking workers to come from Europe or Asia to the United States, and of course there are many immigrants who come, instead what we are saying is, look at your own household and send a worker out for the new economy. If you are going to send a worker out for the new economy from your own household, then should not that new worker be paid what that new worker is worth?

Listen to your constituents now. Hear the cry. I say to my colleagues on the other side of the aisle, listen to your own primary. I never thought I would live to see a Republican sound like a labor Democrat, but I think that is what I heard Pat Buchanan sounding like. Now, that is not his tradition, and that is not the way he has run his political life, but I do think he heard something out there. We all better listen to it.

Whenever we have listened, we have found a remedy. This is not susceptible to yesterday's ideology or even tomorrow's. This is a new problem in the United States. When wages are low, the economy is bad. When wages are high, the economy is good. What is this new phenomenon? The economy is good and wages are low. Should not work that way.

Mr. Speaker, one of the things we can do, if it is working that way, is to look at the minimum wage, which has simply lost its value, and say pay people a little more to work. If you do not, you discourage work and then, of course, my friends get up on the House floor and say why do they not work? If it does not pay to work, how can we expect people to work?

This is America. This is America at the turn of the century. This is a country that must not send people to work only to have them come home poor. That is what is happening.

Economists tell us that there are a number of explanations for the low wages of women in particular. Typically, we are told that a reason for these low wages is crowding or concentration in traditional women's occupations. There may be some of that, but recent studies look to other answers. There was crowding in men's occupations. They had low skills, and yet in manufacturing, they had high wages. Why? My friends, the economists say it was because they were unionized. When the company would not share the profits, men went out and unionized. Women have not done that, and that may be part of the reason the economists tell us that they have not been able to extract a fair share of the profit of their labor from their employers.

We are also told that a reason is low capital investment in the industries in which women work. Even though we may not find the real answer any time soon, we need to look for a remedy very soon. We cannot allow the United States to become a place where you develop a permanent working class or, God forbid, what appear to be the case in many of the inner cities, a permentnt lumpenproletariat, people who never move up. Those would be the homeless, the people who are chronically or constantly unemployed. A greater and greater proportion of our population falls into this category.

This has never been that kind of European-class society. It has been a society where, however poor you were, you could look forward to being better off than your father. You may have been poor, but not as poor as he was. So there was steady progress, and a man could live to see a man who picked cotton live to see his son or daughter go to college. Today, people go to college on college loans and come back home to live because they cannot afford to strike out on their own, the way their parents did.

Mr. Speaker, this is a new America. This is not our America. We do not have all the answers to this America, but we do know this. Surely one of the answers, not maybe, but one of the answers surely is to give back at least some of the value to the minimum wage. It will have an effect, not only on those low-income workers, but it will have something of a ripple effect on those who are nearly as badly off, and you will not know the difference. You will not know it in the deficit. The businesses is question will hardly know it, because a few cents from their profit will go to their workers instead. Who among us would wish for any less?

Mr. Speaker, I recognize that the notion of the minimum wage, or for matter, my Fair Pay Act, are matters that have tended to divide Republican from Democrat, but it was in a Republican primary that one heard this cry first, and it was a Republican candidate that has tried to respond to it. He has responded to it in ways which many, not only in his own party but in mine, simply cannot agree. But he has heard something real. This body must hear something real. It is there. Do not deny it.

Do not tell low-paid workers who go to work every day that something will happen if you only wait for the economy to fit my paradigm, whether it is your flat-tax paradigm, your national sales tax paradigm or, for that matter, paradigms from my side of the aisle, such as stimulation paradigms. People need hope and relief now.

The minimum wage is traditional to American life. Even on the other side of the aisle, few say we should abolish it. There are some, but few. If we put to a vote today to abolish the minimum wage, I believe those of us who say keep it would prevail. The real question is, are you going to keep it at a level that is worthy of the name minimum wage? So far, we have not, and we are going to pay very severe consequences if we do not.

Among other things, any welfare reform bill we pass will come back to hit us in the face because the people on welfare will come back to claim other benefits because they will not be able to earn enough to pay the rent and to put food on the table.

So I come forward this evening to talk about women's wages in particular, and that is not because I think the problem of men's wages is any better. In fact, it is worse. Men have fallen out of the labor force at an astounding rate because of the decline in the manufacturing sector. Men have experienced an extraordinary reduction in their annual wages over the last quarter of a century.

Mr. Speaker, I have come to the floor this evening to talk about women because I do not intend for women to be lost in this debate. Because if you do not speak up for women, they surely will be lost in this debate. The Women's Caucus found them lost in the health debate before we spoke up, as we did today when we introduced the Women's Health Equity Act. Before we spoke up about breast cancer and osteoporosis and, for that matter, clinical trials for women with heart disease, before we spoke up, they got lost in the health debate. We do not intend them to be lost now that the country has heard some voices that say we work every day and it is getting worse.

I come to the floor this evening to say I hear you and I believe that many on both sides of this body hear. They heard it on the other side in their primary. We hear it on this side, as well. Doing something about it through the minimum wage, as a first step, is a good-faith way to say we hear you. We are going to respond not in a radical departure from what we have always done, but in the tradition that we have always used, in an increase in the minimum wage that will give you a small raise in your pay envelope.

Remember that these minimum-wage workers pay the same social security taxes that the rich do, and the difference in the impact on their pay envelopes is gargantuan. They need a break. They need a raise. Many of them are women, and the majority, the great majority, of those who earn the minimum wage are women, and they are the people who take care of your children. They are the people of the next generation. Hear them. Receive them. Respond and remedy.

Mr. DELLUMS. Mr. Speaker, I take this opportunity, as organized by my valued colleague, Congresswoman ELEANOR HOLMES NORTON, to address the economic condition of women, the jobs that they do and have, and the wages that they receive in relation to the general pool of wage earners. Some of us have been deeply concerned by the deteriorating economic status of the vast majority of workers, citizens, in this country. Although this fall from economic grace began about 16 years ago, the cumulative effects of this steady drop are now beginning to be painfully felt by the majority of job holders.

The experience and story of one of my constituents, whom I shall call Geraldine Mason, is descriptive of many other people in my district and throughout the United States.

Ms. Mason has one pre-school child. She works in a produce market and tries to work at least 40 hours a week, 50 weeks a year, but can only get about 32 hours of work a week. She gets more than the minimum wage, $5 an hour. Her wage is a bit higher because the San Francisco bay area is one of the most expensive places to live in the United States. When she is lucky and works a steady 50 weeks in the year, her total income is $8,000 a year. After taxes, her take home pay is $7,710.

She shares an apartment with her sister; Betty's share of the rent is $250 a month or $3,000 a year.

Of course she needs child care. Although she is on several lists for the few subsidized child care slots in the area, there are needier cases than hers—women who have even less income. So she pays something nominal, $100 a month, $1,200 a year to members of family who are available. Her share of the utilities, telephone, and garbage comes to $55 or $660 a year.

Her job is 5 miles from home and she uses public transport. She can't afford the monthly pass, so she pays $1.25 per trip which adds up to $625 a year. Her food comes to $900 a year; supplementary medical care $299 a year; incidentals, $600 a year. Total: $7,710 a year. This income is augmented by the Earned Income Tax Credit which is under attack.

We are citizens of the United States and are indeed blessed and fortunate to be in a land of agricultural wealth, with human and other resources of which we are justifiably proud. Although we suffer natural calamities—floods, droughts, and earthquakes—we are large enough so that by pooling our national resources we have been able to absorb such shocks better than most nations. We have indeed been blessed to not be in permanent drought as is an increasing band of land in the sub-Sahara region or in the frozen tundra of Russia. We are a wealthy nation.

Why then, should Geraldine Mason, who wants to work and does work; who is a responsible mother and a tax-paying citizen, pushed up against an impossible wall to

scale? What do we, the lawmakers and the law implementers tell Geraldine Mason how to survive in this economy?

''Between 1979 and 1991, families headed by people under 25 years old saw their incomes drop $7,200 a year from $24,000 to $16,800 * * *.'' Even the better established 25–34-year-olds suffered an income drop of $4,000 going from $35,600 to $31,500 during this period. There are about 20 million workers in the United States in Betty Mason's situation.

We know that at differing levels, college graduates, postgraduate, and professionals are beginning to feel the simultaneous crunch of income maldistribution, loss of jobs, and job insecurity.

On maldistribution, 1 percent of American households, with net worth of at least $2.3 million each, owns nearly 40 percent of the Nation's wealth; the top 20 percent of American households, with net worth of $180,000 or more, have more than 80 percent of the Nation's wealth; this figure is the highest of all industrial nations.

At the bottom end of the scale, where Geraldine Mason is stuck, and many single, divorced women with children are, the lowest earning 20 percent of Americans earn only 5.7 percent of all the after-tax income paid to individuals in the United States.

According to Marion Anderson, as published in ''Running Up the Down Escalator,'' an Employment Research Associates report,

ENTRY LEVEL WAGES 1979 AND 1991

	High school graduates			College graduates		
	All	Men	Women	All	Men	Women
1979	$8.32	$9.39	$7.12	$11.32	$12.57	$10.07
1991	6.48	6.90	6.02	11.30	11.39	10.75

Here is another worker: Susan Casavant lives in Vermont, in Congressman SANDERS' district. She presented her story to the Progressive Caucus panel at the March 8, 1996, hearing on ''The Silent Depression, the Collapse of the American Middle Class'' on her work in Vermont. She states

I feel as if I am a good worker, I've been quite flexible and displayed responsibility and honest work. I have learned how to work in almost every department. Other employees depend on me in order to receive their work. I believe I pull a heavy load, both in and out of work.

I have such a hard time making a living because Peerless Clothing pays poverty-level wages!! Why?

She makes $5.25 an hour, up 25 cents an hour from the $5-an-hour starting wage.

. . . I work 40 hours per week plus overtime and Saturdays. My less than $200 a week check makes me feel like a fool. . . . It's still hard to make a good living. I still live with my family because I can't afford to pave my own road. . . . The insurance provided to us costs $41.70 per week for me and my son, that's about $168 per month and the worst part is that it doesn't cover half of the things me and my son need. I never thought my future could look so uninviting, I am twenty-one years old and I still depend on my parents; my mother cares for my son because I can't afford a good, safe day-care.

I live in America, the land of freedom, so how do big companies like these get away with bringing down honest people and their hometowns too? I would like to live in security instead of doubt.

When Susan Casavant and other workers tried to form a union, the company said that it would close or move.

What does the 104th Congress say to her?

This is what we can say: American workers need a raise. American workers, who are among the world's most efficient and productive, need to have some sense that they can learn, work, and make a living wage. This Nation needs our workers, and our economy needs their work and needs their buying power.

In this Congress, I am proud to be a cosponsor of three bills raising the minimum wage: Mr. GEPHARDT's H.R. 940 which raises the minimum wage to $4.70 an hour; Mr. SANDERS' H.R. 363 which raises the minimum wage to $5.50, and Mr. SABO's H.R. 619, which raises the minimum wage to $6.50 an hour. It is clear from the rosy picture of our economy that the growth is on the increasingly bowed back of our increasing pool of low-paid workers—a disproportionate share of whom are women.

Franklin D. Roosevelt understood the experience, the lives, the misery of the people struggling to find work and income in the 1930's. As Roosevelt led this country to victory by successfully calling on our sense of national pride, by calling on our sense of fairness and democracy, our sense of justice, he was proud to declare in 1944, and much of the Nation thrilled to hear him declare, his Economic Bill of Rights.

Section 2 of this declaration states the U.S. policy of ''The right to earn enough to provide for an adequate living.''

Space limits me from quoting the other sections which gave Americans in 1944 and later, such a sense of empowerment and self-respect, empowerment and self-respect that we are now losing, and with it our sense of pride in ourselves and each other.

Twenty three of us in the 104th Congress can say and have said that we can make a living wage and that there can be jobs at decent wages for all who want to work and can work. This statement is embodied in H.R. 1050, A Living Wage, Jobs for All Act, which I was proud to introduce with 22 cosponsors; among them ELEANOR HOLMES NORTON.

It will represent a new contract with our people—one that answers Geraldine Mason and Susan Casavant as to how they can have pride in their work and share equitably in the benefits of our wealthy Nation.

During the 104th Congress many of the ideas can be developed, improved upon, sharpened, critiqued, and openly discussed around the country in public meetings, and by the end of the year brought together into a whole legislative package to be reflected in a new budget for the 105th Congress.

I respectfully urge my distinguished and hard-working colleagues to join me in developing a process which will give our citizens new opportunities for economic security and which will hold out hope for women that they can be made full partners in this economic security.

Ms. JACKSON LEE of Texas. Mr. Speaker, I would like to thank my colleagues in the Women's Caucus for calling attention to the issues facing women in the work force and the difficult work they have done to celebrate this year's Women's History Month celebration. I am delighted to participate in this discussion of women, wages, and jobs, because it is an issue that has become increasingly important to us all, as women are now an integral part of the American work force.

First of all, let me commend the millions of women who juggle the dual role of homemaker and breadwinner, as well as those who choose homemaking as a career—for in our society every woman has a crucial role to play.

From the beginning of time, women have performed tasks which were crucial to the economic and social development of our society. At one time, we were only allowed to become educators nurses, seamstresses, and hairdressers, yet today we have expanded our roles to include doctors, lawyers, judges, administrators, and yes we have conquered the sciences as well. And so I say to the women of America, ''you've come a long way.''

Yes, we have come a long way, and my colleagues and I serving in the 104th Congress bear witness to that fact, yet we have so much farther to go.

On Friday March 8th, women across the globe celebrated International women's Day. A day which was set aside to mark the beginning of the struggle for equality and rights for women. In many countries, it was a day mixed with celebration and protest. Celebration for the many economic, social, and political obstacles we have successfully overcome, and protest for the ongoing inequalities and barriers that continue to deny us full participation in society. Yet in America, International Women's Day went literally without notice. Did we fail to recognize this day because we have conquered all the obstacles or is it because we have fallen down on the job?

Mr. Speaker, I submit to you that in spite of the strides that have been made, until we eradicate pay inequalities, the glass ceiling, sexual discrimination and the myriad of other problems facing working women, our battle is far from over.

A recent report from the U.S. Department of Labor's Glass Ceiling Commission shows that women represent over half of the adult population and nearly half of the work force in America. Women compose half of the work force, yet we remain disproportionately, clustered in traditionally ''female'' jobs with lower pay and fewer benefits. These studies show that women who make the same career choices as men and work the same hours as men often still advance more slowly and earn less.

Women remain underrepresented in most nontraditional professional occupations as well as blue collar trades. Consider the following:

Women make up 23 percent of lawyers but only 11 percent of partners in law firms, women are 48 percent of all journalists, but hold only 6 percent of the top jobs in journalism, women physicians earned 53.9 percent of the wages of male physicians, women are only 8.6 percent of all engineers, women are 3.9 percent of airplane pilots and navigators; and in dentistry, women are over 99.3 percent of hygienists, but only 10.5 percent of dentists.

The report found that although the pay gap for women narrowed significantly in fields such as computer analysts, it widened in others. They show that in 1993 women earned only 72 percent of the wages paid to men. This wage gap is worse for women of color. White women earn 72 cents per every dollar made by white men while African-American women earn 64 cents and Latino women earn a mere 54 cents.

Mr. Speaker, working women in this country have been fighting for equal pay for equal work for over 20 years now, and although the gap is closing, it is not happening at the rate any of us should be pleased with. When this

government exposes civil or human rights violations in other countries, we are quick to impose sanctions to encourage people to remedy their behavior, yet when companies within our own borders continue to violate these same rights, we turn our heads, and say, "these things just take time." Well, how long will it take before working mothers can actually support their children, without the extra assistance from family, or government.

In closing, I would thank to Rep. NORTON for allowing me the opportunity to speak on this issue.

GENERAL LEAVE

Ms. NORTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include therein extraneous material on the subject of my special order.

The SPEAKER pro tempore (Mr. COLLINS of Georgia). Is there objection to the request of the gentlewoman from the District of Columbia?

There was no objection.

REPUBLICAN PRIMARIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. HUNTER] is recognized for 5 minutes.

Mr. HUNTER. Mr. Speaker, I rise this evening to talk about a couple of Republican Presidential candidates who are not leading the polls and have not just won in California and other States. Of course, the gentleman who has done that is BOB DOLE. But I wanted to talk a little bit tonight about two friends, because I think that they have a great deal to offer the Republican Party and to the Nation, and I think it would be very unwise for our party and for the leadership that will be emerging from the convention in my hometown in San Diego to ignore either these candidates or the many millions of people whom they represent.

□ 2300

Mr. Speaker, those two candidates are my great friend and near-seat mate from California [Mr. DORNAN], who sits on the Armed Services Committee with me and whom I have endorsed for President, and another good friend, Pat Buchanan who has made a very spirited run at the Presidential nomination and not quite made it, but, nonetheless, has, I think, touched a nerve with many, many Americans and attracted many Americans to his agenda.

Let me start off by saying, Mr. Speaker, that I listened to my father in the past talk to me about political smear campaigns and how people were denigrated by the press, by the liberal media, to the point where they had no chance of winning an election. I remember him first showing me those evidences of such campaigns back in the Barry Goldwater days when Barry was denounced as someone who would get us into nuclear war, and was unfit to serve in the White House, and was supposed to be a very dangerous person. After he concluded an excellent career in the Senate, he was then regarded by the same pundits and liberal media people as a, quote, conservative statesman, but in those days he was bashed a lot.

And I noticed that Pat Buchanan has taken a lot of bashing, and I think very unfairly, because I look at his positions with respect to free trade. He opposes President Clinton's NAFTA, so there is something wrong with that position from the liberal media standpoint. He supports the right to life of unborn children, a traditional Republican opinion and position, and of course that is opposed by the liberal media. He supports a strong military, and of course that is opposed by the liberal media which watched with dismay as President Reagan's strong military posture dismantled the Soviet Union and ended the cold war.

Mr. Speaker, on a personal note Pat and Shelly are wonderful people. They are fine people, they care about the Nation, they have great compassion for their fellow Americans. And to see the media come out and imply that Pat Buchanan was anti-Semitic, and when you ask why they thought that, they said, well, it is the way he pronounces terms like Goldman Sachs. I thought, my gosh, we live in an age where the media can denounce somebody and call them names because of the way they pronounce a word. I have not seen McCarthyism, but I guess that is probably as close as we will come in these times.

So, Pat Buchanan has a great deal to offer the Republican Party. He really has the traditional Republican positions of fair trade, not free trade. Remember that, when John Kennedy offered one of the first free trade bills back in 1962, it was opposed mainly by three Senators: Barry Goldwater, STROM THURMOND, and a Senator named Prescott Bush, the father of the future President, George Bush. Conservatives opposed free trade because we thought that, if you gave away pieces of the American market and did not get anything in return, you were disserving millions of American working people and small businesses, and that is exactly the case today. And Pat Buchanan has been exactly right about NAFTA, and President Clinton, who fathered NAFTA, has been exactly wrong.

There was a $3 billion trade surplus over Mexico before NAFTA. Today there is a $15 billion trade deficit. That means billions of dollars gone that would have been coming to Americans who are working in America making those components and those products that now are made in Mexico. We have now a $30 billion trade deficit with Communist China, which even now is building short-range and long-range missiles, has a big weapons market in the Third World, selling weapons to Libya and Iraq and other nations.

So Pat Buchanan has traditional Republican principles, and I think it is a tragedy that he was smeared so thoroughly by the American media. I hope that BOB DOLE will open wide his party door and the door to the convention to Pat and to my other great friend, the gentleman from California [Mr. DORNAN].

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. WELDON of Pennsylvania (at the request of Mr. ARMEY) for today and the balance of the week, on account of eye surgery.

Mrs. FOWLER (at the request of Mr. ARMEY) for today and the balance of the week, on account of medical reasons.

Mrs. COLLINS of Illinois (at the request of Mr. GEPHARDT) for today and the balance of the week, on account of medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. CANADY of Florida) to revise and extend their remarks and include extraneous material:)

Mr. MCINNIS, for 5 minutes, today.

Mr. SMITH of New Jersey, for 5 minutes, today.

Mr. MCINTOSH, for 5 minutes, today.

Mr. BILBRAY, for 5 minutes, today.

Mr. SALMON, for 5 minutes, today.

Mr. SAXTON, for 5 minutes each day, today and on March 28.

Mr. LATOURETTE, for 5 minutes, on March 28.

(The following Members (at the request of Ms. DELAURO) to revise and extend their remarks and include extraneous material:)

Mr. SKELTON, for 5 minutes, today.

Ms. DELAURO, for 5 minutes, today.

Mrs. SCHROEDER, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. DOOLITTLE, for 5 minutes, today.

(The following Members (at the request of Mr. HAYWORTH) to revise and extend their remarks and include extraneous material:)

Mr. TORKILDSEN, for 5 minutes, on April 15.

Mr. FOX of Pennsylvania, for 5 minutes, today.

(The following Members (at the request of Mr. FARR of California) to revise and extend their remarks and include extraneous material:)

Mr. FARR of California, for 5 minutes, today.

Mr. ABERCROMBIE, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. HUNTER, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. CANADY of Florida) and to include extraneous matter:)

Mr. BURTON of Indiana.

Mr. SHUSTER.

Mr. LEWIS of California in two instances.

(The following Members (at the request of Mr. FARR of California) and to include extraneous matter:)

Mrs. MEEK of Florida.

Mr. UNDERWOOD.

Mr. HAMILTON in three instances.

Mr. WISE.

Mr. HINCHEY.

Mr. POSHARD.

Mr. SABO.

Mrs. SCHROEDER.

Mr. STUDDS.

Mr. BRYANT of Texas.

Mr. HALL of Texas.

(The following Members (at the request of Mr. HAYWORTH) and to include extraneous matter:)

Mr. ROBERTS.

Mr. HORN.

Mr. BAKER of California.

Mr. FRANKS of New Jersey.

Mr. SOLOMON.

Mr. WALSH.

Mr. FOX of Pennsylvania.

Mr. MARTINI.

Mr. MCKEON.

(The following Members (at the request of Mr. HUNTER) and to include extraneous matter:)

Mr. RAMSTAD.

Mr. HASTINGS of Washington.

Mr. GILLMOR.

Ms. VELÁZQUEZ.

Ms. DANNER.

Mr. KOLBE.

Mrs. MORELLA.

Mr. HALL of Texas.

Mr. BARCIA.

Ms. SLAUGHTER.

Mr. HOSTETTLER.

ADJOURNMENT

Mr. HUNTER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 5 minutes p.m.), the House adjourned until tomorrow, Thursday, March 28, 1996, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2301. A letter from the Under Secretary for Acquisition and Technology, Department of Defense, transmitting a report on laboratories designated as eligible to participate in the Department's Laboratory Revitalization Demonstration Program, pursuant to Public Law 104–106, section 2892(d) (110 State. 590); to the Committee on National Security.

2302. A letter from the Secretary of Labor, transmitting a report entitled ''Core Data Elements and Common Definitions for Employment and Training Programs,'' pursuant to Public Law 102–367, section 404(a) (106 Stat. 1085); to the Committee on Economic and Educational Opportunities.

2303. A letter from the Secretary of Energy, transmitting the Department's annual report for the strategic petroleum reserve, covering calendar year 1995, pursuant to 42 U.S.C. 6245(a); to the Committee on Commerce.

2304. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b; to the Committee on International Relations.

2305. A letter from the Administrator, U.S. Small Business Administration, transmitting the annual report under the Federal Managers' Financial Integrity Act for fiscal year 1995, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

2306. A letter from the Secretary, Naval Sea Cadet Corps, transmitting the annual audit report of the Corps for the year ended December 31, 1995, pursuant to 36 U.S.C. 1101(39) and 1103; to the Committee on the Judiciary.

2307. A letter from the Secretary of Transportation, transmitting a study on innovative financing available under the Airport Improvement Program, pursuant to 49 U.S.C. 47101 note; to the Committee on Transportation and Infrastructure.

2308. A letter from the Deputy Administrator, General Services Administration, transmitting a building project survey report for Research Triangle Park, NC, pursuant to 40 U.S.C. 610(b); to the Committee on Transportation and Infrastructure.

2309. A letter from the Chairman, Pension Benefit Guaranty Corporation, transmitting the 21st annual report of the Corporation, which includes the Corporation's financial statements as of September 30, 1995, pursuant to 29 U.S.C. 1308; jointly, to the Committees on Economic and Educational Opportunities and Ways and Means.

2310. A letter from the Secretary of Transportation, transmitting notification of the actions the Secretary has taken regarding security measures at Hellenikon International Airport, Athens, Greece, pursuant to 49 U.S.C. 44907(d)(3); jointly, to the Committees on Transportation and Infrastructure and International Relations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 842. A bill to provide off-budget treatment for the Highway Trust Fund, the Airport and Airway Trust Fund, the Inland Waterways Trust Fund, and the Harbor Maintenance Trust Fund; with an amendment (Rept. 104–499 Pt. 1). Ordered to be printed.

Mr. SOLOMON: Committee on Rules. House Resolution 391. Resolution providing for consideration of the bill (H.R. 3136) to provide for enactment of the Senior Citizens' Right to Work Act of 1996, the Line Item Veto Act, and the Small Business Growth and Fairness Act of 1996, and to provide for a permanent increase in the public debt limit (Rept. 104–500). Referred to the House Calendar.

Mr. GOSS: Committee on Rules. House Resolution 392. Resolution providing for the consideration of the bill (H.R. 3103) to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term care services and coverage, to simplify the administration of health insurance, and for other purposes (Rept. 104–501). Referred to the House Calendar.

Mr. SOLOMON: Committee on Rules. House Resolution 393. Resolution waiving points of order against the conference report to accompany the bill (H.R. 2854) to modify the operation of certain agricultural programs (Rept. 104–502). Referred to the House Calendar.

Mr. LINDER: Committee on Rules. House Resolution 394. Resolution waiving points of order against the conference report to accompany the bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes (Rept. 104–503). Referred to the House Calendar.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

H.R. 842. Referral to the Committee on the Budget extended for a period ending not later than March 29, 1996.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. MARTINI (for himself, Mr. MCCOLLUM, Mr. HYDE, and Mr. SCHUMER):

H.R. 3166. A bill to amend title 18, United States Code, with respect to the crime of false statement in a Government matter; to the Committee on the Judiciary.

By Mr. BAKER of Louisiana (for himself, Mr. KANJORSKI, Mr. MCCOLLUM, Mr. BACHUS, Mr. KING, Mr. HAYWORTH, Mr. CHRYSLER, Mr. CREMEANS, Mr. FOX, Mr. METCALF, Mr. WELLER, Mr. LAFALCE, Mr. ORTON, and Mr. BENTSEN):

H.R. 3167. A bill to reform the Federal Home Loan Bank System, and for other purposes; to the Committee on Banking and Financial Services.

By Ms. DELAURO (for herself, Mr. GEPHARDT, Mr. BONIOR, and Mr. FAZIO of California):

H.R. 3168. A bill to facilitate efficient investments and financing of infrastructure projects and new job creation through the establishment of a National Infrastructure Development Corporation, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committees on Banking and Financial Services, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FRANKS of New Jersey:

H.R. 3169. A bill to amend the Job Corps program under the Job Training Partnership

Act to ensure a drug-free, safe, and cost-effective Job Corps, and for other purposes; to the Committee on Economic and Educational Opportunities.

By Mr. FRANKS of New Jersey (for himself, Mr. PALLONE, Mr. FRELINGHUYSEN, and Mr. ZIMMER):

H.R. 3170. A bill to dispose of contaminated dredged sediments in a more environmentally responsible manner, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HOKE:

H.R. 3171. A bill to limit the procurement of aircraft landing gear by the Secretary of Defense to landing gear that is manufactured and assembled in the United States; to the Committee on National Security.

By Mr. KENNEDY of Rhode Island (for himself, Mr. BOEHLERT, Mr. MARKEY, Mr. BLUTE, Mr. PALLONE, Mr. QUINN, Mr. TORKILDSEN, Mr. HINCHEY, and Mr. GEJDENSON):

H.R. 3172. A bill to establish a Commission to develop strategies and policies to mitigate the environmental impacts associated with electric utility restructuring; to the Committee on Commerce.

By Mr. LANTOS (for himself, Mr. BROWN of California, Ms. WATERS, Mr. MORAN, Mr. FRANK of Massachusetts, Mr. ABERCROMBIE, Mr. GEJDENSON, Mr. COLEMAN, Ms. PELOSI, Mr. STARK, Mr. KLECZKA, Mr. MILLER of California, Mr. JACOBS, Mr. SANDERS, Mr. DEFAZIO, Ms. WOOLSEY, Mr. TORRES, Ms. RIVERS, Mr. LEWIS of Georgia, Mr. CARDIN, Mr. CLAY, Mr. DELLUMS, Mr. JOHNSON of South Dakota, Mr. YATES, Mrs. MINK of Hawaii, Mr. SCHUMER, Mr. FARR, Mr. FOGLIETTA, Mr. TORRICELLI, Mr. PORTER, Mr. JOHNSTON of Florida, Mr. SHAYS, and Mr. REED):

H.R. 3173. A bill to establish, wherever possible, nonanimal acute toxicity testing as an acceptable standard for Government regulations requiring an evaluation of the safety of products by the Federal Government; to the Committee on Commerce.

By Mrs. MORELLA:

H.R. 3174. A bill to amend the Public Health Service Act to provide for programs regarding women and the human immunodeficiency virus; to the Committee on Commerce.

H.R. 3175. A bill to amend the Public Health Service Act to provide for an increase in the amount of Federal funds expended to conduct research on alcohol abuse and alcoholism among women; to the Committee on Commerce.

H.R. 3176. A bill to amend the Public Health Service Act to establish programs of research with respect to women and cases of infection with the human immunodeficiency virus; to the Committee on Commerce.

By Mr. SENSENBRENNER (for himself and Mr. OBEY):

H.R. 3177. A bill to repeal the consent of Congress to the Northeast Interstate Dairy Compact, and for other purposes; to the Committee on the Judiciary.

By Ms. SLAUGHTER (for herself, Mrs. MORELLA, Mrs. LOWEY, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. BROWN of Florida, Mrs. CLAYTON, Miss COLLINS of Michigan, Mrs. COLLINS of Illinois, Ms. DELAURO, Ms. ESHOO, Ms. FURSE, Ms. HARMAN, Ms. JACKSON-LEE, Mrs. JOHNSON of Connecticut, Mrs. KELLY, Mrs. KENNELLY, Ms. LOFGREN, Ms. MCKINNEY, Mrs. MALONEY, Mrs. MEEK of Florida, Mrs. MEYERS of Kansas, Mrs. MINK of Hawaii, Ms. NORTON, Ms. PELOSI, Ms. RIVERS, Mrs. ROUKEMA, Ms. ROYBAL-ALLARD, Mrs. SCHROEDER, Mrs. THURMAN, Ms. VELAZQUEZ, Ms. WATERS, and Ms. WOOLSEY):

H.R. 3178. A bill to promote greater equity in the delivery of health care services to American women through expanded research on women's health issues and through improved access to health care services, including preventive health services; to the Committee on Commerce, and in addition to the Committees on Ways and Means, the Judiciary, Agriculture, International Relations, Veterans' Affairs, Economic and Educational Opportunities, National Security, and Banking and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. VELÁZQUEZ:

H.R. 3179. A bill to modify various Federal health programs to make available certain services to women who are members of racial or ethnic minority groups, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Commerce, Economic and Educational Opportunities, and Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ENGEL (for himself, Ms. MOLINARI, Mr. LANTOS, Mr. PORTER, Mr. LEVIN, Mr. KING, Mr. TORRICELLI, Mr. MORAN, Mrs. KELLY, Mr. BONIOR, Mr. MILLER of California, and Mr. ROHRABACHER):

H. Con. Res. 155. Concurrent resolution concerning human and political rights and in support of a resolution of the crisis in Kosova; to the Committee on International Relations.

By Ms. DELAURO:

H. Con. Res. 156. Concurrent resolution expressing the sense of the Congress regarding research on the human papillomavirus and its relation to cervical cancer; to the Committee on Commerce.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

211. By the SPEAKER: Memorial of the Senate of the State of Kansas, relative to amending the Federal Food, Drug and Cosmetic Act and the Public Health Service Act to facilitate the development and approval of new drugs and biologics; to the Committee on Commerce.

212. Also, memorial of the Senate of the Commonwealth of Kentucky, relative to recognizing the injustices of human rights in Guatemala; to the Committee on Government Reform and Oversight.

213. Also, memorial of the Legislature of the State of California, relative to forced labor; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 528: Mr. EHLERS.

H.R. 573: Mr. FRANK of Massachusetts.

H.R. 820: Mr. FLAKE, Mr. GRAHAM, Mr. SISISKY, Mr. STENHOLM, Mr. ACKERMAN, Mr. SCHUMER, Ms. LOFGREN, Ms. PRYCE, Mr. SHAYS, and Mr. SERRANO.

H.R. 940: Mr. BRYANT of Texas.

H.R. 957: Mr. LATOURETTE.

H.R. 1023: Mr. GILCHREST, Mr. CHRYSLER, Mr. TAYLOR of North Carolina, Mr. YOUNG of Florida, Mrs. CLAYTON, Mr. DE LA GARZA, Mr. BALDACCI, Mr. LUCAS, and Mr. MYERS of Indiana.

H.R. 1127: Mr. POMEROY.

H.R. 1363: Mr. BALLENGER, Mr. BASS, Mr. BURR, Mr. CHRYSLER, Mrs. CHENOWETH, Mr. CREMEANS, Mr. TIAHRT, Mr. WELDON of Florida, Mr. MCINTOSH, and Mr. JONES.

H.R. 1386: Mr. BARCIA of Michigan, Mr. CLEMENT, and Mr. STENHOLM.

H.R. 1406: Mr. ABERCROMBIE, Mr. MARTINI, and Mr. THORNBERRY.

H.R. 1462: Mr. BALDACCI, Mr. FROST, Ms. MOLINARI, Mr. FRAZER, Mr. FALEOMAVAEGA, Mr. CLAY, and Ms. MCKINNEY.

H.R. 1484: Mr. ABERCROMBIE.

H.R. 1496: Mr. FRANKS of New Jersey.

H.R. 1500: Ms. HARMAN.

H.R. 1619: Mr. FIELDS of Texas, Ms. JACKSON-LEE, and Mr. STOCKMAN.

H.R. 1776: Mr. GINGRICH, Mr. CAMPBELL, Mr. BERMAN, Mr. KENNEDY of Rhode Island, and Mr. DEUTSCH.

H.R. 1802: Mr. QUINN.

H.R. 1810: Mr. MARTINI.

H.R. 1863: Mr. BRYANT of Texas and Mr. ANDREWS.

H.R. 1883: Mr. ZIMMER.

H.R. 2003: Mr. FILNER.

H.R. 2011: Mr. WYNN.

H.R. 2019: Ms. WOOLSEY and Mr. SANDERS.

H.R. 2071: Ms. JACKSON-LEE.

H.R. 2270: Mr. COX.

H.R. 2337: Mr. CRAMER.

H.R. 2510: Mr. MARTINI.

H.R. 2579: Mr. GIBBONS.

H.R. 2618: Mr. BILBRAY.

H.R. 2745: Mr. MANTON, Mr. FOGLIETTA, and Mr. RUSH.

H.R. 2856: Mr. MARTINI and Mr. MCNULTY.

H.R. 2893: Mr. REED and Mr. ROBERTS.

H.R. 2925: Mr. STENHOLM and Mr. VOLKMER.

H.R. 2927: Mr. MOORHEAD and Mr. LEWIS of California.

H.R. 2935: Mr. COOLEY and Mr. TATE.

H.R. 2974: Mr. FOX.

H.R. 2976: Mr. BALDACCI, Mr. CALVERT, Mr. CHAMBLISS, Mr. CRAPO, Mr. DEUTSCH, Mr. DUNCAN, Ms. MCKINNEY, Ms. MOLINARI, and Ms. RIVERS.

H.R. 2994: Mr. MCCOLLUM, Mr. GUNDERSON, and Mr. BROWN of California.

H.R. 3002: Mr. EHLERS.

H.R. 3004: Mr. PETERSON of Minnesota, Mr. NEY, Mr. DEUTSCH, Mr. BILBRAY, Mr. GILLMOR, and Mr. EHLERS.

H.R. 3012: Mr. HEFLEY, Mr. DELLUMS, Mr. SMITH of New Jersey, Mr. BARCIA of Michigan, Mrs. MINK of Hawaii, Mr. FRAZER, Mr. FRANK of Massachusetts, Mr. MANTON, and Mr. MATSUI.

H.R. 3045: Mr. RAHALL.

H.R. 3048: Mr. CASTLE, Mr. CUNNINGHAM, and Mr. WAMP.

H.R. 3050: Mr. BARCIA of Michigan and Ms. KAPTUR.

H.R. 3059: Mr. BARRETT of Wisconsin, Mr. FOGLIETTA, Mr. FRAZER, Mr. FROST, Mr. JEFFERSON, Mr. KLECZKA, Mr. LIPINSKI, Ms. LOFGREN, Ms. MCKINNEY, Mr. MILLER of California, Ms. RIVERS, Mr. THOMPSON, Mr. WAXMAN.

H.R. 3114: Mr. NEAL of Massachusetts, Mrs. JOHNSON of Connecticut, and Mr. FUNDERBURK.

H.R. 3118: Mr. ACKERMAN, Mr. GENE GREEN of Texas, and Mr. CRAMER.

H.R. 3130: Mr. GENE GREEN of Texas.

H.R. 3142: Mr. ENSIGN, Mrs. LOWEY, Mr. GONZALEZ, Mr. CALVERT, Mr. HAYES, Mr. SAXTON, Mr. MONTGOMERY, Mrs. KELLY, Mr. ABERCROMBIE, Mr. FROST, Mr. FORBES, Mr. CLINGER, Mr. TALENT, Mr. CANADY, Mr. METCALF, Mr. BRYANT of Texas, and Mr. HUNTER.

H.R. 3149: Mr. HANCOCK.

H.J. Res. 97: Mr. WISE.

H.J. Res. 159: Mr. WHITFIELD, Mr. BILBRAY, and Mr. ROSE.

H. Con. Res. 47: Mr. CONYERS, Mr. DE LA GARZA, Mr. HILLIARD, Mr. NEY, Mr. SABO, and Ms. VELÁZQUEZ.

H. Con. Res. 144: Mr. TORKILDSEN.

H. Res. 49: Mr. THOMPSON and Mrs. MEEK of Florida.

H. Res. 348: Mr. MCCOLLUM and Mr. GOODLING.

H. Res. 374: Mr. CAMP, Mr. FRELINGHUYSEN, Mr. COBLE, Mr. HUNTER, Mr. PORTER, Mr. MARTINI, Mrs. CUBIN, Mr. NETHERCUTT, Mr. CALVERT, Mr. EHRLICH, Mr. HANCOCK, Mr. NCNULTY, Ms. WOOLSEY, Mr. GENE GREEN of Texas, Mr. WELDON of Pennsylvania, Mr. TRAFICANT, and Mr. YATES.

H. Res. 378: Mrs. MEYERS of Kansas, Mr. ENGLISH of Pennsylvania, Mr. BATEMAN, Mr. WOLF, Ms. NORTON, Mr. DELLUMS, Mr. CALVERT, Mr. BERMAN, and Ms. PELOSI.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

69. The SPEAKER presented a petition of the Transportation Policy Board of the Abilene Metropolitan Planning Organization, Abilene, TX, relative to the issues of appropriate taxation and adequate provision of transportation infrastructure; which was referred jointly, to the Committees on Transportation and Infrastructure and the Budget.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3103

OFFERED BY: MR. DINGELL

AMENDMENT NO. 2: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Health Insurance Reform Act of 1996''.

TITLE I—HEALTH CARE ACCESS, PORTABILITY, AND RENEWABILITY

TABLE OF CONTENTS OF TITLE

Sec. 100. Definitions.

SUBTITLE A—GROUP MARKET RULES

Sec. 101. Guaranteed availability of health coverage.
Sec. 102. Guaranteed renewability of health coverage.
Sec. 103. Portability of health coverage and limitation on preexisting condition exclusions.
Sec. 104. Special enrollment periods.
Sec. 105. Disclosure of information.

SUBTITLE B—INDIVIDUAL MARKET RULES

Sec. 110. Individual health plan portability.
Sec. 111. Guaranteed renewability of individual health coverage.
Sec. 112. State flexibility in individual market reforms.
Sec. 113. Definition.

SUBTITLE C—COBRA CLARIFICATIONS

Sec. 121. Cobra clarification.

SUBTITLE D—PRIVATE HEALTH PLAN PURCHASING COOPERATIVES

Sec. 131. Private health plan purchasing cooperatives.

SUBTITLE E—APPLICATION AND ENFORCEMENT OF STANDARDS

Sec. 141. Applicability.
Sec. 142. Enforcement of standards.

SUBTITLE F—MISCELLANEOUS PROVISIONS

Sec. 191. Health coverage availability study.
Sec. 192. Effective date.
Sec. 193. Severability.

SEC. 100. DEFINITIONS.

As used in this title:

(1) BENEFICIARY.—The term ''beneficiary'' has the meaning given such term under section 3(8) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(8)).

(2) EMPLOYEE.—The term ''employee'' has the meaning given such term under section 3(6) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(6)).

(3) EMPLOYER.—The term ''employer'' has the meaning given such term under section 3(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(5)), except that such term shall include only employers of two or more employees.

(4) EMPLOYEE HEALTH BENEFIT PLAN.—

(A) IN GENERAL.—The term ''employee health benefit plan'' means any employee welfare benefit plan, governmental plan, or church plan (as defined under paragraphs (1), (32), and (33) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002 (1), (32), and (33))) that provides or pays for health benefits (such as provider and hospital benefits) for participants and beneficiaries whether—

(i) directly;

(ii) through a group health plan offered by a health plan issuer as defined in paragraph (8); or

(iii) otherwise.

(B) RULE OF CONSTRUCTION.—An employee health benefit plan shall not be construed to be a group health plan, an individual health plan, or a health plan issuer.

(C) ARRANGEMENTS NOT INCLUDED.—Such term does not include the following, or any combination thereof:

(i) Coverage only for accident, or disability income insurance, or any combination thereof.

(ii) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(iii) Coverage issued as a supplement to liability insurance.

(iv) Liability insurance, including general liability insurance and automobile liability insurance.

(v) Workers compensation or similar insurance.

(vi) Automobile medical payment insurance.

(vii) Coverage for a specified disease or illness.

(viii) Hospital or fixed indemnity insurance.

(ix) Short-term limited duration insurance.

(x) Credit-only, dental-only, or vision-only insurance.

(xi) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

(5) FAMILY.—

(A) IN GENERAL.—The term ''family'' means an individual, the individual's spouse, and the child of the individual (if any).

(B) CHILD.—For purposes of subparagraph (A), the term ''child'' means any individual who is a child within the meaning of section 151(c)(3) of the Internal Revenue Code of 1986.

(6) GROUP HEALTH PLAN.—

(A) IN GENERAL.—The term ''group health plan'' means any contract, policy, certificate or other arrangement offered by a health plan issuer to a group purchaser that provides or pays for health benefits (such as provider and hospital benefits) in connection with an employee health benefit plan.

(B) ARRANGEMENTS NOT INCLUDED.—Such term does not include the following, or any combination thereof;

(i) Coverage only for accident, or disability income insurance, or any combination thereof.

(ii) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(iii) Coverage issued as a supplement to liability insurance.

(iv) Liability insurance, including general liability insurance and automobile liability insurance.

(v) Workers compensation or similar insurance.

(vi) Automobile medical payment insurance.

(vii) Coverage for a specified disease or illness.

(ix) Short-term limited duration insurance.

(x) Credit-only, dental-only, or vision-only insurance.

(xi) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

(7) GROUP PURCHASER.—The term ''group purchaser'' means any person (as defined under paragraph (9) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(9)) or entity that purchases or pays for health benefits (such as provider or hospital benefits) on behalf of two or more participants or beneficiaries in connection with an employee health benefit plan. A health plan purchasing cooperative established under section 131 shall not be considered to be a group purchaser.

(8) HEALTH PLAN ISSUER.—The term ''health plan issuer'' means any entity that is licensed (prior to or after the date of enactment of this Act) by a State to offer a group health plan or an individual health plan.

(9) HEALTH STATUS.—The term ''health status'' includes. with respect to an individual, medical condition, claims experience, receipt of health care, medical history, genetic information, evidence of insurability (including conditions arising out of acts of domestic violence), or disability.

(10) PARTICIPANT.—The term ''participant'' has the meaning given such term under section 3(7) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(7)).

(11) PLAN SPONSOR.—The term ''plan sponsor'' has the meaning given such term under section 3(16)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(16)(B)).

(12) SECRETARY.—The term ''Secretary'', unless specifically provided otherwise, means the Secretary of Labor.

(13) STATE.—The term ''State'' means each of the several States, the District of Columbia, Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

Subtitle A—Group Market Rules

SECTION 101. GUARANTEED AVAILABILITY OF HEALTH COVERAGE.

In General.—

(1) NONDISCRIMINATION.—Except as provided in subsection (b), section 102 and section 103—

(A) a health plan issuer offering a group health plan may not decline to offer whole group coverage to a group purchaser desiring to purchase such coverage; and

(B) an employee health benefit plan or a health plan issuer offering a group health plan may establish eligibility, continuation of eligibility, enrollment, or premium; contribution requirements under the terms of such plan, except that such requirements shall not be based on health status (as defined in section 100(9)).

(2) HEALTH PROMOTION AND DISEASE PREVENTION.—Nothing in this subsection shall prevent an employee health benefit plan or a health plan issuer from establishing premium; discounts or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention.

(b) APPLICATION OF CAPACITY LIMITS.—

(1) IN GENERAL.—Subject to paragraph (2), a health plan issuer offering a group health plan may cease offering coverage to group purchasers under the plan if—

(A) the health plan issuer ceases to offer coverage to any additional group purchasers; and

(B) the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 142(d)), if required, that its financial or provider capacity to serve previously covered participants and beneficiaries (and additional participants and beneficiaries who will be expected to enroll because of their affiliation with a group purchaser or such previously covered participants or beneficiaries) will be impaired if the health plan issuer is required to offer coverage to additional group purchasers.

Such health plan issuer shall be prohibited from offering coverage after a cessation in offering coverage under this paragraph for a 6-month period or until the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 142(d)) that the health plan issuer has adequate capacity, whichever is later.

(2) FIRST-COME-FIRST-SERVED.—A health plan issuer offering a group health plan is only eligible to exercise the limitations provided for in paragraph (1) if the health plan issuer offers coverage to group purchasers under such plan on a first-come-first-served basis or other basis established by a State to ensure a fair opportunity to enroll in the plan and avoid risk selection.

(e) CONSTRUCTION.—

(1) MARKETING OF GROUP HEALTH PLANS.—Nothing in this section shall be construed to prevent a State from requiring health plan issuers offering group health plans to actively market such plans.

(2) INVOLUNTARY OFFERING OF GROUP HEALTH PLANS.—Nothing is this section shall be construed to require a health plan issuer to involuntarily offer group health plans in a particular market. For the purposes of this paragraph, the term ''market'' means either the large employer market or the small employer market (as defined under applicable State law, or if not so defined, an employer with not more than 50 employees).

SEC. 102. GUARANTEED RENEWABILITY OF HEALTH COVERAGE.

(A) IN GENERAL.—

(1) GROUP PURCHASER.—Subject to subsections (b) and (c), a group health plan shall be renewed or continued in force by a health plan issuer at the option of the group purchaser, except that the requirement of this subparagraph shall not apply in the case of—

(A) the nonpayment of premiums or contributions by the group purchaser in accordance with the terms of the group health plan or where the health plan issuer has not received timely premium payments;

(B) fraud or misrepresentation of material fact on the part of the group purchaser;

(C) the termination of the group health plan in accordance with subsection (b); or

(D) the failure of the group purchaser to meet contribution or participation requirements in accordance with paragraph (3).

(2) PARICIPANT.—Subject to subsections (b) and (c), coverage under an employee health benefit plan or group health plan shall be renewed or continued in force, if the group purchaser elects to continue to provide coverage under such plan, at the option of the participant (or beneficiary where such right exists under the terms of the plan or under applicable law), except that the requirement of this paragraph shall not apply in the case of—

(A) the nonpayment of premiums or contributions by the participant or beneficiary in accordance with the terms of the employee health benefit plan or group health plan or where such plan has not received timely premium payments.

(B) fraud or misrepresentation of material fact on the part of the participant or beneficiary relating to an application for coverage or claim for benefits;

(C) the termination of the employee health benefit plan or group health plan;

(D) loss of eligibility for continuation coverage as described in part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.); or

(E) failure of a participant or beneficiary to meet requirements for eligibility for coverage under an employee health benefit plan or group health plan that are not prohibited by this title.

(3) RULES OF CONSTRUCTION.—Nothing in this subsection, nor in section 101(a), shall be construed to—

(A) preclude a health plan issuer from establishing employer contribution rules or group participation rules for group health plans as allowed under applicable State law;

(B) preclude a plan defined in section 3(37) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1102(37)) from establishing employer contribution rules or group participation rules; or

(C) permit individuals to decline coverage under an employee health benefit plan if such right is not otherwise available under such plan.

(b) TERMINATION OF GROUP HEALTH PLANS.—

(1) PARTICULAR TYPE OF GROUP HEALTH PLAN NOT OFFERED.—In any case in which a health plan issuer decides to discontinue offering a particular type of group health plan. A group health plan of such type may be discontinued by the health plan issuer only if—

(A) the health plan issuer provides notice to each group purchaser covered under a group health plan of this type (and participants and beneficiaries covered under such group health plan) of such discontinuation at least 90 days prior to the date of the discontinuation of such plan;

(B) the health plan issuer offers to each group purchaser covered under a group health plan of this type, the option to purchase any other group health plan currently being offered by the health plan issuer; and

(C) in exercising the option to discontinue a group health plan of this type and in offering one or more replacement plans, the health plan issuer acts uniformly without regard to the health status of participants or beneficiaries covered under the group health plan, or new participants or beneficiaries who may become eligible for coverage under the group health plan.

(2) DISCONTINUANCE OF ALL GROUP HEALTH PLANS.—

(A) IN GENERAL.—In any case in which a health plan issuer elects to discontinue offering all group health plans in a State, a group health plan may be discontinued by the health plan issuer only if—

(i) the health plan issuer provides notice to the applicable certifying authority (as defined in section 142(d)) and to each group purchaser (and participants and beneficiaries covered under such group health plan) of such discontinuation at least 180 days prior to the date of the expiration of such plan, and

(ii) all group health plans issued or delivered for issuance in the State or discontinued and coverage under such plans is not renewed.

(B) APPLICATION OF PROVISIONS.—The provisions of this paragraph and paragraph (3) may be applied separately by a health plan issuer—

(i) to all group health plans offered to small employers (as defined under applicable State law, or if not so defined, an employer with not more than 50 employees); or

(ii) to all other group health plans offered by the health plan issuer in the State.

(3) PROHIBITION ON MARKET REENTRY.—In the case of a discontinuation under paragraph (2), the health plan issuer may not provide for the issuance of any group health plan in the market sector (as described in paragraph (2)(B)) in which issuance of such group health plan was discontinued in the State involved during the 5-year period beginning on the date of the discontinuation of the last group health plan not so renewed.

TREATMENT OF NETWORK PLANS.—

(1) GEOGRAPHIC LIMITATIONS.—A network plan (as defined in paragraph (2)) may deny continued participation under such plan to participants or beneficiaries who neither live, reside, nor work in an area in which such network plan is offered, but only if such denial is applied uniformly, without regard to health status of particular participants or beneficiaries.

(2) NETWORK PLAN.—As used in paragraph (1), the term ''network plan'' means an employee health benefit plan or a group health plan that arranges for the financing and delivery of health care services to participants or beneficiaries covered under such plan, in whole or in part, through arrangements with providers.

(d) COBRA COVERAGE.—Nothing in subsection (a)(2)(E) or subsection (c) shall be construed to affect any right to COBRA continuation coverage as described in part 6 of subtitle B of title I of the employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.).

SEC. 103. PORTABILITY OF HEALTH COVERAGE AND LIMITATION ON PREEXISTING CONDITION EXCLUSIONS.

(a) IN GENERAL.—An employee health benefit plan or a health plan issuer offering a group health plan may impose a limitation or exclusion of benefits relating to treatment of a preexisting condition based on the fact that the condition existed prior to the coverage of the participant or beneficiary under the plan only if—

(1) the limitation or exclusion extends for a period of not more than 12 months after the date of enrollment in the plan;

(2) the limitation or exclusion does not apply to an individual who, within 30 days of the date of birth or placement for adoption (as determined under section 609(c)(3)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(c)(3)(B)), was covered under the plan; and

(3) the limitation or exclusion does not apply to a pregnancy.

(b) CREDITING OF PREVIOUS QUALIFYING COVERAGE.—

(1) IN GENERAL.—Subject to paragraph (4), an employee health benefit plan or a health plan issuer offering a group health plan shall provide that if a participant or beneficiary is in a period of previous qualifying coverage as of the date of enrollment under such plan, any period of exclusion or limitation of coverage with respect to a preexisting condition shall be reduced by 1 month for each month in which the participant or beneficiary was in the period of previous qualifying coverage. With respect to an individual described in subsection (a)(2) who maintains continuous coverage, no limitation or exclusion of benefits relating to treatment of a preexisting condition may be applied to a child within

the child's first 12 months of life or within 12 months after the placement of a child for adoption.

(2) DISCHARGE OF DUTY.—An employee health benefit plan shall provide documentation of coverage to participants and beneficiaries who coverage is terminated under the plan. Pursuant to regulations promulgated by the Secretary, the duty of an employee health benefit plan to verify previous qualifying coverage with respect to a participant or beneficiary is effectively discharged when such employee health benefit plan provides documentation to a participant or beneficiary that includes the following information:

(A) the dates that the participant or beneficiary was covered under the plan; and

(B) the benefits and cost-sharing arrangement available to the participant or beneficiary under such plan.

An employee health benefit plan shall retain the documentation provided to a participant or beneficiary under subparagraphs (A) and (B) for at least the 12-month period following the date on which the participant or beneficiary ceases to be covered under the plan. Upon request, an employee health benefit plan shall provide a second copy of such documentation or such participant or beneficiary within the 12-month period following the date of such ineligibility.

(3) DEFINITIONS.—As used in this section:

(A) PREVIOUS QUALIFYING COVERAGE.—The term ''previous qualifying coverage'' means the period beginning on the date—

(i) a participant or beneficiary is enrolled under an employee health benefit plan or a group health plan, and ending on the date the participant or beneficiary is not so enrolled; or

(ii) an individual is enrolled under an individual health plan (as defined in section 113) or under a public or private health plan established under Federal or State law, and ending on the date the individual is not so enrolled;

for a continuous period of more than 30 days (without regard to any waiting period).

(B) LIMITATION OR EXCLUSION OF BENEFITS RELATING TO TREATMENT OF A PREEXISTING CONDITION.—The term ''limitation or exclusion of benefits relating to treatment of a preexisting condition'' means a limitation or exclusion of benefits imposed on an individual based on a preexisting condition of such individual.

(4) EFFECT OF PREVIOUS COVERAGE.—An employee health benefit plan or a health plan issuer offering a group health plan may impose a limitation or exclusion of benefits relating to the treatment of a preexisting condition, subject to the limits in subsection (a)(1), only to the extent that such service or benefit was not previously covered under the group health plan, employee health benefit plan, or individual health plan in which the participant or beneficiary was enrolled immediately prior to enrollment in the plan involved.

(c) LATE ENROLLEES.—Except as provided in section 104, with respect to a participant or beneficiary enrolling in an employee health benefit plan or group health plan during a time that is other than the first opportunity to enroll during an enrollment period of at least 30 days, coverage with respect to benefits or services relating to the treatment of a preexisting condition in accordance with subsection (a) and (b) may be excluded except the period of such exclusion may not exceed 18 months beginning on the date of coverage under the plan.

(d) AFFILIATION PERIODS.—With respect to a participant or beneficiary who would otherwise be eligible to receive benefits under an employee health benefit plan or a group health plan but for the operation of a preexisting condition limitation or exclusion, if such plan does not utilize a limitation or exclusion of benefits relating to the treatment of a preexisting condition, such plan may impose an affiliation period on such participant or beneficiary not to exceed 60 days (or in the case of a late participant or beneficiary described in subsection (c), 90 days) from the date on which the participant or beneficiary would otherwise be eligible to receive benefits under the plan. An employee health benefit plan or a health plan issuer offering a group health plan may also use alternative methods to address adverse section as approved by the applicable certifying authority (as defined in section 142(d)). During such an affiliation period, the plan may not be required to provide health care services or benefits and no premium shall be charged to the participant or beneficiary.

(e) PREEXISTING CONDITIONS.—For purposes of this section, the term ''preexisting condition'' means a condition, regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the 6-month period ending on the day before the effective date of the coverage (without regard to any waiting period).

(f) STATE FLEXIBILITY.—Nothing in this section shall be construed to preempt State laws that—

(1) require health plan issuers to impose a limitation or exclusion of benefits relating to the treatment of a preexisting condition for periods that are shorter than those provided for under this section; or

(2) allow individuals, participants, and beneficiaries to be considered to be in a period of previous qualifying coverage if such individual, participant, or beneficiary experiences a lapse in coverage that is greater than the 30-day period provided for under subsection (b)(3);

unless such laws are preempted by section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

SEC. 104. SPECIAL ENROLLMENT PERIODS.

In the case of a participant, beneficiary or family member who—

(1) through marriage, separation, divorce, death, birth or placement of a child for adoption, experiences a change in family composition affecting eligibility under a group health plan, individual health plan, or employee health benefit plan;

(2) experiences a change in employment status, as described in section 603(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1163(2)), that causes the loss of eligibility for coverage, other than COBRA continuation coverage under a group health plan, individual health plan, or employee health benefit plan; or

(3) experiences a loss of eligibility under a group health plan, individual health plan, or employee health benefit plan because of a change in the employment status of a family member;

each employee health benefit plan and each group health plan shall provide for a special enrollment period extending for a reasonable time after such event that would permit the participant to change the individual or family basis of coverage or to enroll in the plan if coverage would have been available to such individual, participant, or beneficiary but for failure to enroll during a previous enrollment period. Such a special enrollment period shall ensure that a child born or placed for adoption shall be deemed to be covered under the plan as of the date of such birth or placement for adoption if such child is enrolled within 30 days of the date of such birth or placement for adoption.

SEC. 105. DISCLOSURE OF INFORMATION.

(a) DISCLOSURE OF INFORMATION BY HEALTH PLAN ISSUER.—

(1) IN GENERAL.—In connection with the offering of any group health plan to a small employer (as defined under applicable State law, or if not so defined, an employer with not more than 50 employees), a health plan issuer shall make a reasonable disclosure to such employer, as part of its solicitation and sales materials, of—

(A) the provisions of such group health plan concerning the health plan issuer's right to change premium rates and the factors that may affect changes in premium rates.

(B) the provisions of such group health plan relating to renewability of coverage;

(C) the provisions of such group health plan relating to any preexisting condition provision; and

(D) descriptive information about the benefits and premiums available under all group health plans for which the employer is qualified.

Information shall be provided to small employers under this paragraph in a manner determined to be understandable by the average small employer, and shall be sufficiently accurate and comprehensive to reasonably inform small employers, participants and beneficiaries of their rights and obligations under the group health plan.

(2) EXCEPTION.—With respect to the requirement of paragraph (1), any information that is proprietary and trade secret information under applicable law shall not be subject to the disclosure requirements of such paragraph.

(3) CONSTRUCTION.—Nothing in this subsection shall be construed to preempt State reporting and disclosure requirements to the extent that such requirements are not preempted under section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

(b) DISCLOSURE OF INFORMATION TO PARTICIPANTS AND BENEFICIARIES.—

(1) IN GENERAL.—Section 104(b)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024(b)(1)) is amended in the matter following subparagraph (B)—

(A) by striking ''102(a)(1),'' and inserting ''102(a)(1) that is not a material reduction in covered services or benefits provided,''; and

(B) by adding at the end thereof the following new sentences: ''If there is a modification or change described in section 102(a)(1) that is a material reduction in covered services or benefits provided, a summary description of such modification or change shall be furnished to participants not later than 60 days after the date of the adoption of the modification or change. In the alternative, the plan sponsors may provide such description at regular intervals of not more than 90 days. The Secretary shall issue regulations within 180 days after the date of enactment of the Health Insurance Reform Act of 1996, providing alternative mechanisms to delivery by mail through which employee health benefit plans may notify participants of material reductions in covered services or benefits.''.

(2) PLAN DESCRIPTION AND SUMMARY.—Section 102(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1022(b)) is amended—

(A) by inserting ''including the office or title of the individual who is responsible for approving or denying claims for coverage of benefits'' after ''type of administration of the plan'';

(B) by inserting ''including the name of the organization responsible for financing claims'' after ''source of financing of the plan''; and

(C) by inserting ''including the office, contact, or title of the individual at the Department of Labor through which participants

may seek assistance or information regarding their rights under this Act and title I of the Health Insurance Reform Act of 1996 with respect to health benefits that are not offered through a group health plan.'' after ''benefits under the plan''.

Subtitle B—Individual Market Rules

SEC. 110. INDIVIDUAL HEALTH PLAN PORTABILITY.

(a) LIMITATION ON REQUIREMENTS.—

(1) IN GENERAL.—Except as provided in subsections (b) and (c), a health plan issuer described in paragraph (3) may not, with respect to an eligible individual (as defined in subsection (b)) desiring to enroll in an individual health plan—

(A) decline to offer coverage to such individual, or deny enrollment to such individual based on the health status of the individual; or

(B) impose a limitation or exclusion of benefits otherwise covered under the plan for the individual based on a preexisting condition unless such limitation or exclusion could have been imposed if the individual remained covered under a group health plan or employee health benefit plan (including providing credit for previous coverage in the manner provided under subtitle A).

(2) HEALTH PROMOTION AND DISEASE PREVENTION.—Nothing in this subsection shall be construed to prevent a health plan issuer offering an individual health plan from establishing premium discounts or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion or disease prevention.

(3) HEALTH PLAN ISSUER.—A health plan issuer described in this paragraph in a health plan issuer that issues or renews individual health plans.

(4) PREMIUMS.—Nothing in this subsection shall be construed to affect the determination of a health plan issuer as to the amount of the premium payable under an individual health plan under applicable State law.

(b) DEFINITION OF ELIGIBLE INDIVIDUAL.—As used in subsection (a)(1), the term ''eligible individual'' means an individual who—

(1) was a participant or beneficiary enrolled under one or more group health plans, employee health benefit plans, or public plans established under Federal or State law, for not less than 18 months (without a lapse in coverage of more than 30 consecutive days) immediately prior to the date on which the individual desired to enroll in the individual health plan.

(2) is not eligible for coverage under a group health plan or an employee health benefit plan;

(3) has not had coverage terminated under a group health plan or employee health benefit plan for failure to make required premium payments or contributions, or for fraud or misrepresentation of material fact; and

(4) has, if applicable, accepted and exhausted the maximum required period of continuous coverage as described in section 602(2)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)(A)) or under an equivalent State program.

(c) APPLICABLE OF CAPACITY LIMIT.—

(1) IN GENERAL.—Subject to paragraph (2), a health plan issuer offering coverage to individuals under an individual health plan may cease enrolling individuals under the plan if—

(A) the health plan issuer ceases to enroll any new individuals; and

(B) the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 142(d)), if required, that its financial or provider capacity to serve previously covered individuals will be impaired if the health plan issuer is required to enroll additional individuals.

Such a health plan issuer shall be prohibited from offering coverage after a cessation in offering coverage under this paragraph for a 6-month period or until the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 142(d)) that the health plan issuer has adequate capacity, whichever is later.

(2) FIRST-COME-FIRST-SERVED.—A health plan issuer offering coverage to individuals under an individual health plan is only eligible to exercise the limitations provided for in paragraph (1) if the health plan issuer provides for enrollment of individuals under such plan on a first-come-first-served basis or other basis established by a State to ensure a fair opportunity to enroll in the plan and avoid risk selection.

(d) MARKET REQUIREMENT.—

(1) IN GENERAL.—The provisions of subsection (a) shall not be construed to require that a health plan issuer offering group health plans to group purchasers offer individual health plans to individuals.

(2) CONVERSION POLICIES.—A health plan issuer offering group health plans to group purchasers under this title shall not be deemed to be a health plan issuer offering an individual health plan solely because such health plan issuer offers a conversion policy.

(3) MARKETING OF PLANS.—Nothing in this section shall be construed to prevent a State from requiring health plan issuers offering coverage to individuals under an individual health plan to actively market such plan.

SEC. 111. GUARANTEED RENEWABILITY OF INDIVIDUAL HEALTH COVERAGE.

(a) IN GENERAL.—Subject to subsections (b) and (c), coverage for individuals under an individual health plan shall be renewed or continued in force by a health plan issuer at the option of the individual, except that the requirement of this subsection shall not apply in the case of—

(1) the nonpayment of premiums or contributions by the individual in accordance with the terms of the individual health plan or where the health plan issuer has not received timely premium payments;

(2) fraud or misrepresentation of material fact on the part of the individual; or

(3) the termination of the individual health plan in accordance with subsection (b).

(b) TERMINATION OF INDIVIDUAL HEALTH PLANS.—

(1) PARTICULAR TYPE OF INDIVIDUAL HEALTH PLAN NOT OFFERED.—In any case in which a health plan issuer decides to discontinue offering a particular type of individual health plan to individuals, an individual health plan may be discontinued by the health plan issuer only if—

(A) the health plan issuer provides notice to each individual covered under the plan of such discontinuation at least 90 days prior to the date of the expiration of the plan.

(B) the health plan issuer offers to each individual covered under the plan the option to purchase any other individual health plan currently being offered by the health plan issuer to individuals; and

(C) in exercising the option to discontinue the individual health plan and in offering one or more replacement plans, the health plan issuer acts uniformly without regard to the health status of particular individuals.

(21) DISCONTINUANCE OF ALL INDIVIDUAL HEALTH PLANS.—In any case in which a health plan issuer elects to discontinue all individual health plans in a State, an individual health plan may be discontinued by the health plan issuer only if—

(A) the health plan issuer provides notice to the applicable certifying authority (as defined in section 142(d)) and to each individual covered under the plan of such discontinuation at least 180 days prior to the date of the discontinuation of the plan; and

(B) all individual health plans issued or delivered for issuance in the State are discontinued and coverage under such plans is not renewed.

(3) PROHIBITION ON MARKET REENTRY.—In the case of a discontinuation under paragraph (2), the health plan issuer may not provide for the issuance of any individual health plan in the State involved during the 5-year period beginning on the date of the discontinuation of the last plan not so renewed.

(c) TREATMENT OF NETWORK PLANS.—

(1) GEOGRAPHIC LIMITATIONS.—A health plan issuer which offers a network plan (as defined in paragraph (2)) may deny continued participation under the plan to individuals who neither live, reside, nor work in an area in which the individual health plan is offered, but only if such denial is applied uniformly, without regard to health status of particular individuals.

(2) NETWORK PLAY.—As used in paragraph (1), the term ''network plan'' means an individual health plan that arranges for the financing and delivery of health care services to individuals covered under such health plan, in whole or in part, through arrangements with providers.

SEC. 112. STATE FLEXIBILITY IN INDIVIDUAL MARKET REFORMS.

(a) IN GENERAL.—With respect to any State law with respect to which the Governor of the State notifies the Secretary of Health and Human Services that such State law will achieve the goals of sections 110 and 111, and that is in effect on, or enacted after, the date of enactment of this Act (such as laws providing for guaranteed issue, open enrollment by one or more health plan issuers, high-risk pools, or mandatory conversion policies), such State law shall apply in lieu of the standards described in sections 110 and 111 unless the Secretary of Health and Human Services determines, after considering the criteria described in subsection (b)(1), in consultation with the Governor and Insurance Commissioner or chief insurance regulatory official of the State, that such State law does not achieve the goals of providing access to affordable health care coverage for those individuals described in sections 110 and 111.

(b) DETERMINATION.—

(1) IN GENERAL.—In making a determination under subsection (a), the Secretary of Health and Human Services shall only—

(A) evaluate whether the State law or program provides guaranteed access to affordable coverage to individuals described in sections 110 and 111;

(B) evaluate whether the State law or program provides coverage for preexisting conditions (as defined in section 103(e)) that were covered under the individuals' previous group health plan or employee health benefit plan for individuals described in sections 110 and 111.

(C) evaluate whether the State law or program provides individuals described in sections 110 and 111 with a choice of health plans or a health plan providing comprehensive coverage, and

(D) evaluate whether the application of the standards described in sections 110 and 111 will have an adverse impact on the number of individuals in such State having access to affordable coverage.

(2) NOTICE OF INTENT.—If, within 6 months after the date of enactment of this Act, the Governor of a State notifies the Secretary of Health and Human Services that the State intends to enact a law, or modify an existing law, described in subsection (a), the Secretary of Health and Human Services may not make a determination under such subsection until the expiration of the 12-month period beginning on the date on which such

notification is made, or until January 1, 1998, whichever is later. With respect to a State that provides notice under this paragraph and that has a legislature that does not meet within the 12-month period beginning on the date of enactment of this Act, the Secretary shall not make a determination under subsection (a) prior to January 1, 1998.

(3) NOTICE TO STATE.—If the Secretary of Health and Human Services determines that a State law or program does not achieve the goals described in subsection (a), the Secretary of Health and Human Services shall provide the State with adequate notice and reasonable opportunity to modify such law or program to achieve such goals prior to making a final determination under subsection (a).

(c) ADOPTION OF NAIC MODEL.—If, not later than 9 months after the date of enactment of this Act—

(1) the National Association of Insurance Commissioners (hereafter referred to as the ''NAIC''), through a process which the Secretary of Health and Human Services determines has included consultation with representatives of the insurance industry and consumer groups, adopts a model standard or standards for reform of the individual health insurance market, and

(2) the Secretary of Health and Human Services determines, within 30 days of the adoption of such NAIC standard or standards, that such standards comply with the goals of sections 110 and 111:

a State that elects to adopt such model standards or substantially adopt such model standards shall be deemed to have met the requirements of sections 110 and 111 and shall be subject to a determination under subsection (a).

SEC. 113. DEFINITION.

(a) IN GENERAL.—As used this title, the term ''individual health plan'' means any contract, policy, certificate or other arrangement offered to individuals by a health plan issuer that provides or pays for health benefits (such as provider and hospital benefits) and that is not a group health plan under section 2(6).

(b) ARRANGEMENTS NOT INCLUDED.—Such term does not include the following, or any combination thereof:

(1) Coverage only for accident, or disability income insurance, or any combination thereof.

(2) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(3) Coverage issued as a supplement to liability insurance.

(4) Liability insurance, including general liability insurance and automobile liability insurance.

(5) Workers' compensation or similar insurance.

(6) Automobile medical payment insurance.

(7) Coverage for a specified disease or illness.

(8) Hospital of fixed indemnity insurance.

(9) Short-term limited duration insurance.

(10) Credit-only, dental-only, or vision-only insurance.

(11) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

Subtitle C—COBRA Clarifications

SEC. 121. COBRA CLARIFICATIONS.

(a) PUBLIC HEALTH SERVICE ACT.—

(1) PERIOD OF COVERAGE.—Section 2202(2) of the Public Health Service Act (42 U.S.C. 300bb–2(2)) is amended—

(A) in subparagraph (A)—

(i) by transferring the sentence immediately preceding clause (iv) so as to appear immediately following such clause (iv); and

(ii) in the last sentence (as so transferred)—

(I) by inserting '', or a beneficiary-family member of the individual,'' after ''an individual''; and

(II) by striking ''at the time of a qualifying event described in section 2203(2)'' and inserting ''at any time during the initial 18-month period of continuing coverage under this title'';

(B) in subparagraph (D)(i), by inserting before '', or'' the following: '', except that the exclusion or limitation contained in this clause shall not be considered to apply to a plan under which a preexisting condition or exclusion does not apply to an individual otherwise eligible for continuation coverage under this section because of the provision of the Health Insurance Reform Act of 1996'', and

(C) in subparagraph (E), by striking ''at the time of a qualifying event described in section 2203(2)'' and inserting ''at any time during the initial 18-month period of continuing coverage under this title'',

(2) ELECTION.—Section 2205(1)(C) of the Public Health Service Act (42 U.S.C. 300bb–5(1)(C)) is amended—

(A) in clause (i), by striking ''or'' at the end thereof.

(B) in clause (ii), by striking the period and inserting '', or'', and

(C) by adding at the end thereof the following new clause:

''(iii) in the case of an individual described in the last sentence of section 2202(2)(A), or a beneficiary-family member of the individual, the date such individual is determined to have been disabled.''.

(3) NOTICES.—Section 2206(3) of the Public Health Service Act (42 U.S.C. 300bb–6(3)) is amended by striking ''at the time of a qualifying event described in section 2203(2)'' and inserting ''at any time during the initial 18-month period of continuing coverage under this title''.

(4) BIRTH OR ADOPTION OF A CHILD.—Section 2208(3)(A) of the Public Health Service Act (42 U.S.C. 300bb–8(3)(A)) is amended by adding at the end thereof the following new flush sentence:

''Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continued coverage under this title.''.

(b) EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) PERIOD OF COVERAGE.—Section 602(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)) is amended—

(A) in the last sentence of subparagraph (A)—

(i) by inserting '', or a beneficiary-family member of the individual.'' after ''an individual''; and

(ii) by striking ''at the time of a qualifying event described in section 603(2)'' and inserting ''at any time during the initial 18-month period of continuing coverage under this part'',

(B) in subparagraph (D)(i), by inserting before, '', or'' the following '', except that the exclusion or limitation contained in this clause shall not be considered to apply to a plan under which a preexisting condition or exclusion does not apply to an individual otherwise eligible for continuation coverage under this section because of the provision of the Health Insurance Reform Act of 1996''; and

(C) in subparagraph (E), by striking ''at the time of a qualifying event described in section 603(2)'' and inserting ''at any time during the initial 18-month period of continuing coverage under this part''.

(2) ELECTION.—Section 605(1)(C) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1165(1)(C)) is amended—

(A) in clause (i), by striking ''or'' at the end thereof;

(B) in clause (ii), by striking the period and inserting '', or''; and

(C) by adding at the end thereof the following new clause:

''(iii) in the case of an individual described in the last sentence of section 602(2)(A), or a beneficiary-family member of the individual, the date such individual is determined to have been disabled.''.

(3) NOTICES.—Section 606(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1166(3)) is amended by striking ''at the time of a qualifying event described in section 603(2)'' and inserting ''at any time during the initial 18-month period of continuing coverage under this part''.

(4) BIRTH OR ADOPTION OF A CHILD.—Section 607(3)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167(3)) is amended by adding at the end thereof the following new flush sentence:

''Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continued coverage under this part.''.

(c) INTERNAL REVENUE CODE OF 1986.—

(1) PERIOD OF COVERAGE.—Section 4980B(f)(2)(B) of the Internal Revenue Code of 1986 is amended—

(A) in the last sentence of clause (i) by striking ''at the time of a qualifying event described in paragraph (3)(B)'' and inserting ''at any time during the initial 18-month period of continuing coverage under this section''.

(B) in clause (iv)(I), by inserting before '', or'' the following: '', except that the exclusion or limitation contained in this subclause shall not be considered to apply to a plan under which a preexisting condition or exclusion does not apply to an individual otherwise eligible for continuation coverage under this subsection because of the provision of the Health Insurance Reform Act of 1996''; and

(C) in clause (v), by striking ''at the time of a qualifying event described in paragraph (3)(B)'' and inserting ''at any time during the initial 18-month period of continuing coverage under this section''.

(2) ELECTION.—Section 4980B(f)(5)(A)(ii) of the Internal Revenue Code of 1986 is amended—

(A) in subclause (I), by striking ''or'' at the end thereof;

(B) in subclause (II), by striking the period and inserting '', or'', and

(C) by adding at the end thereof the following new subclause:

''(III) in the case of an qualified beneficiary described in the last sentence of paragraph (2)(B)(i), the date such individual is determined to have been disabled.''.

(3) NOTICES.—Section 4980B(f)(6)(C) of the Internal Revenue Code of 1986 is amended by striking ''at the time of a qualifying event described in paragraph (3)(B)'' and inserting ''at any time during the initial 18-month period of continuing coverage under this section''.

(4) BIRTH OR ADOPTION OF A CHILD.—Section 4980B(g)(1)(A) of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new flush sentence:

''Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continued coverage under this section.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to qualifying events occurring on or after the date of enactment of this Act for plan years beginning after December 31, 1997.

(e) NOTIFICATION OF CHANGES.—Not later than 60 days prior to the date on which this

section becomes effective, each group health plan (covered under title XXII of the Public Health Service Act, part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, and section 4980B(f) of the Internal Revenue Code of 1986) shall notify each qualified beneficiary who has elected continuation coverage under such title, part or section of the amendments made by this section.

Subtitle D—Private Health Plan Purchasing Cooperatives

SEC. 131. PRIVATE HEALTH PLAN PURCHASING COOPERATIVES.

(a) DEFINITION.—As used in this title, the term ''health plan purchasing cooperative'' means a group of individuals or employers that, on a voluntary basis and in accordance with this section, form a cooperative for the purpose of purchasing individual health plans or group health plans offered by health plan issuers. A health plan issuer, agent, broker or any other individual or entity engaged in the sale of insurance may not underwrite a cooperative.

(b) CERTIFICATION.—

(1) IN GENERAL.—If a group described in subsection (a) desires to form a health plan purchasing cooperative in accordance with this section and such group appropriately notifies the State and the Secretary of such desire, the State, upon a determination that such group meets the requirements of this section, shall certify the group as a health plan purchasing cooperative. The State shall make a determination of whether such group meets the requirements of this section in a timely fashion. Each such cooperative shall also be registered with the Secretary.

(2) STATE REFUSAL TO CERTIFY.—If a State fails to implement a program for certifying health plan purchasing cooperatives in accordance with the standards under this title, the Secretary shall certify and oversee the operations of such cooperative in such State.

(3) INTERSTATE COOPERATIVES.—For purposes of this section a health plan purchasing cooperative operating in more than one State shall be certified by the State in which the cooperative is domiciled. States may enter into cooperative agreements for the purpose of certifying and overseeing the operation of such cooperatives. For purposes of this subsection, a cooperative shall be considered to be domiciled in the State in which most of the members of the cooperative reside.

(c) BOARD OF DIRECTORS.—

(1) IN GENERAL.—Each health plan purchasing cooperative shall be governed by a Board of Directors that shall be responsible for ensuring the performance of the duties of the cooperative under this section. The Board shall be composed of a board cross-section of representatives of employers, employees, and individuals participating in the cooperative. A health plan issuer, agent, broker or any other individual or entity engaged in the sale of individual health plans or group health plans may not hold or control any right to vote with respect to a cooperative.

(2) LIMITATION ON COMPENSATION.—A health plan purchasing cooperative may not provide compensation to members of the Board of Directors. The cooperative may provide reimbursements to such members for the reasonable and necessary expenses incurred by the members in the performance of their duties as members of the Board.

(3) CONFLICT OF INTEREST.—No member of the Board of Directors (or family members of such members) nor any management personnel of the cooperative may be employed by, be a consultant of, be a member of the board of directors or, be affiliated with an agent of, or otherwise be a representative of any health plan issuer, health care provider, or agent or broker. Nothing in the preceding sentence shall limit a member of the Board from purchasing coverage offered through the cooperative.

(d) MEMBERSHIP AND MARKETING AREA.—

(1) MEMBERSHIP.—A health plan purchasing cooperative may establish limits on the maximum size of employers who may become members of the cooperative, and may determine whether to permit individuals to become members. Upon the establishment of such membership requirements, the cooperative shall, except as provided in subparagraph (B), accept all employers (or individuals) residing within the area served by the cooperative who meet such requirements as members on a first-come, first-served basis, or on another basis established by the State to ensure equitable access to the cooperative.

(2) MARKETING AREA.—A State may establish rules regarding the geographic area that must be served by a health plan purchasing cooperative. With respect to a State that has not established such rules, a health plan purchasing cooperative operating in the State shall define the boundaries of the area to be served by the cooperative, except that such boundaries may not be established on the basis of health status of the populations that reside in the area.

(e) DUTIES AND RESPONSIBILITIES.—

(1) IN GENERAL.—A health plan purchasing cooperative shall—

(A) enter into agreements with multiple, unaffiliated health plan issuers, except that the requirement of this subparagraph shall not apply in regions (such as remote or frontier areas) in which compliance with such requirement is not possible.

(B) enter into agreements with employers and individuals who become members of the cooperative;

(C) participate in any program of risk-adjustment or reinsurance, or any similar program, that is established by the State.

(D) prepare and disseminate comparative health plan materials (including information about cost, quality, benefits, and other information concerning group health plans and individual health plans offered through the cooperative);

(E) actively market to all eligible employers and individuals residing within the service area; and

(F) act as an ombudsman for group health plan or individual health plan enrollees.

(2) PERMISSIBLE ACTIVITIES.—A health plan purchasing cooperative may perform such other functions as necessary to further the purposes of this title, including—

(A) collecting and distributing premiums and performing other administrative functions;

(B) collecting and analyzing surveys of enrollee satisfaction;

(C) charging membership fee to enrollees (such fees may not be based on health status) and charging participation fees to health plan issuers;

(D) cooperating with (or accepting as members) employers who provide health benefits directly to participants and beneficiaries only for the purpose of negotiating with providers, and

(E) negotiating with health care providers and health plan issuers.

(f) LIMITATIONS ON COOPERATIVE ACTIVITIES.—A health plan purchasing cooperative shall not—

(1) perform any activity relating to the licensing of health plan issuers.

(2) assume financial risk directly or indirectly on behalf of members of a health plan purchasing cooperative relating to any group health plan or individual health plan;

(3) establish eligibility, continuation of eligibility, enrollment, or premium contribution requirements for participants, beneficiaries, or individuals based on health status;

(4) operate on a for-profit or other basis where the legal structure of the cooperative permits profits to be made and not returned to the members of the cooperative, except that a for-profit health plan purchasing cooperative may be formed by a nonprofit organization—

(A) in which membership in such organization is not based on health status; and

(B) that accepts as members all employers or individuals on a first-come, first-served basis, subject to any established limit on the maximum size of and employer that may become a member; or

(5) perform any other activities that conflict or are inconsistent with the performance of its duties under this title.

(g) LIMITED PREEMPTIONS OF CERTAIN STATE LAWS.—

(1) IN GENERAL.—With respect to a health plan purchasing cooperative that meets the requirements of this section, State fictitious group laws shall be preempted.

(2) HEALTH PLAN ISSUERS.—

(A) RATING.—With respect to a health plan issuer offering a group health plan or individual health plan through a health plan purchasing cooperative that meets the requirements of this section. State premium rating requirement laws, except to the extent provided under subparagraph (B), shall be preempted unless such laws permit premium rates negotiated by the cooperative to be less than rates that would otherwise be permitted under State law, if such rating differential is not based on differences in health status or demographic factors.

(B) EXCEPTION.—State laws referred to in subparagraph (A) shall not be preempted if such laws—

(i) prohibit the variance of premium rates among employers, plan sponsors, or individuals that are members of health plan purchasing cooperative in excess of the amount of such variations that would be permitted under such State rating laws among employers, plan sponsors, and individuals that are not members of the cooperative; and

(ii) prohibit a percentage increase in premium rates for a new rating period that is in excess of that which would be permitted under State rating laws.

(C) BENEFITS.—Except as provided in subparagraph (D), a health plan issuer offering a group health plan or individual health plan through a health plan purchasing cooperative shall comply with all State mandated benefit laws that require the offering of any services, category or care, or services of any class or type of provider.

(D) EXCEPTION.—In those states that have enacted laws authorizing the issuance of alternative benefit plans to small employers, health plan issuers may offer such alternative benefit plans through a health plan purchasing cooperative that meets the requirements of this section.

(h) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to—

(1) require that a State organize, operate, or otherwise create health plan purchasing cooperatives;

(2) otherwise require the establishment of health plan purchasing cooperatives.

(3) require individuals, plan sponsors, or employers to purchase group health plans or individual health plans through a health plan purchasing cooperative;

(4) require that a health plan purchasing cooperative be the only type of purchasing arrangement permitted to operate in a State.

(5) confer authority upon a State that the State would not otherwise have to regulate health plan issuers or employee health benefits plans, or

(6) confer authority up a State (or the Federal Government) that the State (or Federal Government) would not otherwise have to regulate group purchasing arrangements, coalitions, or other similar entities that do not desire to become a health plan purchasing cooperative in accordance with this section.

(i) APPLICATION OF ERISA.—For purposes of enforcement only, the requirements of parts 4 and 5 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1101) shall apply to a health pan purchasing cooperative as if such plan were an employee welfare benefit plan.

Subtitle E—Application and Enforcement of Standards

SEC. 141. APPLICABILITY.

(A) CONSTRUCTION.—

(1) ENFORCEMENT.—

(A) IN GENERAL.—A requirement or standard imposed under this title on a group health plan or individual health plan offered by a health plan issuer shall be deemed to be a requirement or standard imposed on the health plan issuer. Such requirements or standards shall be enforced by the State insurance commissioner for the State involved or the official or officials designated by the State to enforce the requirements of this title. In the case of a group health plan offered by a health plan issuer in connection with an employee health benefit plan, the requirements of standards imposed under the title shall be enforced with respect to the health plan issuer by the State insurance commissioner for the State involved or the official of officials designated by the State to enforce the requirements of this title.

(B) LIMITATION.—Except as provided in subsection (c), the Secretary shall not enforce the requirements or standards of this title as they relate to health plan issuers, group health plans, or individual health plans. In no case shall a Sate enforce the requirements or standards of this title as they relate to employee health benefit plans.

(2) PREEMPTION OF STATE LAW.—Nothing in this title shall be construed to prevent a State from establishing, implementing, or continuing in effect standards and requirements—

(A) not prescribed in this title; or

(B) related to the issuance, renewal, or portability of health insurance or the establishment or operation of group purchasing arrangements, that are consistent with, and are not in direct conflict with, this title and provide greater protection or benefit to participants, beneficiaries or individuals.

(b) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

(c) CONTINUATION.—Nothing in this title shall be construed as requiring a group health plan or an employee health benefit plan to provide benefits to a particular participant or beneficiary in excess of those provided under the terms of such plan.

SEC. 202. ENFORCEMENT OF STANDARDS.

(a) HEALTH PLAN ISSUERS.—Each State shall require that each group health plan and individual health plan issued, sold, renewed, offered for sale or operated in such State by a health plan issuer meet the standards established under this title pursuant to an enforcement plan filed by the State with the Secretary. A State shall submit such information as required by the Secretary demonstrating effective implementation of the State enforcement law.

(b) EMPLOYEE HEALTH BENEFIT PLANS.—With respect to employee health benefit plans, the Secretary shall enforce the reform standards established under this title in the same manner as provided for under sections 502, 504, 506, and 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132, 1134, 1136, and 1140). The civil penalties contained in paragraphs (1) and (2) of section 502(c) of such Act (29 U.S.C. 1132(c) (1) and (2)) shall apply to any information required by the Secretary to be disclosed and reported under this section.

(c) FAILURE TO IMPLEMENT PLAN.—In the case of the failure of a State to substantially enforce the standards and requirements set forth in this title with respect to group health plans and individual health plans as provided for under the State enforcement plan filed under subsection (a), the Secretary, in consultation with the Secretary of Health and Human Services, shall implement an enforcement plan meeting the standards of this title in such State. In the case of a State that fails to substantially enforce the standards and requirements set forth in this title, each health plan issuer operating in such State shall be subject to civil enforcement as provided for under sections 502, 504, 506, and 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132, 1134, 1136, and 1140). The civil penalties contained in paragraphs (1) and (2) of section 502(c) of such Act (29 U.S.C. 1132(c) (1) and (2)) shall apply to any information required by the Secretary to be disclosed and reported under this section.

(d) APPLICABLE CERTIFYING AUTHORITY.—As used in this title, the term ''applicable certifying authority''means, with respect to—

(1) health plan issuers, the State insurance commissioner or official or officials designated by the State to enforce the requirements of this title for the State involved; and

(2) an employee health benefit, plan, the Secretary.

(e) REGULATIONS.—The Secretary may promulgate such regulations as may be necessary or appropriate to carry out this title.

(f) TECHNICAL AMENDMENT.—Section 508 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1138) is amended by inserting ''and under the Health Insurance Reform Act of 1996'' before the period.

Subtitle F—Miscellaneous Provisions

SEC. 191. HEALTH COVERAGE AVAILABILITY STUDY.

(a) IN GENERAL.—The Secretary of Health and Human Services, in consultation with the Secretary, representatives of State officials, consumers, and other representatives of individuals and entities that have expertise in health insurance and employee benefits, shall conclude a two-part study, and prepare and submit reports, in accordance with this section.

(b) EVALUATION OF AVAILABILITY.—Not later than January 1, 1998, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report, concerning—

(1) an evaluation, based on the experience of States, expert opinions, and such additional data as may be available, of the various mechanisms used to ensure the availability of reasonably priced health coverage to employers purchasing group coverage and to individuals purchasing coverage on a nongroup basis; and

(2) whether standards that limit the variation in premiums will further the purposes of this Act.

(c) EVALUATION OF EFFECTIVENESS.—Not later than January 1, 1999, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report, concerning the effectiveness of the provisions of this Act and the various State laws, in ensuring the availability of reasonably priced health coverage to employers purchasing group coverage and individuals purchasing coverage on a nongroup basis.

SEC. 192. EFFECTIVE DATE.

Except as otherwise provided for in this title, the provisions of this title shall apply as follows:

(1) With respect to group health plans and individual health plans, such provisions shall apply to plans offered, sold, issued, renewed, in effect, or operated on or after January 1, 1997, and

(2) With respect to employee health benefit plans, on the first day of the first plan year beginning on or after January 1, 1997.

SEC. 193. SEVERABILITY.

If any provision of this title or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this title and the application of the provisions of such to any person or circumstance shall not be affected thereby.

TITLE II—INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS

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SEC. 200. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Increase in Deduction For Health Insurance Costs of Self-Employed Individuals

SEC. 201. INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (1) of section 162(l) is amended to read as follows:

''(1) ALLOWANCE OF DEDUCTION.—

''(A) IN GENERAL.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount

equal to the applicable percentage of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, his spouse, and dependents.

''(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be determined under the following table:

''For taxable years beginning in calendar year—	The applicable percentage is—
After 1996 and before 2002	50 percent.
2002 or thereafter	80 percent.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1996.

Subtitle B—Revenue Offsets

CHAPTER 1—TREATMENT OF INDIVIDUALS WHO EXPATRIATE

SEC. 211. REVISION OF TAX RULES ON EXPATRIATION.

(a) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 is amended by inserting after section 877 the following new section:

''SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

''(a) GENERAL RULES.—For purposes of this subtitle—

''(1) MARK TO MARKET.—Except as provided in subsection (f), all property of a covered expatriate to which this section applies shall be treated as sold on the expatriation date for its fair market value.

''(2) RECOGNITION OF GAIN OR LOSS.—In the case of any sale under paragraph (1)—

''(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale unless such gain is excluded from gross income under part III of subchapter B, and

''(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply (and section 1092 shall apply) to any such loss.

''(3) EXCLUSION FOR CERTAIN GAIN.—The amount which would (but for this paragraph) be includible in the gross income of any individual by reason of this section shall be reduced (but not below zero) by $600,000. For purposes of this paragraph, allocable expatriation gain taken into account under subsection (f)(2) shall be treated in the same manner as an amount required to be includible in gross income.

''(4) ELECTION TO CONTINUE TO BE TAXED AS UNITED STATES CITIZEN.—

''(A) IN GENERAL.—If an expatriate elects the application of this paragraph—

''(i) this section (other than this paragraph) shall not apply to the expatriate, but

''(ii) the expatriate shall be subject to tax under this title, with respect to property to which this section would apply but for such election, in the same manner as if the individual were a United States citizen.

''(B) LIMITATION ON AMOUNT OF ESTATE, GIFT, AND GENERATION-SKIPPING TRANSFER TAXES.—The aggregate amount of taxes imposed under subtitle B with respect to any transfer of property by reason of an election under subparagraph (A) shall not exceed the amount of income tax which would be due if the property were sold for its fair market value immediately before the time of the transfer or death (taking into account the rules of paragraph (2)).

''(c) REQUIREMENTS.—Subparagraph (A) shall not apply to an individual unless the individual—

''(i) provides security for payment of tax in such form and manner, and in such amount, as the Secretary may require,

''(ii) consents to the waiver of any right of the individual under any treaty of the United States which would preclude assessment or collection of any tax which may be imposed by reason of this paragraph, and

''(iii) complies with such other requirements as the Secretary may prescribe.

''(D) ELECTION.—An election under subparagraph (A) shall apply to all property to which this section would apply but for the election and, once made, shall be irrevocable. Such election shall also apply to property the basis of which is determined in whole or in part by reference to the property with respect to which the election was made.

''(b) ELECTION TO DEFER TAX.—

''(1) IN GENERAL.—If the taxpayer elects the application of this subsection with respect to any property—

''(A) no amount shall be required to be included in gross income under subsection (a)(1) with respect to the gain for such property for the taxable year of the sale, but

''(B) the taxpayer's tax for the taxable year in which such property is disposed of shall be increased by the deferred tax amount with respect to the property.

Except to the extent provided in regulations, subparagraph (B) shall apply to a disposition whether or not gain or loss is recognized in whole or in part on the disposition.

''(2) DEFERRED TAX AMOUNT.—

''(A) IN GENERAL.—For purposes of paragraph (1), the term 'deferred tax amount' means, with respect to any property, an amount equal to the sum of—

''(i) the difference between the amount of tax paid for the taxable year described in paragraph (1)(A) and the amount which would have been paid for such taxable year if the election under paragraph (1) had not applied to such property, plus

''(ii) an amount of interest on the amount described in clause (i) determined for the period—

''(I) beginning on the 91st day after the expatriation date, and

''(II) ending on the due date for the taxable year described in paragraph (1)(B),

by using the rates and method applicable under section 6621 for underpayments of tax for such period.

For purposes of clause (ii), the due date is the date prescribed by law (determined without regard to extension) for filing the return of the tax imposed by this chapter for the taxable year.

''(B) ALLOCATION OF LOSSES.—For purposes of subparagraph (A), any losses described in subsection (a)(2)(B) shall be allocated ratably among the gains described in subsection (a)(2)(A).

''(3) SECURITY.—

''(A) IN GENERAL.—No election may be made under paragraph (1) with respect to any property unless adequate security is provided with respect to such property.

''(B) ADEQUATE SECURITY.—For purposes of subparagraph (A), security with respect to any property shall be treated as adequate security if—

''(i) it is a bond in an amount equal to the deferred tax amount under paragraph (2)(A) for the property, or

''(ii) the taxpayer otherwise establishes to the satisfaction of the Secretary that the security is adequate.

''(4) WAIVER OF CERTAIN RIGHTS.—No election may be made under paragraph (1) unless the taxpayer consents to the waiver of any right under any treaty of the United States which would preclude assessment or collection of any tax imposed by reason of this section.

''(5) DISPOSITIONS.—For purposes of this subsection, a taxpayer making an election under this subsection with respect to any property shall be treated as having disposed of such property—

''(A) immediately before death if such property is held at such time, and

''(B) at any time the security provided with respect to the property fails to meet the requirements of paragraph (3) and the taxpayer does not correct such failure within the time specified by the Secretary.

''(6) ELECTIONS.—An election under paragraph (1) shall only apply to property described in the election and, once made, is irrevocable. An election may be under paragraph (1) with respect to an interest in a trust with respect to which gain is required to be recognized under subsection (f)(1).

''(c) COVERED EXPATRIATE.—For purposes of this section—

''(1) IN GENERAL.—The term 'covered expatriate' means an expatriate—

''(A) whose average annual net income tax (as defined in section 38(c)(1)) for the period of 5 taxable years ending before the expatriation date is greater than $100,000, or

''(B) whose net worth as of such date is $500,000 or more.

If the expatriation date is after 1996, such $100,000 and $500,000 amounts shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting '1995' for '1992' in subparagraph (B) thereof. Any increase under the preceding sentence shall be rounded to the nearest multiple of $1,000.

''(2) EXCEPTIONS.—An individual shall not be treated as a covered expatriate if—

''(A) the individual—

''(i) became at birth a citizen of the United States and a citizen of another country and, as of the expatriation date, continues to be a citizen of, and is taxed as a resident of, such other country, and

''(ii) has been a resident of the United Stats (as defined in section 7701(b)(1)(A)(ii)) for not more than 8 taxable years during the 15-taxable year period ending with the taxable year during which the expatriation date occurs, or

''(B)(i) the individual's relinquishment of United States citizenship occurs before such individual attains age 18½, and

''(ii) the individual has been a resident of the United States (as so defined) for not more than 5 taxable years before the date of relinquishment.

''(d) PROPERTY TO WHICH SECTION APPLIES.—For purposes of this section—

''(1) IN GENERAL.—Except as otherwise provided by the Secretary, this section shall apply to—

''(A) any interest in property held by a covered expatriate on the expatriation date the gain from which would be included in the gross income of the expatriate if such interest had been sold for its fair market value on such data in a transaction in which gain is recognized in whole or in part, and

''(B) any other interest in a trust to which subsection (f) applies.

''(2) EXCEPTIONS.—This section shall not apply to the following property:

''(A) UNITED STATES REAL PROPERTY INTERESTS.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the expatriation date, meet the requirements of section 897(c)(2).

''(B) INTEREST IN CERTAIN RETIREMENT PLANS.—

''(i) IN GENERAL.—Any interest in a qualified retirement plan (as defined in section 4974(c)), other than any interest attributable to contributions which are in excess of any limitation or which violate any condition for tax-favored treatment.

''(ii) FOREIGN PENSION PLANS.—

''(I) IN GENERAL.—Under regulations prescribed by the Secretary, interests in foreign

pension plans or similar retirement arrangements or programs.

''(II) LIMITATION.—The value of property which is treated as not sold by reason of this subparagraph shall not exceed $500,000.

''(e) DEFINITIONS.—For purposes of this section—

''(1) EXPATRIATE.—The term 'expatriate' means—

''(A) any United States citizen who relinquishes his citizenship, or

''(B) any long-term resident of the United States who—

''(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

''(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

''(2) EXPATRIATION DATE.—The term 'expatriation date' means—

''(A) the date an individual relinquishes United States citizenship, or

''(B) in the case of a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

''(3) RELINQUISHMENT OF CITIZENSHIP.—A citizen shall be treated as relinquishing his United States citizenship on the earliest of—

''(A) the date the individual renounces his United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)).

''(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)).

''(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

''(D) the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

''(4) LONG-TERM RESIDENT.—

''(A) IN GENERAL.—The term 'long-term resident' means any individual (other than a citizen of the United States) who is a lawful permanent resident of the United States in at least 8 taxable years during the period of 15 taxable years ending with the taxable year during which the expatriation date occurs. For purposes of the preceding sentence, an individual shall not be treated as a lawful permanent resident for any taxable year if such individual is treated as a resident of a foreign country for the taxable year under the provisions of a tax treaty between the United States and the foreign country and does not waive the benefits of such treaty applicable to residents of the foreign country.

''(B) SPECIAL RULE.—For purposes of subparagraph (A), there shall not be taken into account—

''(i) any taxable year during which any prior sale is treated under subsection (a)(1) as occurring, or

''(ii) any taxable year prior to the taxable year referred to in clause (i).

''(f) SPECIAL RULES APPLICABLE TO BENEFICIARIES' INTERESTS IN TRUST.—

''(1) IN GENERAL.—Except as provided in paragraph (2), if an individual is determined under paragraph (3) to hold an interest in a trust—

''(A) the individual shall not be treated as having sold such interest,

''(B) such interest shall be treated as a separate share in the trust, and

''(C)(i) such separate share shall be treated as a separate trust consisting of the assets allocable to such share,

''(ii) the separate trust shall be treated as having sold its assets immediately before the expatriation date for their fair market value and as having distributed all of its assets to the individual as of such time, and

''(iii) the individual shall be treated as having recontributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(ii).

''(2) SPECIAL RULES FOR INTERESTS IN QUALIFIED TRUSTS.—

''(A) IN GENERAL.—If the trust interest described in paragraph (1) is an interest in a qualified trust—

''(i) paragraph (1) and subsection (a) shall not apply, and

''(ii) in addition to any other tax imposed by this title, there is hereby imposed on each distribution with respect to such interest a tax in the amount determined under subparagraph (B).

''(B) AMOUNT OF TAX.—The amount of tax under subparagraph (A)(ii) shall be equal to the lesser of—

''(i) the highest rate of tax imposed by section 1(e) for the taxable year in which the expatriation date occurs, multiplied by the amount of the distribution, or

''(ii) the balance in the deferred tax account immediately before the distribution determined without regard to any increases under subparagraph (C)(ii) after the 30th day preceding the distribution.

''(C) DEFERRED TAX ACCOUNT.—For purposes of subparagraph (B)(ii)—

''(i) OPENING BALANCE.—The opening balance in a deferred tax account with respect to any trust interest in an amount equal to the tax which would have been imposed on the allocable expatriation gain with respect to the trust interest if such gain had been included in gross income under subsection (a).

''(ii) INCREASE FOR INTEREST.—The balance in the deferred tax account shall be increased by the amount of interest determined (on the balance in the account at the time the interest accrues), for periods after the 90th day after the expatriation date, by using the rates and method applicable under section 6621 for underpayments of tax for such periods.

''(iii) DECREASE FOR TAXES PREVIOUSLY PAID.—The balance in the tax deferred account shall be reduced—

''(I) by the amount of taxes imposed by subparagraph (A) on any distribution to the person holding the trust interest, and

''(II) in the case of a person holding a nonvested interest, to the extent provided in regulations, by the amount of taxes imposed by subparagraph (A) on distributions from the trust with respect to nonvested interests not held by such person.

''(D) ALLOCABLE EXPATRIATION GAIN.—For purposes of this paragraph, the allocable expatriation gain with respect to any beneficiary's interest in a trust in the amount of gain which would be allocable to such beneficiary's vested and nonvested interests in the trust if the beneficiary held directly all assets allocable to such interests.

''(E) TAX DEDUCTED AND WITHHELD.—

''(i) IN GENERAL.—The tax imposed by subparagraph (A)(ii) shall be deducted and withheld by the trustees from the distribution to which it relates.

''(ii) EXCEPTION WHERE FAILURE TO WAIVE TREATY RIGHTS.—If an amount may not be deducted and withheld under clause (i) by reason of the distributee failing to waive any treaty right with respect to such distribution—

''(I) the tax imposed by subparagraph (A)(ii) shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax, and

''(II) any other beneficiary of the trust shall be entitled to recover from the distributee the amount of such tax imposed on the other beneficiary.

''(F) DISPOSITION.—If a trust ceases to be a qualified trust at any time, a covered expatriate disposes of an interest in a qualified trust, or a covered expatriate holding an interest in a qualified trust dies, then, in lieu of the tax imposed by subparagraph (A)(ii), there is hereby imposed a tax equal to the lesser of—

''(i) the tax determined under paragraph (1) as if the expatriation date were the date of such cessation, disposition, or death, whichever is applicable, or

''(ii) the balance in the tax deferred account immediately before such date.

Such tax shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax and any other beneficiary of the trust shall be entitled to recover from the covered expatriate or the estate the amount of such tax imposed on the other beneficiary.

''(G) DEFINITIONS AND SPECIAL RULE.—For purposes of this paragraph—

''(i) QUALIFIED TRUST.—The term 'qualified trust' means a trust—

''(I) which is organized under, and governed by, the laws of the United States or a State, and

''(II) with respect to which the trust instrument requires that at least 1 trustee of the trust be an individual citizen of the United States or a domestic corporation.

''(ii) VESTED INTEREST.—The term 'vested interest' means any interest which, as of the expatriation date, is vested in the beneficiary.

''(iii) NONVESTED INTEREST.—The term 'nonvested interest' means, with respect to any beneficiary, any interest in a trust which is not a vested interest. Such interest shall be determined by assuming the maximum exercise of discretion in favor of the beneficiary and the occurrence of all contingencies in favor of the beneficiary.

''(iv) ADJUSTMENTS.—The Secretary may provide for such adjustments to the bases of assets in a trust or a deferred tax account, and the timing of such adjustments, in order to ensure that gain is taxed only once.

''(3) DETERMINATION OF BENEFICIARIES' INTEREST IN TRUST.—

''(A) DETERMINATIONS UNDER PARAGRAPH (1)—For purposes of paragraph (1), a beneficiary's interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar advisor.

''(B) OTHER DETERMINATIONS.—For purposes of this section—

''(i) CONSTRUCTIVE OWNERSHIP.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

''(ii) TAXPAYER RETURN POSITION.—A taxpayer shall clearly indicate on its income tax return—

''(I) the methodology used to determine that taxpayer's trust interest under this section, and

''(II) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

''(g) TERMINATION OF DEFERRALS, ETC.—On the date any property held by an individual is treated as sold under subsection (a), notwithstanding any other provision of this title—

''(1) any period during which recognition of income or gain is deferred shall terminate, and

''(2) any extension of time for payment of tax shall cease to apply and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

''(h) IMPOSITION OF TENTATIVE TAX.—

''(1) IN GENERAL.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately before the expatriation date, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date.

''(2) DUE DATE.—The due date for any tax imposed by paragraph (1) shall be the 90th day after the expatriation date.

''(3) TREATMENT OF TAX.—Any tax paid under paragraph (1) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

''(4) DEFERRAL OF TAX.—The provisions of subsection (b) shall apply to the tax imposed by this subsection to the extent attributable to gain includible in gross income by reason of this section.

''(i) COORDINATION WITH ESTATE AND GIFT TAXES.—If subsection (a) applies to property held by an individual for any taxable year and—

''(1) such property is includible in the gross estate of such individual solely by reason of section 2107, or

''(2) section 2501 applies to a transfer of such property by such individual solely by reason of section 2501(a)(3).

then there shall be allowed as a credit against the additional tax imposed by section 2101 or 2501, whichever is applicable, solely by reason of section 2107 or 2501(a)(3) an amount equal to the increase in the tax imposed by this chapter for such taxable year by reason of this section.

''(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations—

''(1) to prevent double taxation by ensuring that—

''(A) appropriate adjustments are made to basis to reflect gain recognized by reason of subsection (a) and the exclusion provided by subsection (a)(3), and

''(B) any gain by reason of a deemed sale under subsection (a) of an interest in a corporation, partnership, trust, or estate is reduced to reflect that portion of such gain which is attributable to an interest in a trust which a shareholder, partner, or beneficiary is treated as holding directly under subsection (f)(3)(B)(i), and

''(2) which provide for the proper allocation of the exclusion under subsection (a)(3) to property to which this section applies.

''(k) CROSS REFERENCE.—

''For income tax treatment of individuals who terminate United States citizenship, see section 7701(a)(47).''.

(b) INCLUSION IN INCOME OF GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—Section 102 (relating to gifts, etc. not included in gross income) is amended by adding at the end the following new subsection:

''(d) GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—Subsection (a) shall not exclude from gross income the value of any property acquired by gift, bequest, devise, or inheritance from a covered expatriate after the expatristion date. For purposes of this subsection, any term used in this subsection which is also used in section 877A shall have the same meaning as when used in section 877A.''.

(c) DEFINITION OF TERMINATION OF UNITED STATES CITIZENSHIP.—Section 7701(a) is amended by adding at the end the following new paragraph:

''(47) TERMINATION OF UNITED STATES CITIZENSHIP.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3).''.

(d) CONFORMING AMENDMENTS.—

(1) Section 877 is amended by adding at the end the following new subsection:

''(f) APPLICATION.—This section shall not apply to any individual who relinquishes (within the meaning of section 877A(e)(3)) United States citizenship on or after February 6, 1995.''.

(2) Section 2107(c) is amended by adding at the end the following new paragraph:

''(3) CROSS REFERENCE.—For credit against the tax imposed by subsection (a) for expatriation tax, see section 877A(i).''.

(3) Section 2501(a)(3) is amended by adding at the end the following new flush sentence: ''For credit against the tax imposed under this section by reason of this paragraph, see section 877A(i).''.

(4) Paragraph (10) of section 7701(b) is amended by adding at the end the following new sentence: ''This paragraph shall not apply to any long-term resident of the United States who is an expatriate (as defined in section 877A(e)(1)).''.

(e) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

''Sec. 877A. Tax responsibilities of expatriation.''.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after February 6, 1995.

(2) GIFTS AND BEQUESTS.—Section 102(d) of the Internal Revenue Code of 1986 (as added by subsection (b)) shall apply to amounts received from expatriates (as so defined) whose expatriation date (as so defined) occurs on and after February 6, 1995.

(3) SPECIAL RULES RELATING TO CERTAIN ACTS OCCURRING BEFORE FEBRUARY 6, 1995.—In the case of an individual who took an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a) (1)–(4)) before February 6, 1995, but whose expatriation date (as so defined) occurs after February 6, 1995—

(A) the amendment made by subsection (c) shall not apply,

(B) the amendment made by subsection (d)(1) shall not apply for any period prior to the expatriation date, and

(C) the other amendments made by this section shall apply as of the expatriation date.

(4) DUE DATE FOR TENTATIVE TAX.—The due date under section 877A(h)(2) of such Code shall in no event occur before the 90th day after the date of the enactment of this Act.

SEC. 212. INFORMATION ON INDIVIDUALS EXPATRIATING.

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 is amended by inserting after section 6039E the following new section:

''SEC. 6039F. INFORMATION ON INDIVIDUALS EXPATRIATING.

''(a) REQUIREMENT.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, any expatriate (within the meaning of section 877A(e)(1)) shall provide a statement which includes the information described in subsection (b).

''(2) TIMING.—

''(A) CITIZENS.—In the case of an expatriate described in section 877(e)(1)(A), such statement shall be—

''(i) provided not later than the expatriation date (within the meaning of section 877A(e)(2)), and

''(ii) provided to the person or court referred to in section 877A(e)(3).

''(B) NONCITIZENS.—In the case of an expatriate described in section 877A(e)(1)(B), such statement shall be provided to the Secretary with the return of tax imposed by chapter 1 for the taxable year during which the event described in such section occurs.

''(b) INFORMATION TO BE PROVIDED.—Information required under subsection (a) shall include—

''(1) the taxpayer's TIN,

''(2) the mailing address of such individual's principal foreign residence,

''(3) the foreign country in which such individual is residing,

''(4) the foreign country of which such individual is a citizen,

''(5) in the case of an individual having a net worth of at lease the dollar amount applicable under section 877A(c)(1)(B), information detailing the assets and liabilities of such individual, and

''(6) such other information as the Secretary may prescribe.

''(c) PENALTY.—Any individual failing to provide a statement required under subsection (a) shall be subject to a penalty for each year during any portion of which such failure continues in an amount equal to the greater of—

''(1) 5 percent of the additional tax required to be paid under section 877A for such year, or

''(2) $1,000, unless it is shown that such failure is due to reasonable cause and not to willful neglect.

''(d) INFORMATION TO BE PROVIDED TO SECRETARY.—Notwithstanding any other provision of law—

''(1) any Federal agency or court which collects (or is required to collect) the statement under subsection (a) shall provide to the Secretary—

''(A) a copy of any such statement, and

''(B) the name (and any other identifying information) of any individual refusing to comply with the provisions of subsection (a),

''(2) the Secretary of State shall provide to the Secretary a copy of each certificate as to the loss of American nationality under section 358 of the Immigration and Nationality Act which is approved by the Secretary of State, and

''(3) the Federal agency primarily responsible for administering the immigration laws shall provide to the Secretary the name of each lawful permanent resident of the United States (within the meaning of section 7701(b)(6)) whose status as such has been revoked or has been administratively or judicially determined to have been abandoned.

Notwithstanding any other provision of law, not later than 30 days after the close of each

calendar quarter, the Secretary shall publish in the Federal Register the name of each individual relinquishing United States citizenship (within the meaning of section 877A(e)(3)) with respect to whom the Secretary receives information under the preceding sentence during such quarter.

''(e) EXEMPTION.—The Secretary may by regulations exempt any class of individuals from the requirements of this section if the Secretary determines that applying this section to such individuals is not necessary to carry out the purposes of this section.''.

(b) CLERICAL AMENDMENT.—The table of sections for such subpart A is amended by inserting after the item relating to section 6039E the following new item:

''Sec. 6039F. Information on individuals expatriating.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals to whom section 877A of the Internal Revenue Code of 1986 applies and whose expatriation date (as defined in section 877A(e)(2)) occurs on or after February 6, 1995, except that no statement shall be required by such amendments before the 90th day after the date of the enactment of this Act.

CHAPTER 2—FOREIGN TRUST TAX COMPLIANCE

SEC. 221. IMPROVED INFORMATION REPORTING ON FOREIGN TRUSTS.

(a) IN GENERAL.—Section 6048 (relating to returns as to certain foreign trusts) is amended to read as follows:

''SEC. 6048. INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

''(a) NOTICE OF CERTAIN EVENTS.—

''(1) GENERAL RULE.—On or before the 90th day (or such later day as the Secretary may prescribe) after any reportable event, the responsible party shall provide written notice of such event to the Secretary in accordance with paragraph (2).

''(2) CONTENTS OF NOTICE.—The notice required by paragraph (1) shall contain such information as the Secretary may prescribe, including—

''(A) the amount of money or other property (if any) transferred to the trust in connection with the reportable event, and

''(B) the identify of the trust and of each trustee and beneficiary or class of beneficiaries) of the trust.

''(3) REPORTABLE EVENT.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'reportable event' means—

''(i) the creation of any foreign trust by a United States person,

''(ii) the transfer of any money or property (directly or indirectly) to a foreign trust by a United States person, including a transfer by reason of death, and

''(iii) the death of a citizen or resident of the United States if—

''(I) the decedent was treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, or

''(II) any portion of a foreign trust was included in the gross estate of the decedent.

''(B) EXCEPTIONS.—

''(i) FAIR MARKET VALUE SALES.—Subparagraph (A)(ii) shall not apply to any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value and the rules of section 679(a)(3) shall apply.

''(ii) DEFERRED COMPENSATION AND CHARITABLE TRUSTS.—Subparagraph (A) shall not apply with respect to a trust which is—

''(I) described in section 402(b), 404(a)(4), or 404A, or

''(II) determined by the Secretary to be described in section 501(c)(3).

''(4) RESPONSIBLE PARTY.—For purposes of this subsection, the term 'responsible party' means—

''(A) the grantor in the case of the creation of an inter vivos trust.

''(B) the transferor in the case of a reportable event described in paragraph (3)(A)(ii) other than a transfer by reason of death, and

''(C) the executor of the decedent's estate in any other case.

''(b) UNITED STATES GRANTOR OF FOREIGN TRUST.—

''(1) IN GENERAL.—If, at any time during any taxable year of a United States person, such person is treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, such person shall be responsible to ensure that

''(A) such trust makes a return for such year which sets forth a full and complete accounting of all trust activities and operations for the year, the name of the United States agent for such trust, and such other information as the Secretary may prescribe, and

''(B) such trust furnishes such information as the Secretary may prescribe to each United States person (i) who is treated as the owner of any portion of such trust or (ii) who receives (directly or indirectly) any distribution from the trust.

''(2) TRUSTS NOT HAVING UNITED STATES AGENT.—

''(A) IN GENERAL.—If the rules of this paragraph apply to any foreign trust, the determination of amounts required to be taken into account with respect to such trust by a United States person under the rules of subpart E of part I of subchapter J of chapter 1 shall be determined by the Secretary.

''(B) UNITED STATES AGENT REQUIRED.—The rules of this paragraph shall apply to any foreign trust to which paragraph (1) applies unless such trust agrees (in such manner, subject to such conditions, and at such time as the Secretary shall prescribe) to authorize a United States person to act as such trust's limited agent solely for purposes of applying sections 7602, 7603, and 7604 with respect to—

''(i) any request by the Secretary to examine records or produce testimony related to the proper treatment of amounts required to be taken into account under the rules referred to in subparagraph (A), or

''(ii) any summons by the Secretary for such records or testimony.

The appearance of persons or production of records by reason of a United States person being such an agent shall not subject such persons or records to legal process for any purpose other than determining the correct treatment under this title of the amounts required to be taken into account under the rules referred to in subparagraph (A). A foreign trust which appoints an agent described in this subparagraph shall not be considered to have an office or a permanent establishment in the United States, or to be engaged in a trade or business in the United States, solely because of the activities of such agent pursuant to this subsection.

''(C) OTHER RULES TO APPLY.—Rules similar to the rules of paragraphs (2) and (4) of section 6038A(e) shall apply for purposes of this paragraph.

''(c) REPORTING BY UNITED STATES BENEFICIARIES OF FOREIGN TRUSTS.—

''(1) IN GENERAL.—If any United States person receives (directly or indirectly) during any taxable year of such person any distribution from a foreign trust, such person shall make a return with respect to such trust for such year which includes—

''(A) the name of such trust,

''(B) the aggregate amount of the distributions so received from such trust during such taxable year, and

''(C) such other information as the Secretary may prescribe.

''(2) INCLUSION IN INCOME IF RECORDS NOT PROVIDED.—

''(A) IN GENERAL.—If applicable records are not provided to the Secretary to determine the proper treatment of any distribution from a foreign trust, such distribution shall be treated as an accumulation distribution includable in the gross income of the distributee under chapter 1. To the extent provided in regulations, the preceeding sentence shall not apply if the foreign trust elects to be subject to rules similar to the rules of subsection (b)(2)(B).

''(B) APPLICATION OF ACCUMULATION DISTRIBUTION RULES.—For purposes of applying section 668 in a case to which subparagraph (A) applies, the applicable number of years for purposes of section 668(a) shall be ½ of the number of years the trust has been in existence.

''(d) SPECIAL RULES.—

''(1) DETERMINATION OF WHETHER UNITED STATES PERSON RECEIVES DISTRIBUTION.—For purposes of this section, in determining whether a United States person receives a distribution from a foreign trust, the fact that a portion of such trust is treated as owned by another person under the rules of subpart E of part I of subchapter J of chapter 1 shall be disregarded.

''(2) DOMESTIC TRUSTS WITH FOREIGN ACTIVITIES.—To the extent provided in regulations, a trust which is a United States person shall be treated as a foreign trust for purposes of this section and section 6677 if such trust has substantial activities, or holds substantial property, outside the United States.

''(3) TIME AND MANNER OF FILING INFORMATION.—Any notice or return required under this section shall be made at such time and in such manner as the Secretary shall prescribe.

''(4) MODIFICATION OF RETURN REQUIREMENTS.—The Secretary is authorized to suspend or modify any requirement of this section if the Secretary determines that the United States has no significant tax interest in obtaining the required information.''.

(b) INCREASED PENALTIES.—Section 6677 (relating to failure to file information returns with respect to certain foreign trusts) is amended to read as follows:

''SEC. 6677. FAILURE TO FILE INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

''(a) CIVIL PENALTY.—In addition to any criminal penalty provided by law, if any notice or return required to be filed by section 6048—

''(1) is not filed on or before the time provided in such section, or

''(2) does not include all the information required pursuant to such section or includes incorrect information.

the person required to file such notice or return shall pay a penalty equal to 35 percent of the gross reportable amount. If any failure described in the preceding sentence continues for more than 90 days after the day on which the Secretary mails notice of such failure to the person required to pay such penalty, such person shall pay a penalty (in addition to the amount determined under the preceding sentence) of $10,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period. In no event shall the penalty under this subsection with respect to any failure exceed the gross reportable amount.

''(b) SPECIAL RULES FOR RETURNS UNDER SECTION 6048(b).—In the case of a return required under section 6048(b)—

''(1) the United States person referred to in such section shall be liable for the penalty imposed by subsection (a), and

''(2) subsection (a) shall be applied by substituting '5 percent' for '35 percent'.

''(c) GROSS REPORTABLE AMOUNT.—For purposes of subsection (a), the term 'gross reportable amount' means—

''(1) the gross value of the property involved in the event (determined as of the date of the event) in the case of a failure relating to section 6048(a),

''(2) the gross value of the portion of the trust's assets at the close of the year treated as owned by the United States person in the case of a failure relating to section 6048(b)(1), and

''(3) the gross amount of the distributions in the case of a failure relating to section 6048(c).

''(d) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed by this section on any failure which is shown to be due to reasonable cause and not due to willful neglect. The fact that a foreign jurisdiction would impose a civil or criminal penalty on the taxpayer (or any other person) for disclosing the required information is not reasonable cause.

''(e) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a).''.

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 6724(d), as amended by sections 11004 and 11045, is amended by striking ''or'' at the end of subparagraph (U), by striking the period at the end of subparagraph (V) and inserting ',or'', and by inserting after subparagraph (V) the following new subparagraph:

''(W) section 6048(b)(1)(B) (relating to foreign trust reporting requirements).''.

(2) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking the item relating to section 6048 and inserting the following new item:

''Sec. 604 Information with respect to certain foreign trusts.''.

(3) The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6677 and inserting the following new item:

''Sec. 6677. Failure to file information with respect to certain foreign trusts''

(d) EFFECTIVE DATES.—

(1) REPORTABLE EVENTS.—To the extent related to subsection (a) of section 6048 of the Internal Revenue Code of 1986, as amended by this section, the amendments made by this section shall apply to reportable events (as defined in such section 6048) occurring after the date of the enactment of this Act.

(2) GRANTOR TRUST REPORTING.—To the extent related to subsection (b) of such section 6048, the amendments made by this section shall apply to taxable years of United States persons beginning after the date of the enactment of this Act.

(3) REPORTING BY UNITED STATES BENEFICIARIES.—To the extent related to subsection (c) of such section 6048, the amendments made by this section shall apply to distributions received after the date of the enactment of this Act.

SEC. 222. MODIFICATIONS OF RULES RELATING TO FOREIGN TRUSTS HAVING ONE OR MORE UNITED STATES BENEFICIARIES.

(a) TREATMENT OF TRUST OBLIGATIONS, ETC.—

(1) Paragraph (2) of section 679(a) is amended by striking subparagraph (B) and inserting the following:

''(B) TRANSFERS AT FAIR MARKET VALUE.—To any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value.''.

(2) Subsection (a) of section 679 (relating to foreign trusts having one or more United States beneficiaries) is amended by adding at the end the following new paragraph:

''(3) CERTAIN OBLIGATIONS NOT TAKEN INTO ACCOUNT UNDER FAIR MARKET VALUE EXCEPTIONS.—

''(A) IN GENERAL.—In determining whether paragraph (2)(B) applies to any transfer by a person described in clause (ii) or (iii) of subparagraph (C), there shall not be taken into account—

''(i) except as provided in regulations, any obligation of a person described in subparagraph (C), and

''(ii) to the extent provided in regulations, any obligation which is guaranteed by a person described in subparagraph (C).

''(B) TREATMENT OF PRINCIPAL PAYMENTS ON OBLIGATION.—Principal payments by the trust on any obligation referred to in subparagraph (A) shall be taken into account on and after the date of the payment in determining the portion of the trust attributable to the property transferred.

''(C) PERSONS DESCRIBED.—The persons described in this subparagraph are—

''(i) the trust,

''(ii) any grantor or beneficiary of the trust, and

''(iii) any person who is related (within the meaning of section 643(i)(2)(B)) to any grantor or beneficiary of the trust.''.

(b) EXEMPTION OF TRANSFERS TO CHARITABLE TRUSTS.—Subsection (a) of section 679 is amended by striking ''section 404(a)(4) or 404A'' and inserting ''section 6048(a)*(3)(B)(ii)''.

(c) OTHER MODIFICATIONS.—Subsection (a) of section 679 is amended by adding at the end the following new paragraphs:

''(4) SPECIAL RULES APPLICABLE TO FOREIGN GRANTOR WHO LATER BECOMES A UNITED STATES PERSON.—

''(A) IN GENERAL.—If a nonresident alien individual has a residency starting date within 5 years after directly or indirectly transferring property to a foreign trust, this section and section 6048 shall be applied as if such individual transferred to such trust on the residency starting date an amount equal to the portion of such trust attributable to the property transferred by such individual to such trust in such transfer.

''(B) TREATMENT OF UNDISTRIBUTED INCOME.—For purposes of this section, undistributed net income for periods before such individual's residency starting date shall be taken into account in determining the portion of the trust which is attributable to property transferred by such individual to such trust but shall not otherwise be taken into account.

''(C) RESIDENCY STARTING DATE.—For purposes of this paragraph, an individual's residency starting date is the residency starting date determined under section 7701(b)(2)(A).

''(5) OUTBOUND TRUST MIGRATIONS.—If—

''(A) an individual who is a citizen or resident of the United States transferred property to a trust which was not a foreign trust, and

''(B) such trust becomes a foreign trust while such individual is alive,

then this section and section 6048 shall be applied as if such individual transferred to such trust on the date such trust becomes a foreign trust an amount equal to the portion of such trust attributable to the property previously transferred by such individual to such trust. A rule similar to the rule of paragraph (4)(B) shall apply for purposes of this paragraph.''.

(d) MODIFICATION RELATING TO WHETHER TRUST HAS UNITED STATES BENEFICIARIES.—Subsection (c) of section 679 is amended by adding at the end the following new paragraph:

''(3) CERTAIN UNITED STATES BENEFICIARIES DISREGARDED.—A beneficiary shall not be treated as a United States person in applying this section with respect to any transfer of property to foreign trust if such beneficiary first became a United States person more than 5 years after the date of such transfer.''.

(e) TECHNICAL AMENDMENT.—Subparagraph (A) of section 679(c)(2) is amended to read as follows:

''(A) in the case of a foreign corporation, such corporation is a controlled foreign corporation (as defined in section 957(a)),''.

(f) REGULATIONS.—Section 679 is amended by adding at the end the following new subsection:

''(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers of property after February 6, 1995.

SEC. 233. FOREIGN PERSONS NOT TO BE TREATED AS OWNERS UNDER GRANTOR TRUST RULES.

(a) GENERAL RULE.—

(1) Subsection (f) of section 672 (relating to special rule where grantor is foreign person) is amended to read as follows:

''(f) SUBPART NOT TO RESULT IN FOREIGN OWNERSHIP.—

''(1) IN GENERAL.—Notwithstanding any other provision of this subpart, this subpart shall apply only to the extent such application results in an amount being currently taken into account (directly or through 1 or more entities) under this chapter in computing the income of a citizen or resident of the United States or a domestic corporation.

''(2) EXCEPTIONS.—

''(A) CERTAIN REVOCABLE AND IRREVOCABLE TRUSTS.—Paragraph (1) shall not apply to any trust if—

''(i) the power to revest absolutely in the grantor title to the trust property is exercisable solely by the grantor without the approval or consent of any other person or with the consent of a related or subordinate party who is subservient to the grantor, or

''(ii) the only amounts distributable from such trust (whether income or corpus) during the lifetime of the grantor are amounts distributable to the grantor or the spouse of the grantor.

''(B) COMPENSATORY TRUSTS.—Except as provided in regulations, paragraph (1) shall not apply to any portion of a trust distributions from which are taxable as compensation for services rendered.

''(3) SPECIAL RULES.—Except as otherwise provided in regulations prescribed by the Secretary—

''(A) a controlled foreign corporation (as defined in section 957) shall be treated as a domestic corporation for purposes of paragraph (1), and

''(B) paragraph (1) shall not apply for purposes of applying section 1296.

''(4) RECHARACTERIZATION OF PURPORTED GIFTS.—In the case of any transfer directly or indirectly from a partnership or foreign corporation which the transferee treats as a gift or bequest, the Secretary may recharacterize such transfer in such circumstances as the Secretary determines to be appropriate to prevent the avoidance of the purposes of this subsection.

''(5) SPECIAL RULE WHERE GRANTOR IS FOREIGN PERSON.—If—

''(A) but for this subsection, a foreign person would be treated as the owner of any portion of a trust, and

''(B) such trust has a beneficiary who is a United States person,

such beneficiary shall be treated as the grantor of such portion to the extent such beneficiary has made transfers of property by gift (directly or indirectly) to such foreign person. For purposes of the preceding sentence, any gift shall not be taken into account to the extent such gift would be excluded from taxable gifts under section 2503(b).

''(6) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including regulations providing that paragraph (1) shall not apply in appropriate cases.''.

(2) The last sentence of subsection (c) of section 672 of such Code is amended by inserting ''subsection (f) and'' before ''sections 674''.

(b) CREDIT FOR CERTAIN TAXES.—Paragraph (2) of section 665(d) is amended by adding at the end the following new sentence: ''Under rules or regulations prescribed by the Secretary, in the case of any foreign trust of which the settlor or another person would be treated as owner of any portion of the trust under subpart E but for section 672(f), the term 'taxes imposed on the trust' includes the allocable amount of any income, war profits, and excess profits taxes imposed by any foreign country or possession of the United States on the settlor or such other person in respect of trust gross income.''.

(c) DISTRIBUTION BY CERTAIN FOREIGN TRUSTS THROUGH NOMINEES.—

(1) Section 643 is amended by adding at the end the following new subsection:

''(h) DISTRIBUTION BY CERTAIN FOREIGN TRUSTS THROUGH NOMINEES.—For purposes of this part, any amount paid to a United States person which is derived directly or indirectly from a foreign trust of which the payor is not the grantor shall be deemed in the year of payment to have been directly paid by the foreign trust to such United States person.''.

(2) Section 665 is amended by striking subsection (c).

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall take effort on the date of the enactment of this Act.

(2) EXCEPTION FOR CERTAIN TRUSTS.—The amendments made by this section shall not apply to any trust—

(A) which is treated as owned by the grantor or another person under section 676 or 677 (other than subsection (a)(3) thereof) of the Internal Revenue Code of 1986, and

(B) which is in existence on September 19, 1995.

The preceding sentence shall not apply to the portion of any such trust attributable to any transfer to such trust after September 19, 1995.

(e) TRANSITIONAL RULE.—If—

(1) by reason of the amendments made by this section, any person other than a United States person ceases to be treated as the owner of a portion of a domestic trust, and

(2) before January 1, 1997, such trust becomes a foreign trust, or the assets of such trust are transferred to a foreign trust,

no tax shall be imposed by section 1491 of the Internal Revenue Code of 1986 by reason of such trust becoming a foreign trust or the assets of such trust being transferred to a foreign trust.

SEC. 224. INFORMATION REPORTING REGARDING FOREIGN GIFTS.

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 is amended by inserting after section 6039F the following new section:

''SEC. 6039G. NOTICE OF GIFTS RECEIVED FROM FOREIGN PERSONS.

''(a) IN GENERAL.—If the value of the aggregate foreign gifts received by a United States person (other than an organization described in section 501(c) and exempt from tax under section 501(a)) during any taxable year exceeds $10,000, such United States person shall furnish (at such time and in such manner as the Secretary shall prescribe) such information as the Secretary may prescribe regarding each foreign gift received during such year.

''(b) FOREIGN GIFT.—For purposes of this section, the term 'foreign gift' means any amount received from a person other than a United States person which the recipient treats as a gift or bequest. Such term shall not include any qualified transfer (within the meaning of section 2503(e)(2)).

''(c) PENALTY FOR FAILURE TO FILE INFORMATION.—

''(1) IN GENERAL.—If a United States person fails to furnish the information required by subsection (a) with respect to any foreign gift within the time prescribed therefor (including extensions)—

''(A) the tax consequences of the receipt of such gift shall be determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise, and

''(B) such United States person shall pay (upon notice and demand by the Secretary and in the same manner as tax) an amount equal to 5 percent of the amount of such foreign gift for each month for which the failure continues (not to exceed 25 percent of such amount in the aggregate).

''(2) REASONABLE CAUSE EXCEPTION.—Paragraph (1) shall not apply to any failure to report a foreign gift if the United States person shows that the failure is due to reasonable cause and not due to willful neglect.

''(d) COST-OF-LIVING ADJUSTMENT.—In the case of any taxable year beginning after December 31, 1996, the $10,000 amount under subsection (a) shall be increased by an amount equal to the product of such amount and the cost-of-living adjustment for such taxable year under section 1(f)(3), except that subparagraph (B) thereof shall be applied by substituting '1995' for '1992'.

''(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''.

''(b) CLERICAL AMENDMENT.—The table of sections for such subpart is amended by inserting after the item relating to section 6039F the following new item:

''Sec. 6039G. Notice of large gifts received from foreign persons.''.

''(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after the date of the enactment of this Act in taxable years ending after such date.

SEC. 225. MODIFICATION OF RULES RELATING TO FOREIGN TRUSTS WHICH ARE NOT GRANTOR TRUSTS.

''(a) MODIFICATION OF INTEREST CHARGE ON ACCUMULATION DISTRIBUTIONS.—Subsection (a) of section 668 (relating to interest charge on accumulation distributions from foreign trusts) is amended to read as follows:

''(a) GENERAL RULE.—For purposes of the tax determined under section 667(a)—

''(1) INTEREST DETERMINED USING UNDERPAYMENT RATES.—The interest charge determined under this section with respect to any distribution is the amount of interest which would be determined on the partial tax computed under section 667(b) for the period described in paragraph (2) using the rates and the method under section 6621 applicable to underpayments of tax.

''(2) PERIOD.—For purposes of paragraph (1), the period described in this paragraph is the period which begins on the date which is the applicable number of years before the date of the distribution and which ends on the date of the distribution.

''(3) APPLICABLE NUMBER OF YEARS.—For purposes of paragraph (2)—

''(A) IN GENERAL.—The applicable number of years with respect to a distribution is the number determined by dividing—

''(i) the sum of the products described in subparagraph (B) with respect to each undistributed income year, by

''(ii) the aggregate undistributed net income.

The quotient determined under the preceding sentence shall be rounded under procedures prescribed by the Secretary.

''(B) PRODUCT DESCRIBED.—For purposes of subparagraph (A), the product described in this subparagraph with respect to any undistributed income year is the product of—

''(i) the undistributed net income for such year, and

''(ii) the sum of the number of taxable years between such year and the taxable year of the distribution (counting in each case the undistributed income year but not counting the taxable year of the distribution).

''(4) UNDISTRIBUTED INCOME YEAR.—For purposes of this subsection, the term 'undistributed income year' means any prior taxable year of the trust for which there is undistributed net income, other than a taxable year during all of which the beneficiary receiving the distribution was not a citizen or resident of the United States.

''(5) DETERMINATION OF UNDISTRIBUTED NET INCOME.—Notwithstanding section 666, for purposes of this subsection, an accumulation distribution from the trust shall be treated as reducing proportionately the undistributed net income for undistributed income years.

''(6) PERIODS BEFORE 1996.—Interest for the portion of the period described in paragraph (2) which occurs before January 1, 1996, shall be determined—

''(A) by using an interest rate of 6 percent, and

''(B) without compounding until January 1, 1996.''.

(b) ABUSIVE TRANSACTIONS.—Section 643(a) is amended by inserting after paragraph (6) the following new paragraph:

''(7) ABUSIVE TRANSACTIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including regulations to prevent avoidance of such purposes.''.

(c) TREATMENT OF LOANS FROM TRUSTS.—

(1) IN GENERAL.—Section 643 (relating to definitions applicable to subparts A, B, C, and D) is amended by adding at the end the following new subsection:

''(i) LOANS FROM FOREIGN TRUSTS.—For purposes of subparts B, C, and D—

''(1) GENERAL RULE.—Except as provided in regulations, if a foreign trust makes a loan of cash or marketable securities directly or indirectly to—

''(A) any grantor or beneficiary of such trust who is a United States person, or

''(B) any United States person not described in subparagraph (A) who is related to such grantor or beneficiary,

the amount of such loan shall be treated as a distribution by such trust to such grantor or beneficiary (as the case may be).

''(2) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

''(A) CASH.—The term 'cash' includes foreign currencies and cash equivalents.

''(B) RELATED PERSON.—

''(i) IN GENERAL.—A person is related to another person if the relationship between such persons would result in a disallowance of losses under section 267 or 707(b). In applying section 267 for purposes of the preceding sentence, section 267(c)(4) shall be applied as if the family of an individual includes the spouses of the members of the family.

''(ii) ALLOCATION.—If any person described in paragraph (1)(B) is related to more than one person, the grantor or beneficiary to whom the treatment under this subsection applies shall be determined under regulations prescribed by the Secretary.

''(C) EXCLUSION OF TAX-EXEMPTS.—The term 'United States person' does not include any entity exempt from tax under this chapter.

''(D) TRUST NOT TREATED AS SIMPLE TRUST.—Any trust which is treated under this subsection as making a distribution shall be treated as not described in section 651.

''(3) SUBSEQUENT TRANSACTIONS REGARDING LOAN PRINCIPAL.—If any loan is taken into account under paragraph (1), any subsequent transaction between the trust and the original borrower regarding the principal of the loan (by way of complete or partial repayment, satisfaction, cancellation, discharge, or otherwise) shall be disregarded for purposes of this title.''

(2) TECHNICAL AMENDMENT.—Paragraph (8) of section 7872(f) is amended by inserting '', 643(i).'' before ''or 1274'' each place it appears.

(d) EFFECTIVE DATES.—

(1) INTEREST CHARGE.—The amendment made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

(2) ABUSIVE TRANSACTIONS.—The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

(3) LOANS FROM TRUSTS.—The amendment made by subsection (c) shall apply to loans of cash or marketable securities after September 19, 1995.

SEC. 226. RESIDENCE OF ESTATES AND TRUSTS, ETC.

(a) TREATMENT AS UNITED STATES PERSON.—

(1) IN GENERAL.—Paragraph (30) of section 7701(a) is amended by striking subparagraph (D) and by inserting after subparagraph (C) the following:

''(D) any estate or trust if—

''(i) a court within the United States is able to exercise primary supervision over the administration of the estate or trust, and

''(ii) in the case of a trust, one or more United States fiduciaries have the authority to control all substantial decisions of the trust.''.

(2) CONFORMING AMENDMENT.—Paragraph (31) of section 7701(a) is amended to read as follows:

''(31) FOREIGN ESTATE OR TRUST.—The term 'foreign estate' or 'foreign trust' means any estate or trust other than an estate or trust described in section 7701(a)(30)(D).''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply—

(A) to taxable years beginning after December 31, 1996, or

(B) at the election of the trustee of a trust, to taxable years ending after the date of the enactment of this Act.

Such an election, once made, shall be irrevocable.

(b) DOMETIC TRUSTS WHICH BECOME FOREIGN TRUSTS.—

(1) IN GENERAL.—Section 1491 (relating to imposition of tax on transfers to avoid income tax) is amended by adding at the end the following new flush sentence:

''If a trust which is not a foreign trust becomes a foreign trust, such trust shall be treated for purposes of this section as having transferred, immediately before becoming a foreign trust, all of its assets to a foreign trust.''.

(2) PENALTY.—Section 1494 is amended by adding at the end the following new subsection:

''(c) PENALTY.—In the case of any failure to file a return required by the Secretary with respect to any transfer described in section 1491 with respect to a trust, the person required to file such return shall be liable for the penalties provided in section 6677 in the same manner as if such failure were a failure to file a return under section 6048(a).''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

CHAPTER 3—REPEAL OF BAD DEBT RESERVE METHOD FOR THRIFT SAVINGS ASSOCIATIONS

SEC. 231. REPEAL OF BAD DEBT RESERVE METHOD FOR THRIFT SAVINGS ASSOCIATIONS.

(a) IN GENERAL.—Section 593 (relating to reserves for losses on loans) is amended by adding at the end the following new subsections:

''(f) TERMINATION OF RESERVE METHOD.—Subsections (a), (b), (c), and (d) shall not apply to any taxable year beginning after December 31, 1995.

''(g) 6-YEAR SPREAD OF ADJUSTMENTS.—

''(1) IN GENERAL.—In the case of any taxpayer who is required by reason of subsection (f) to change its method of computing reserves for bad debts—

''(A) such change shall be treated as a change in a method of accounting,

''(B) such change shall be treated as initiated by the taxpayer and as having been made with the consent of the Secretary, and

''(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481(a)—

''(i) shall be determined by taking into account only applicable excess reserves, and

''(ii) as so determined, shall be taken into account ratably over the 6-taxable year period beginning with the first taxable year beginning after December 31, 1995.

''(2) APPLICABLE EXCESS RESERVES.—

''(A) IN GENERAL.—For purposes of paragraph (1), the term 'applicable excess reserves' means the excess (if any) of—

''(i) the balance of the reserves described in subsection (c)(1) (other than the supplemental reserve) as of the close of the taxpayer's last taxable year beginning before December 31, 1995, over

''(ii) the lesser of—

''(I) the balance of such reserves as of the close of the taxpayer's last taxable year beginning before January 1, 1988, or

''(II) the balance of the reserves described in subclause (I), reduced in the same manner as under section 585(b)(2)(B)(ii) on the basis of the taxable years described in clause (i) and this clause.

''(B) SPECIAL RULE FOR THRIFTS WHICH BECOME SMALL BANKS.—In the case of a bank (as defined in section 581) which was not a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1995—

''(i) the balance taken into account under subparagraph (A)(ii) shall not be less than the amount which would be the balance of such reserves as of the close of its last taxable year beginning before such date if the additions to such reserves for all taxable years had been determined under section 585(b)(2)(A), and

''(ii) the opening balance of the reserve for bad debts as of the beginning of such first taxable year shall be the balance taken into account under subparagraph (A)(ii) (determined after the application of clause (i) of this subparagraph).

The preceding sentence shall not apply for purposes of paragraphs (5) and (6) or subsection (e)(1).

''(3) RECAPTURE OF PRE–1988 RESERVES WHERE TAXPAYER CEASES TO BE BANK.—If, during any taxable year beginning after December 31, 1995, a taxpayer to which paragraph (1) applied is not a bank (as defined in section 581), paragraph (1) shall apply to the reserves described in paragraph (2)(A)(ii) and the supplemental reserve: except that such reserves shall be taken into account ratably over the 6-taxable year period beginning with such taxable year.

''(4) SUSPENSION OF RECAPTURE IF RESIDENTIAL LOAN REQUIREMENT MET.—

''(A) IN GENERAL.— In the case of a bank which meets the residential loan requirement of subparagraph (B) for the first taxable year beginning after December 31, 1995, or for the following taxable year—

''(i) no adjustment shall be taken into account under paragraph (1) for such taxable year, and

''(ii) such taxable year shall be disregarded in determining—

''(I) whether any other taxable year is a taxable year for which an adjustment is required to be taken into account under paragraph (1), and

''(II) the amount of such adjustment.

''(B) RESIDENTIAL LOAN REQUIREMENT.—A taxpayer meets the residential loan requirement of this subparagraph for any taxable year if the principal amount of the residential loans made by the taxpayer during such year is not less than the base amount for such year.

''(C) RESIDENTIAL LOAN.—For purposes of this paragraph, the term 'residential loan' means any loan described in clause (v) of section 7701(a)(19)(C) but only if such loan is incurred in acquiring, constructing, or improving the property described in such clause.

''(D) BASE AMOUNT.—For purposes of subparagraph (B), the base amount is the average of the principal amounts of the residential loans made by the taxpayer during the 6 most recent taxable years beginning on or before December 31, 1995. At the election of the taxpayer who made such loans during each of such 6 taxable years, the preceding sentence shall be applied without regard to the taxable year in which such principal amount was the highest and the taxable year in such principal amount was the lowest. Such an election may be made only for the first taxable year beginning after such date, and, if made for such taxable year, shall apply to the succeeding taxable year unless revoked with the consent of the Secretary.

''(E) CONTROLLED GROUPS.—In the case of a taxpayer which is a member of any controlled group of corporations described in section 1563(a)(1), subparagraph (B) shall be applied with respect to such group.

''(5) CONTINUED APPLICATION OF FRESH START UNDER SECTION 585 TRANSITIONAL RULES.—In the case of a taxpayer to which paragraph (1) applied and which was not a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1995.

''(A) IN GENERAL.—For purposes of determining the net amount of adjustments referred to in section 585(c)(3)(A)(iii), there shall be taken into account only the excess (if any) of the reserve for bad debts as of the close of the last taxable year before the disqualification year over the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection.

''(B) TREATMENT UNDER ELECTIVE CUTOFF METHOD.—For purposes of applying section 585(c)(4)—

''(i) the balance of the reserve taken into account under subparagraph (B) thereof shall be reduced by the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection, and

''(ii) no amount shall be includable in gross income by reason of such reduction.

''(6) SUSPENDED RESERVE INCLUDED AS SECTION 381(C) ITEMS.—The balance taken into account by a taxpayer under paragraph (2)(A)(ii) of this subsection and the supplemental reserve shall be treated as items described in section 381(c).

''(7) CONVERSIONS TO CREDIT UNIONS.—In the case of a taxpayer to which paragraph (1) applied which becomes a credit union described in section 501(c) and exempt from taxation under section 501(a)—

''(A) any amount required to be included in the gross income of the credit union by reason of this subsection shall be treated as derived from an unrelated trade or business (as defined in section 513), and

''(B) for purposes of paragraph (3), the credit union shall not be treated as if it were a bank.

''(8) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out this subsection and subsection (e), including regulations providing for the application of such subsections in the case of acquisitions, mergers, spinoffs, and other reorganizations.''

(b) CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 50 is amended by adding at the end the following new sentence:

''Paragraphs (1)(A), (2)(A), and (4) of the section 46(e) referred to in paragraph (1) of this subsection shall not apply to any taxable year beginning after December 31, 1995.''

(2) Subsection (e) of section 52 is amended by striking paragraph (1) and by redesignating paragraph (2) and (3) as paragraphs (1) and (2), respectively.

(3) Subsection (a) of section 57 is amended by striking paragraph (4).

(4) Section 246 is amended by striking subsection (f).

(5) Clause (i) of section 291(e)(1)(B) is amended by striking ''or to which section 593 applies''.

(6) Subparagraph (A) of section 585(a)(2) is amended by striking ''other than an organization to which section 593 applies''.

(7)(A) The material preceding subparagraph (A) of section 593(e)(1) is amended by striking ''by a domestic building and loan association or an institution that is treated as a mutual savings bank under section 591(b)'' and inserting ''by a taxpayer having a balance described in subsection (g)(2)(A)(ii)''.

(B) Subparagraph (B) of section 593(e)(1) is amended to read as follows:

(B) then out of the balance taken into account under subsection (g)(2)(A)(ii) (properly adjusted for amounts charged against such reserves for taxable years beginning after December 31, 1987).''.

(C) Paragraph (1) of section 593(e) is amended by adding at the end the following new sentence: ''This paragraph shall not apply to any distribution of all of the stock of a bank (as defined in section 581 to another corporation if, immediately after the distribution, such bank and such other corporation are members of the same affiliated group (as defined in section 1504) and the provisions of section 5(e) of the Federal Deposit Insurance Act (as in effect on December 31, 1995) or similar provisions are in effect.''.

(8) Section 595 is hereby repealed.

(9) Section 596 is hereby repealed.

(10) Subsection (a) of section 860E is amended—

(A) by striking ''Except as provided in paragraph (2), the'' in paragraph (1) and inserting ''The''.

(B) by striking paragraphs (2) and (4) and redesignating paragraphs (3) and (5) as paragraphs (2) and (3), respectively, and

(C) by striking in paragraph (2) (as so redesignated) all that follows ''subsection'' and inserting a period.

(11) Paragraph (3) of section 992(d) is amended by striking ''or 593''.

(12) Section 1038 is amended by striking subsection (f).

(13) Clause (ii) of section 1042(c)(4)(B) is amended by striking ''or 593''.

(14) Subsection (c) of section 1277 is amended by striking ''or to which section 593 applies''.

(15) Subparagraph (B) of section 1361(b)(2) is amended by striking ''or to which section 593 applies''.

(16) The table of sections for part II of subchapter H of chapter 1 is amended by striking the items relating to sections 595 and 596.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1995.

(2) SUBSECTION (b)(7).—The amendments made by subsection (b)(7) shall not apply to any distribution with respect to preferred stock if—

(A) such stock is outstanding at all times after October 31, 1995, and before the distribution, and

(B) such distribution is made before the date which is 1 year after the date of the enactment of this Act (or, in the case of stock which may be redeemed, if later, the date which is 30 days after the earliest date that such stock may be redeemed).

(3) SUBSECTION (b)(8).—The amendment made by subsection (b)(8) shall apply to property acquired in taxable years beginning after December 31, 1995.

(4) SUBSECTION (b)(10).—The amendments made by subsection (b)(10) shall not apply to any residual interest held by a taxpayer if such interest has been held by such taxpayer at all times after October 31, 1995.