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.''

In contrast, the term ''intact dilation and evacuation'' was invented by the late Dr. James McMahon, and until recently, was idiosyncratic to him. It appeared in no standard medical textbook or database, nor anywhere in the standard textbook on abortion methods, Abortion Practice by Dr. Warren Hern. Because ''intact dilation and evacuation''[2] 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 ''intact dilation and evacuation'' 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, at least one 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.''

[In his 1992 instructional paper, Dr. Haskell referred to the method as ''dilation and extraction'' or ''D&X''—noting that he ''coined the term.'' When the bill was drafted, the term ''dilation and extraction'' did not appear in medical dictionaries or databases.]

The term chosen by Congress, partial-birth abortion, 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 breech type of delivery.

ARE THE FIVE LINE DRAWINGS OF THE PROCEDURE CIRCULATED BY NRLC ACCURATE, OR MISLEADING?

The AMA newspaper 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.''

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.

THE PARTIAL-BIRTH ABORTION BAN ACT (H.R. 1833) AS PASSED BY THE U.S. SENATE ON DECEMBER 7, 1995 AND BY THE U.S. HOUSE OF REPRESENTATIVES ON MARCH 27, 1996

Section 1. Short Title.

This Act may be cited as the ''Partial-Birth Abortion Ban Act of 1995.''

Sec. 2. Prohibition on Partial-Birth Abortions

(a) In General.—Title 18, United States Code, is amended by inserting after Chapter 73 the following: ''Chapter 74—Partial-Birth Abortions.

Sec. 1531. Partial-birth abortions prohibited.

(a) Any physician who, in or affecting interstate or foreign commerce, knowingly performs a partial-birth abortion and thereby kills a human fetus shall be fined under this title or imprisoned not more than two years, or both. 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.

(b)(1) As used in this section, the term 'partial-birth abortion' means an abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery.

(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 provisions of this section.

(c)(1) The father, if married to the mother at the time she receives a partial-birth abortion procedure, and if the mother has not attained the age of 18 years at the time of the abortion, the maternal grandparents of the fetus, may in a civil action obtain appropriate relief, unless the pregnancy resulted from the plaintiff's criminal conduct or the plaintiff consented to the abortion.

(2) Such relief shall include—

(A) money damages for all injuries, psychological and physical, occasioned by the violation of this section; and

(B) statutory damages equal to three times the cost of the partial-birth abortion.

(d) A woman upon whom a partial-birth abortion is performed may not be prosecuted under this section, for a conspiracy to violate this section, or for an offense under section 2, 3, or 4 of this title based on a violation of this section.

STEP 5

''[T]he surgeon then forces the scissors into the base of the skull * * * [H]e 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.'' Text from Martin Haskell, M.D., Dilation and Extraction for Late Second Trimester Abortion.

[2] The term ''intact dilation and evacuation'' should not be confused with ''dilation and evacuation,'' which is a procedure commonly sued in second-trimester abortions, involving dismemberment of the fetus/baby while still in the uterus. The bill does not apply to ''dilation and evacuation'' abortions at all.

TRIBUTE TO ANTONIO BROWN

HON. JACK KINGSTON

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 1996

Mr. KINGSTON. Mr. Speaker, I submit for the RECORD a story of a true hero. It is fitting and proper for Congress to recognize Mr. Antonio Brown for his gallant effort. We need more citizens like him.

[From the Savannah Morning News, June 28, 1996]

MAN SHOT TRYING TO THWART ARMED ROBBERY

(By John Cheves and Keith Paul)

Antonio L. Brown wasn't going to stand quietly and watch a mugging.

Not on his street. Not when the victim was a friend.

Instead, Brown was shot in the head at about 11 p.m. Wednesday after he attempted to thwart the armed robbery on the 600 block of East Duffy Street, just a stone's throw from his family's home.

He remained in critical condition Thursday night at Memorial Medical Center.

The 21-year-old Savannah High School graduate was standing in his small front yard late Wednesday, relatives said. When Brown looked west down Duffy Street, he saw the attempted mugging of a male friend.

''He said, 'I just can't let that happen like that,' and then he walked over there,'' said nephew Rajai Steward on Thursday.

Added Savannah police Detective Deborah A. Robinson, ''Brown stepped in between the two to stop the robbery. He was trying to fight with the assailant and was shot once in the head.''

Police searched Thursday for the suspected gunman, Jarrett Myers, 20, of 413 E. Waldburg St. Police filed warrants charging Myers with aggravated assault.

Brown knew Myers casually, but the two weren't friends, Brown's family said.

The 600 block of East Duffy Street is a narrow, dead-end road that sits in the heart of ''Area C,'' a midtown neighborhood generally considered the poorest and most violent part of Savannah.

But Brown, known as Tony to friends, wasn't the type of man to walk away from a threat in a hostile environment, relatives said.

''I look at him as a hero, Steward said. ''A lot of * * * men, they wouldn't have gotten involved.''

Brown's wife, Jacqueline Steward, said Brown had just been hired as a bricklayer here in Savannah, and he had a strong work ethic.

''He was the type of person, he didn't bother with nobody,'' she said. ''He didn't hang out on the street or sell drugs, or anything like that.''

DIABETES RESEARCH

HON. ROBERT C. SCOTT

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 26, 1996

Mr. SCOTT. Mr. Speaker, recently at a special session of the Congressional Black Caucus, members learned about the devastating impact of diabetes in the African-American community. I wanted to share with my colleagues the exciting research underway at the Diabetes Institute in Norfolk, VA. The work being done there holds out the hope that we can actually discover a cure for this disease and I believe we must do all we can to support efforts that have this much promise. Mr. Speaker, I ask unanimous consent that the attached article from the Virginia-Pilot be printed in the CONGRESSIONAL RECORD.

[The Virginia-Pilot, Tuesday, July 9, 1996]

A RESEARCH GAMBLE

(By Marie Joyce)

Someday, Dr. Aaron I. Vinik may be able to say that he and his colleagues helped cure diabetes, through work they did at the Diabetes Institutes at Norfolk's Eastern Virginia Medical School.

Someday.

Right now, Vinik, his staff and the medical school are taking a high-stakes gamble.

Medical research is expensive.

The payoff isn't guaranteed.

Other scientists around the world are chasing the same type of cure and hoping to get there first.

Because fund-raising efforts have fallen short and grants are hard to come by, money matters now loom almost as large as scientific questions at the institutes.

If Vinik's project succeeds, it could help millions of diabetes sufferers, and bring glory and money to the relatively new medical school and to Hampton Roads. If it fails—despite years of effort and millions of dollars—most people probably will never know about it.

The public hears only about the great discoveries, said Jock R. Wheeler, the school's dean.

''There are many more scientists who work their entire lifetimes and never gain recognition or the goals they've set for themselves,'' he said. ''That doesn't mean they've been unsuccessful.''

A scientist who cures diabetes would improve the lives of millions in the United States alone.

Diabetes happens because the body either can't make or can't properly use insulin, a hormone that helps process sugar and other carbohydrates.

It has been diagnosed in 8 million Americans, and some health officials estimate as many as 8 million more have the disease but don't know it. In 1992, diabetes contributed to the deaths of at least 170,000 people in the United States, according to the Centers for Disease Control and Prevention. It can lead to blindness, heart disease, stroke, kidney failure and nerve damage.

Vinik and his staff say they have taken a big step toward a possible cure. Working with collaborators at McGill University in Montreal, they've discovered a mix of proteins that spurs the body to grow more insulin-producing cells, Vinik says.

The researchers have experimented with a mix of proteins that cures the disease in hamsters, that were given a chemical to make them diabetic, Vinik said. The scientists do much of their work in a building on Brambleton Avenue, across from the medical school's main buildings.

The human body grows insulin-producing cells, located at the pancreas, before birth. After birth, the body doesn't create many more of these cells.

But in people with diabetes, the process malfunctions. With type 1 diabetes—which accounts for only about 5 percent of all cases—the body apparently attacks and kills its own insulin-producing cells. With type 2, either the body can't efficiently use the insulin or the cells can't make enough; sometimes, the cells die under the strain.

Vinik and his colleagues are trying to revive the ability the body had before birth, prompting it to grow more insulin-producing cells.

To do that, they must accomplish two things:

They must find a specific gene that acts as a blueprint, telling the body to create the protein. Or they must isolate the specific protein created by the gene.

They must find other substances that shut off the process once enough insulin-producing cells have been created.

Potentially, Vinik says, the discovery could help all type 1 sufferers and the 15 percent or so of type 2 victims who lose their insulin-producing cells.

If they can accomplish all this in animals, they probably can do it in humans, too, Vinik said. Right now, the key is finding the blueprint gene in hamsters.

No one at the medical school will disclose how close—or how far—they are. They must be careful, they say, not to reveal too much to rival scientists.

''One never knows until the last minute, until the last experiment was done,'' said Dr. Leon-Paul Georges, director of the institutes. ''It's a tremendous gamble, in a way.''

For the last 7 years or so, the medical school and Hampton Roads contributors have been putting their money on the table to fund this research.

The institutes run a large patient-care clinic and education programs. Vinik, who had earned an international reputation at the University of Michigan Medical School and elsewhere, arrived to head the research division in 1990. A new laboratory opened that fall, after a foundation fund-raising campaign brought in $11.5 million in less than four years.

Georges remembers a day when he and Vinik ordered a million dollars worth of sophisticated diagnostic equipment and supplies.

Since then, there have been up years and down years with fund raising, said Georges. The last year or so has been down. Last week, the research division dropped 10 jobs, almost half of its 25-person staff, although none of the researchers worked on Vinik's key project. They're also scaling back on supplies and equipment purchases. The patient care and education departments weren't affected.

The Diabetes Institutes Foundation, the Norfolk-based, non-profit group that finds money for the institutes, collected about $700,000 less than it hoped to in the 1994–95 fiscal year, according to the foundation's tax forms. The foundation began that year about $700,000 behind for a combined shortfall of about $1.4 million.

The foundation's board is composed mostly of community volunteers. Georges, who sits on the board, said that despite members' hard work, it simply wasn't possible to raise as much as they had hoped. They were able to raise about $800,000 for the institutes in the 1994–95 fiscal year, according to tax documents.

The medical school had been making up the difference between what was budgeted and what was raised. The foundation intends to repay the money, but so far hasn't been able to, Georges said.

This year, the medical school's and institutes' board members decided the school couldn't fill the gap anymore.

With less money, Vinik says, the institute must look to other funding sources to continue at the same pace. And success may depend on speed. More than a half-dozen other centers around the world are investigating the same type of treatment.

Wheeler, the medical school's dean, won't say whether he thinks the work will go more slowly now. He said the board still backs Vinik's project. ''We think the diabetes program has been very successful and we think it will continue to be very successful,'' Wheeler said.

But the foundation and the medical school—like institutions around the country—have been hurt by a shrinking pot of research and education money from the government and private groups, say school officials.

''The decisions in medical schools are very difficult right now,'' Wheeler said.

The Diabetes Institutes will continue with other major research projects, although they may have to cut back on some less important investigations.

Among other things, the institutes are participating in a study of a medicine that reverses some diabetes-related nerve damage. A major biotechnology company is funding some of that work. The project has attracted a lot of attention and brought in patients and donations from around the country.

As for the project on growing insulin-producing cells, the institutes will look for other sources of money, said Vinik. They will seek more collaborators at other schools, who would take on some of the work in exchange for some of the benefits.

Biomedical companies may be willing to bankroll the work because they expect it to pay off. Georges and Vinik say they have spoken with several major firms, which have signed agreements to examine the research without divulging it.

Research spending is always a bit of a wild card investment, even through school administrators look hard at the science before they spend the money.

''I can't say, 'I have this project, and if I spend this amount of money, I'm going to get this result,''' Wheeler said. ''You have to understand—that's what research is all about. You're looking for new ideas. . . You may not discover the fountain of youth.''