Manzullo
Mascara
McCollum
McCrery
McDade
McHugh
McInnis
McIntyre
McKeon
McNulty
Metcalf
Mica
Miller (FL)
Mollohan
Moran (KS)
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Ortiz
Packard
Pappas
Parker
Pascrell
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Poshard
Pryce (OH)
Quinn
Radanovich
Rahall
Regula
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schiff
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Stupak
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOES—175

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Capps
Cardin
Carson
Castle
Clay
Clayton
Clyburn
Condit
Conyers
Coyne
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dixon
Doggett
Dooley
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frelinghuysen
Frost
Furse
Gejdenson
Gephardt
Gilman
Gonzalez
Green
Greenwood
Gutierrez
Harman
Hastings (FL)
Hilliard
Hinchey
Hinojosa
Hooley
Horn
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kennedy (MA)
Kennedy (RI)
Kennelly
Kilpatrick
Kind (WI)
Klug
Kolbe
LaFalce
Lampson
Lantos
Lazio
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McKinney
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Molinari
Moran (VA)
Morella
Nadler
Neal
Obey
Olver
Owens
Pallone
Pastor
Payne
Pelosi
Pickett
Pomeroy
Price (NC)
Ramstad
Rangel
Reyes
Rivers
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Shays
Sherman
Skaggs
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stokes
Strickland
Tanner
Tauscher
Thompson
Thurman
Tierney
Towns
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOT VOTING—10

Bono
Burton
Callahan
Hilleary
Kaptur
McIntosh
Oxley
Smith, Linda
Torres
Waxman

□ 1223

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.

PERSONAL EXPLANATION

Mr. McINTOSH. Mr. Speaker, on rollcall No. 62, I was unavoidably detained. Had I been present, I would have voted ''aye.''

GENERAL LEAVE

Mrs. MYRICK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Resolution 100.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from North Carolina?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MCINNIS). The Chair notes that there has been a disturbance in the visitor's gallery in contravention of the law and the rules of the House of Representatives. The doormen and the police will remove from the gallery those persons participating in the disturbance.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate has passed a concurrent resolution of the following title in which the concurrence of the House is requested:

S. Con. Res. 14. Concurrent resolution providing for a conditional adjournment or recess of the Senate and the House of Representatives.

The message also announced that pursuant to Public Law 104–264, the Chair, on behalf of the Democratic leader, appoints the following individuals to the National Civil Aviation Review Commission:

Linda Barker, of South Dakota; and
William Bacon, of South Dakota.

PARTIAL-BIRTH ABORTION BAN ACT OF 1997

Mr. CANADY of Florida. Mr. Speaker, pursuant to House Resolution 100, I call up the bill (H.R. 1122) to amend title 18, United States Code, to ban partial-birth abortions, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The text of H.R. 1122 is as follows:

H.R. 1122

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Partial-Birth Abortion Ban Act of 1997''.

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.

''§ 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, on 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.''.

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 73 the following new item:

''74. Partial-birth abortions ..... 1531''.

The SPEAKER pro tempore. Pursuant to House Resolution 100, the gentleman from Florida [Mr. CANADY] and the gentleman from Michigan [Mr. CONYERS] each will control 1 hour.

The Chair recognizes the gentleman from Florida [Mr. CANADY].

Mr. CANADY of Florida. Mr. Speaker, I yield myself such time as I may consume.

□ 1230

Mr. Speaker, today for the fourth time the House considers an issue

which has provoked discussion around the country and last year brought a flood of millions of postcards and calls to Capitol Hill. H.R. 1122, the Partial-Birth Abortion Ban Act of 1997, bans a particular type of abortion procedure known as partial-birth abortion. A partial-birth abortion is any abortion in which a living baby is partially vaginally delivered before the abortionist kills the baby and completes the delivery. An abortionist who violates the ban would be subject to fines or a maximum of 2 years imprisonment or both. The bill also establishes a civil cause of action for damages against an abortionist who violates the ban. The cause of action can be maintained by the father of the child or, if the mother is under 18, the maternal grandparents.

Thousands of partial-birth abortions are performed each year, primarily in the fifth and sixth months of pregnancy on the healthy babies of healthy mothers. The infants subjected to partial-birth abortion are not unborn. Their lives instead are taken away during a breech delivery.

Mr. Speaker, the infants subjected to partial-birth abortion are not unborn. Their lives instead are taken away during a breech delivery. Thus breech delivery, a procedure which obstetricians use in some circumstances to bring healthy children into the world, is perverted and made an instrument of death. The physician traditionally trying 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.

While every abortion takes a human life, the partial-birth abortion method takes that life during the fifth month of pregnancy or later as the baby emerges from the mother's womb, and this procedure bears a undeniable resemblance to infanticide. H.R. 1122 would end this cruel practice.

The realities of this practice are truly horrible to contemplate. The partial-birth abortion procedure is performed from around 20 weeks to full term. It is well documented that a baby is highly sensitive to pain stimuli during this period and even earlier.

In his testimony before the Constitution Subcommittee on June 15, 1995, Prof. Robert White, director of the Division of Neurosurgery and Brain Research Laboratory at Case Western Reserve School of Medicine, stated, and I quote, ''The fetus within this timeframe of gestation, 20 weeks and beyond, is fully capable of experiencing pain.'' After specifically analyzing the partial-birth abortion procedure, Dr. White concluded, and I quote again, ''Without question, all of this is a dreadfully painful experience for any infant subjected to such a surgical procedure.''

Now, the advocates of abortion have engaged in a furious effort to deny the realities of partial-birth abortion. They have repeatedly misrepresented the facts on this gruesome procedure. Shortly after H.R. 1833, the Partial-Birth Abortion Ban Act of 1995, was introduced in 104th Congress the National Abortion Federation, the National Abortion Rights Action League, and Planned Parenthood began to make a variety of false claims about the partial-birth abortion procedure. These claims continued into the 105th Congress that continue to this day. Let me give just two examples.

Opponents of the bill argued, and the media accepted, that anesthesia administered to the mother during a partial-birth abortion kills the infant before the procedure begins, and therefore there is no partial delivery of a living fetus. But Dr. Norig Ellison, the President of the American Society of Anesthesiologists, says this claim regarding anesthesia has, quote, ''absolutely no basis in scientific fact,'' close quote.

Dr. David Birnbach, the president-elect of the Society for Obstetric Anesthesia and Perinatology, says it is crazy because anesthesia does not kill an infant if one does not kill the mother.

The American Medical News reported on the controversy in a January 1, 1996, article which stated, ''Medical experts contend the claim is scientifically unsound and irresponsible, unnecessarily worrying pregnant women who need anesthesia. But while some abortion proponents are now qualifying their assertion that anesthesia induces fetal death, they are not backing away from it.''

The creation of this anesthesia myth by abortion advocates is particularly unconscionable because it poses a threat to the health of mothers. Dr. Ellison explained that he was deeply concerned that widespread publicity may cause pregnant women to delay necessary and perhaps lifesaving medical procedures totally related to the birthing process due to misinformation regarding the effect of anesthetics on the fetus. He also pointed out that annually more than 50,000 pregnant women receive anesthesia while undergoing necessary, even lifesaving surgical procedures. If the concept that anesthesia could produce neurologic demise of the fetus were not refuted, pregnant women might refuse to undergo necessary procedures.

Clearly, anesthesia administered during a partial-birth abortion neither kills the unborn child nor alleviates the child's pain. But despite the widespread circulation and the egregious nature of the falsehood that anesthesia harms unborn children, proabortion organizations which purport to care for women's health have taken no steps to retract their erroneous statements or to inform women that anesthesia administered to a mother does not kill her unborn child.

Abortion advocates have also claimed that partial-birth abortion is rare and used only in difficult circumstances. This has been a claim that has been at the center of the debate in opposition to this bill. In fact, the National Abortion Federation, the National Abortion Rights Action League, and Planned Parenthood have falsely claimed from the beginning of the debate over partial-birth abortion that it is a rare procedure performed only in extreme cases involving severely handicapped children, serious threats to the life or the health of the mother or the potential destruction of her future fertility. Once again this claim is contradicted by the evidence.

Dr. Martin Haskell, an Ohio abortionist, told the American Medical News that the vast majority of partial-birth abortions he performs are elective. He stated, quote, ''And I'll be quite frank: Most of my abortions are elective in that 20-to-24 week range. In my particular case, probably 20 percent are for genetic reasons. And the other 80 percent are purely elective,'' close quote.

Another abortionist, Dr. McMahon of California, used the partial-birth abortion method through the entire 40 weeks of pregnancy. He sent the Constitution Subcommittee a graph which showed the percentage of flawed fetuses that he aborted using the partial-birth abortion method. The graph shows that even at 26 weeks of gestation half the babies that 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 nine partial-birth abortions performed because the baby had a cleft lip.

On September 15, 1996, the Sunday Record, a newspaper in Bergen, NJ, reported that in New Jersey alone at least 1,500 partial-birth abortions are performed each year, three times the supposed national rate. Moreover, doctors say only a minuscule amount are for medical reasons.

This article refuted the abortion advocates' claims that partial-birth abortion was both rare and only performed in extreme medical circumstances. The article quotes an abortionist at the New Jersey clinic that annually performs the 1,500 partial-birth abortions as describing their patients who come in during the fifth and sixth months of pregnancy, quote:

Most are Medicaid patients, and most are for elective, not medical, reasons. People did not realize or did not care how far along they were, most are teenagers.

The evidence is incontrovertible. Thousands of partial-birth abortions are performed every year on the healthy babies of healthy mothers during the fifth and sixth months of pregnancy. However, abortion advocates have continued to disseminate false information to Congress, the press and the public. As recently as February 25 of this year, the home page of the National Abortion Federation informed journalists and other Web visitors, quote:

This procedure is used only in about 500 cases per year, generally after 20

weeks of pregnancy and most often when there is a severe fetal anomaly or maternal health problems detected late in pregnancy, close quote.

The same week the National Abortion Federation Web page misinformed the public the New York Times reported that an abortion rights advocate admitted that he had lied about partial-birth abortion. Ron Fitzsimmons, the executive director of the second largest trade association of abortion providers in the country, said that he intentionally lied through his teeth. And I am using his words there. He said he lied through his teeth when he told a ''Nightline'' camera that partial-birth abortion is rare and performed only in extreme medical circumstances. The New York Times reported that Mr. Fitzsimmons says the procedure is performed far more often than his colleagues have acknowledged and on healthy women bearing healthy fetuses. ''The abortion rights folks know,'' he said. The Times took some of its information from an American Medical News article in which Mr. Fitzsimmons was interviewed. Fitzsimmons told the American Medical News that proabortion spokespersons should drop their spins and half-truths. He explained that their disinformation has hurt the abortionists he represents and said:

''When you're a doctor who does these abortions and the leaders of your movement appear before Congress and go on network news and say these procedures are done in only the most tragic of circumstances, how do you think it makes you feel? You know they are primarily done on healthy women and healthy fetuses, and it makes you feel like a dirty little abortionist with a dirty little secret,'' close quote.

Ron Fitzsimmons' admissions makes clear that the proabortion lobby has engaged in a concerted and ongoing effort to deceive the Congress and the American people about partial-birth abortion. They attempted to hide the truth because they know the American people would be outraged by the facts that thousands of partial-birth abortions are performed every year, primarily in the fifth and sixth months of pregnancy, on the healthy mothers of healthy babies.

When President Clinton vetoed H.R. 1833 during the last Congress, he relied on information, or I should say misinformation, from abortion advocates. He claimed that, unless partial-birth abortion was performed in some situations, women would be eviscerated or ripped to shreds so they could never have another baby.

I suggest what is eviscerated and ripped to shreds in this debate by the opponents of this bill is the truth.

The claim that the President made has been proven to be completely false. When he was interviewed in the American Medical News, former Surgeon General C. Everett Koop said: ''In no way can I twist my mind to see that the late-term abortion, as described, the partial birth, and then the destruction of the unborn child before the head is born, is a medical necessity for the mother. It certainly can't be a necessity for the baby. So I am opposed to partial-birth abortions,'' close quote.

In addition, a group of over 400 obstetricians, gynecologists and maternal fetal specialists have unequivocally stated partial-birth abortion is never medically indicated to protect a woman's health or her fertility. In fact the opposite is true. The procedure can pose a significant and immediate threat to both the pregnant woman's health and her fertility.

Not only are obstetricians, gynecologists and maternal fetal specialists concerned that women may be harmed by partial-birth abortion, but a leading authority on abortion techniques himself has also expressed concern about the safety of the procedure.

Warren Hern, M.D., an abortionist who wrote the Nation's most widely used book on abortion procedures, said quote, ''I have very serious reservations about this procedure. You can't really defend it. I'm not going to tell somebody else they should not do this procedure, but I'm not going to do it.'' He continued:

I would dispute any statement that this is the safest procedure to use. It is clear that there is no need for partial-birth abortion. Look at what this procedure is. This is partial-birth abortion.

Now, I have described this procedure many times in the course of this debate. Every time I describe it, I wince. This is something we should not have to be talking about here. But this is something that is going on in America, and it is something that the American people have a right to know about, and it is something which should come to an end.

In partial-birth abortion, guided by ultrasound, the abortionist grabs the live baby's leg with forceps.

□ 1345

The baby's leg is pulled out into the birth canal. The abortionist delivers the baby's entire body, except for the head. Then, and this is the critical step in this procedure, I hope all of the Members will pay particular attention to this step, because in this step the abortionist jabs scissors into the baby's skull, the scissors are then opened to enlarge the hole made in the baby's skull. Of course, that is the step that kills the baby.

Then, having killed the child, the scissors are removed and a suction catheter is inserted into the hole, the baby's brains are sucked out, and the delivery is completed.

Let me ask my colleagues this, particularly those who have claimed that this is a procedure necessary to protect the health of women. How could jamming scissors into the back of the baby's head be required for the health of the mother? If my colleagues look at this procedure, they will simply see that the claims make no sense. The claims made by supporters of partial-birth abortion about the mother's health, along with all of the other falsehoods, are advanced by people who are desperate to escape from reality in their quest to defend the indefensible.

In this House many issues come and go. Most of the votes we cast in this Chamber are soon forgotten. But today's vote on partial-birth abortion will be remembered. The Members of this House will not be able to escape their responsibility for the votes they cast on this important issue. I appeal to my colleagues, put aside the myths, put aside the distortions, put aside all of the misinformation. Look at the facts. Consider the truth. Face up to the reality of partial-birth abortion. Look at this procedure, look at it, look at what it results in. It cannot be defended. Support the Partial-Birth Abortion Ban Act and bring this brutal practice to an end.

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

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

Mr. Speaker, I say to my colleagues of the 105th Congress, we assemble again to take up an issue that we have dealt with in the previous Congress, the President has dealt with by vetoing it, the Congress has dealt with the attempt to override by not being able to override, and so we gather today with the same piece of legislation attempting to do the same thing. Why?

Well, it just so happens that notwithstanding my good friend, the gentleman from Florida [Mr. CANADY], whose desire and commitment to this subject matter has led the Congress into this situation for two Congresses in a row, we are faced with a constitutional problem.

Let us spell it out right at the beginning of this debate, shall we?

It is a constitutional problem that we did not invent, and it is embodied in two parts of the Constitution, the 5th amendment and the 14th amendment, in the parts of those amendments that are known as the due process clauses. In the due process clauses, it has been found by the U.S. Supreme Court on more than one occasion that a right of privacy to the woman that has a reproductive choice is grounded in constitutional guarantees.

Now, that is the state of the American law as we meet here this afternoon in the House of Representatives. Unfortunately, I say to the gentleman from Florida [Mr. CANADY], there is only one way we can change that, and that is through a constitutional amendment that would alter the Supreme Court's repeated findings on this subject.

So my colleagues might ask that since we have been through this exercise in the 104th Congress, why do we not just introduce a constitutional amendment? Good question. Why do we not just amend the Constitution if we are trying to stop abortion?

Well, the reason I believe is patently clear. Most Americans and certainly most women and certainly a far majority of the doctors realize that some abortions are necessary, and they also realize that some abortions are not necessary. As a matter of fact, most of the States have already outlawed the gruesome drawing that was first brought forward by the gentleman from Florida [Mr. CANADY] because that is a late-term abortion, banned by statute in 40 States and the District of Columbia, prohibited entirely. And so we want to talk about not trying to inflame this discussion.

So I say to my colleagues, we are coming back on a constitutionally protected question in which the health and the life of the mother is constitutionally protected. Elementary.

In the Canady proposal before us there is a safeguard of life; there is not a safeguard of health. Why will we not put in health?

Well, ask the gentleman. But because it is not in here, we are not able to move this forward as a constitutional proposition, whether myself or the gentleman from Florida [Mr. CANADY] like it or not. It is unconstitutional. Most legal scholars have said that. The President has said that. Most of the Congress, in failing to override the veto, have conceded that. So why are we doing it again? Why?

Well, because the only way we can get to this problem if we do not want to introduce a constitutional amendment, as we ought to, is to go at ending abortion in this country procedure by procedure, and where else to start but the inaccurately, politically named partial-birth abortion ban. Is there such a term in medical dictionaries? No. Used in medical circles? No. Used in political circles? Yes. Invented for the purpose of this debate? Yes. So here we are again.

The fact of the matter is, the health of the mother is what prevents the President from supporting a congressional ban. As long as we leave that out, President Clinton will veto this bill. He has told us that repeatedly, and he is telling us that again today. I am explaining it again today. I do not care how many Congresses we use, how many times we reintroduce this bill, how many times the House Committee on the Judiciary votes this to the floor, it is unconstitutional. Please understand that.

So we are here confronted with whether the health of the mother should be overridden or whether it should not. Well, we say that unless you put health in, we will have to respectfully oppose this proposition as it was in the other Congress. The President will respectfully veto this proposition as he did in the other Congress. The override is probably going to be as unsuccessful as it was in the other Congress.

So we gather here today to follow the Canady mission. No matter how legal, no matter how constitutional, we are going to do this anyway. We are going to get a vote, we are going to debate it, we are going to put up inaccurately rendered depictions.

Of course, there are doctors that agree with the gentleman from Florida [Mr. CANADY]. Of course there are doctors, and the Anerican College of Obstetricians and Gynecologists, that do not agree with the gentleman from Florida [Mr. CANADY], and so here we are to begin the debate.

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

Mr. CANADY of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to respond briefly to a point the gentleman made about the constitutionality of this legislation. The claim made by opponents of the bill is that this is a bill that violates Roe versus Wade. There is an important point to understand here. I do not agree with Roe. I think the Court was wrong in that decision, and that is a debate that will go on.

However, in that decision the Court dealt with the status of the unborn child. In this bill we are not dealing with the unborn child, we are dealing with a child that is partially delivered, the child that is in effect four-fifths born, and I think that distinguishes this bill from the facts in Roe, and actually in that case, which involved a Texas statute, there was a particular provision in the Texas statute which imposed penalties for killing a child in the process of birth, and the Court explicitly withheld a ruling on the constitutionality of that provision.

So I believe that although I find fault with Roe, I do not believe that this bill is inconsistent with it.

Mr. Speaker, I yield 1 minute and 15 seconds to the gentlewoman from Missouri [Mrs. EMERSON].

Mrs. EMERSON. Mr. Speaker, I want to express my absolute support for the Partial-Birth Abortion Ban Act. I thank the gentleman from Florida [Mr. CANADY] for all of his hard work on this bill, and I join all of those who believe in the basic value of human life in working for passage of this important legislation.

The truth of the matter is that partial-birth abortion is a horrendous act of murder. It is not a late-term abortion, it is not a necessary medical procedure. Such phrases conceal the brutal and inhumane reality. The details of a partial-birth abortion are horrible beyond words, and the law must not continue to condone so terrible an atrocity.

Today this Congress and this Nation has the opportunity to take an affirmative stand for the basic value of human life. We might talk for hours about the medical evidence, the detailed studies, and the expert testimony, all of which would tell us that the ban on partial-birth abortions is the right and just thing.

However, we must always keep in mind that the fundamental issue is the life of an unborn child and the value that our Nation places on that life. This is the matter before the Congress, which is why we must make certain to pass the ban. To ban the partial-birth abortion is to say that America will not tolerate the cruelty and inhumanity that it represents.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia [Mr. SCOTT].

Mr. Speaker, will the gentleman yield?

Mr. SCOTT. I yield to the gentleman from Michigan.

□ 1300

Mr. CONYERS. Mr. Speaker, this is implied from the Federal court decision in Ohio that the gentleman from Florida [Mr. CANADY] does not like on Roe versus Wade. The contention that H.R. 929 falls outside of the restriction of Roe because the fetus is ''almost'' born is fallacious on its face. The intact D&E procedure targeted by the bill, and by the way, D&E procedure is the correct term, the D&E procedure targeted by the bill falls within the general understanding of abortion. The definitions used in the bill and even the title of the bill, repeatedly utilize the term ''abortion.'' To attempt to assert that the abortion procedures covered by the bill are somehow exempt from the constitutional protections of Roe is to abandon legal credibility. Indeed any arguments to such effect have already been implicitly rejected by the Federal court in Ohio, which has found unconstitutional a State law ban on intact D&E procedures absent an adequate health exception.

Mr. SCOTT. Could the gentleman indicate what he was reading, Mr. Speaker?

We will get the citation on that for the gentleman.

Mr. Speaker, I cannot support this bill because it is unconstitutional. In a full committee debate on a similar bill, the proponents have acknowledged that it is in fact unconstitutional under the present Supreme Court decisions. Though abortion has always been a controversial issue, the fact is that since 1973, in the Supreme Court Roe versus Wade, abortion has been legal in this country.

It is still the law of the land that a woman's right to an abortion before fetal viability is a fundamental right, but the Government may prohibit postviability abortions absent a substantial threat to the life or health of the mother.

We may agree or disagree on the Supreme Court decisions, but that is in fact the law of the land. The Supreme Court has prohibited regulations that place an undue burden on women seeking abortions, and included in this undue burden concept is a prohibition against regulations that jeopardize a woman's health by chilling the physician's exercise of discretion in determining which abortion method may be used.

Mr. Speaker, this bill will prohibit the use of one procedure that may be the safest for women in certain circumstances. The American College of Obstetricians and Gynecologists, the largest organization of women's doctors, says that this legislation has the potential of prohibiting specific medical practices that are critical to the lives and health of American women.

Mr. Speaker, such interference in a physician's exercise of discretion jeopardizes the health of women and is as dangerous as it is unconstitutional. Although the health of the mother must remain the primary interest in order to meet constitutional muster, this bill includes no provision which allows an exception from the ban in those cases where other methods pose a serious health risk to the mother.

The Partial-birth Abortion Act will not prevent a single abortion. It simply prevents one procedure that in certain circumstances is the most appropriate procedure available.

Mr. Speaker, many of my colleagues and I are open to working with the majority on language that would have brought this bill within constitutional limits. For example, many of us support a ban, a total prohibition, on all abortions not protected by Roe versus Wade; that is, all abortions not specifically excepted and prohibited from prohibition under Roe versus Wade. This bill only prohibits one procedure, not the decision to undergo an abortion.

Therefore, if this bill passes, some women may be relegated to a more dangerous procedure which may well increase their chances of being killed, maimed, or sterilized, and I hope my colleagues will work to protect the health of the women in America by defeating this bill.

Mr. CONYERS. Mr. Speaker, if the gentleman will continue to yield, I want to point out to the gentleman from Florida [Mr. CANADY] that my referencing the statement that I read was implied from a Federal court decision in Ohio entitled Women's Medical Professional Corporation versus Voinovich.

GENERAL LEAVE

Mr. CANADY of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the legislation now being considered.

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 3 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, this a very difficult issue. It is difficult for Members of Congress, it is difficult for America, it traumatizes most people to debate this issue. I would hope that we could do it in a civil manner, in an intelligent manner, and in a bipartisan manner, because if we ban this particular procedure, I think we are doing what is right to bring down the number of abortions in this country that I think both sides want to accomplish.

Mr. Speaker, I know that this is difficult because many of my colleagues tell me that they are not doctors. Mr. Speaker, we are asked every day in this body to be scientists, to vote on the hydrogen program; to be road experts, and vote for ISTEA programs for construction; to be gun experts and decide whether to ban an AK–47. Today we must vote on this particular issue. I would hope my colleagues, Democrat and Republican, conservative and liberal, would vote to ban this brutal, gruesome, and inhumane procedure.

When I talk about this procedure, I am not going to describe it. I am not going to describe it. I am going to give hopefully the advice that I have received from the medical community, because I am not a doctor, but I have talked to the medical profession about this.

What have they said? The American Medical Association's Council on Legislation voted unanimously, unanimously, 12 to 0, to prohibit this medical procedure, 12 to nothing. They called it basically repulsive. Surgeon General, former Surgeon General C. Everett Koop, very respected by both sides of the aisle, has said, and I quote, ''In no way can I twist my mind to see that the late-term abortion as described, you know, partial-birth and then destruction of the unborn child before the head is born, is a medical necessity for the mother.''

Finally, OB–GYN's that I have talked to and my staff has talked to with over 40 years of experience have said that there is absolutely no medical need for this gruesome abortion procedure. Mr. Speaker, I would hope that we would come together today and ban this procedure.

Finally, Mr. Speaker, in the February 3, 1997 edition of Time Magazine, ''How a Child's Brain Develops,'' we are finding that the most critical years, based upon cutting edge research, now are 0 to 5 in children's learning abilities. In 5 years we will probably learn that it takes place even earlier, and in this article, it also says that a child's capability of learning a second language is best at zero to 6.

As a Democrat that believes in education and will fight for every dollar for preschool programs, that believes in the rights of children, I would hope that we would start by banning this procedure today to help our children, and continue to fight later on to help prevent unwanted pregnancies, to help with preventive and abstinence programs, and to fund programs for our children in this Nation.

Mr. CONYERS. Mr. Speaker, I am pleased now to yield 4 minutes to the gentlewoman from New York, Mrs. NITA LOWEY, the former chair of the Congressional Woman's Caucus.

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

Mrs. LOWEY. Mr. Speaker, I rise in opposition to H.R. 1122. This is a highly emotional and personal issue. There are deeply held views on both sides of the debate, and I know that my colleagues who oppose a woman's right to choose do so sincerely and with great conviction. Mr. Speaker, I say to my friends, I respect their beliefs but I oppose this bill.

The legislation before us today is clearly unconstitutional. It endangers the lives and health of American women. It would put doctors in jail, and it is the first step on the road to the back alley.

Mr. Speaker, this bill tramples on Roe versus Wade and is a direct assault on the constitutionally protected right to choose. The legislation bans abortions prior to fetal viability, a prohibition that the Supreme Court has repeatedly declared unconstitutional.

Prior to viability, women have the right to choose without Government interference, and although the Supreme Court has consistently ruled that abortion restrictions after viability must protect the life and health of the pregnant woman, the bill contains only a narrow exception to protect a woman's life, and no exception at all to protect her health.

The bill says that the health of the woman does not matter. I say it does. Women from around the Nation testified before Congress that this procedure protected their lives and health, women like Tammy Watts, Claudia Addes, and Maureen Britel, who would have been harmed by this bill.

These women desperately wanted to have children. They had purchased baby clothes, they had picked out names. They did not decide to abort because of a headache. They did not choose to abort because their prom dress did not fit. They chose to become mothers and only terminated their pregnancies because of tragic circumstances.

Mr. Speaker, who in this body stands in judgment of them? Who would impose himself in the operating room and circumscribe their options? In those tragic cases where family hear the news that their pregnancies had gone horribly awry, who should decide? When the couple gets the news that their baby's brain is growing outside of its head, that it has no spine, who should decide?

The one thing I know for sure is that this body, this Congress, should not be making that decision. At that terrible, tragic moment the Government has no place. Yet this ban will put Congress directly in the operating room, and impose the Federal Government in the doctor-patient relationship. It will force trained physicians to choose between the health of their patients and imprisonment.

We know that women will continue to seek abortions, even if they are

criminalized. We remember the days before Roe versus Wade. We know that thousands of women died undergoing unsafe, illegal abortions, and we will not allow this Congress to force American women into the back alley ever again. This is just the beginning. The Republicans will not stop with one procedure. They want to ban all abortions at any time by any method.

Mr. Speaker, as a mother of three beautiful grown children, as a recent grandmother, as one who respects life with every ounce of my soul, I urge my colleagues to vote against this ban.

□ 1315.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentlewoman from Washington [Mrs. SMITH].

Mrs. SMITH of Washington. Mr. Speaker, I rise today in support of the Partial-Birth Abortion Ban Act. America is too good for infanticide. Babies have to stay protected by our Constitution. If babies go first, who is next?

I want to take this opportunity to share with you a memo from a pro-abortion group that I just got, assuming that all women will support this gruesome procedure. They gave us instructions on how to debate the procedure and they said, and I will quote, Do not talk about the fetus. No matter what we call it, this kills an infant. Do not argue about the procedure, the partial-birth procedure is gruesome. There is no way to make it pleasant to voters or even only distasteful.

Mr. Speaker, I urge my colleagues to see past the smoke screen that has been created by the abortion lobby. Again, America is too good to support infanticide.

NATIONAL RIGHT TO LIFE COMMITTEE, INC.,
Washington, DC, March 20, 1997.

CONGRESSMAN HOYER SAYS THE GREENWOOD-HOYER ''MOTION TO RECOMMIT WITH INSTRUCTIONS'' ALLOWS EVEN THIRD-TRIMESTER ABORTIONS FOR ''MENTAL HEALTH'' AND ''PSYCHOLOGICAL TRAUMA''

When the House takes up the Partial-Birth Abortion Ban Act (HR 1122) Thursday, March 20, Rep. Steny Hoyer (D–Md.) and Rep. Jim Greeneood (R–Pa.) are expected to offer a ''motion to recommit with instructions'' that will include the substance of the measure that they introduced on March 12 as HR 1032, which they call the ''Late-Term Abortion Restriction Act.''

The Hoyer-Greenwood measure would:

Allow all methods of abortion, including partial-birth abortion, on demand until ''viability''; and

Empower the abortionist himself (''the attending physician'') to define what ''viability'' means; and

Even after this self-defined ''viability,'' and *even in the third-trimester,* allow partial-birth abortions to be performed whenever ''in the medical judgment of *the attending physician,* the abortion is necessary . . . to avert serious adverse *health* consequences to the woman.'' [emphasis added] [see Hoyer's explanation below]

At a March 12 press conference in the House Radio-TV Gallery, which was tape-recorded, Congressman Hoyer was asked what the word ''health'' means in his statement. Mr. Hoyer responded as follows:

[We] included the language ''*serious* adverse health consequences.'' We're not talking about a hangnail, we're not talking about a headache. Does it include—and this is one of the things that the opponents of this particular legislation, the proponents of the pro-life position, would contend—*does it include mental health? Yes, it does.* [emphasis added]

I point out that the overwhelming majority of Americans, and Members who vote on this floor, are for an exception for rape and incest. The exception of rape and incest, of course, is *not* because a pregnancy resulting from rape or incest causes a *physical* danger to the woman. It is because it poses a *psychological trauma* to the woman to carry to term, either because she is very young, impregnated by her father or brother or some other family member, or because she is raped. In the debate some years ago, for example, I used Willy Horton as an example. [End of Hoyer quote. Italics indicates Mr. Hoyer's verbal emphasis]

Thus, by the explicit statement of its author, the Hoyer-Greenwood motion would allow partial-birth abortions (and other abortions) even in the final three months of pregnancy, whenever an abortionist simply affirms that this would prevent ''serious'' ''mental health'' ''consequences.'' Further, Mr. Hoyer's own interpretation of ''mental health'' is not limited to women who are, say, severely psychotic. Rather, Mr. Hoyer explicitly acknowledged that ''serious . . . health'' covers ''psychological trauma.'' Legally, the language is all-encompassing.

Morever, under the Hoyer-Greenwood measure, the abortionist himself decides what ''viability'' means. This is like Congress passing a bill to ''ban'' so-called ''assault weapons,'' with a provision to allow each gundealer to define ''assault weapon.'' The Hoyer-Greenwood bill does not ''regulate'' the abortionist; rather, it empowers the abortionist to regulate himself.

In real medical practice, ''viability'' begins at 23 weeks, when the baby's lung development is sufficient to allow survival in about one case in four. But late-term abortionists often have their own idiosyncratic notions of when ''viability'' occurs, which may have no relationship to neonatal medicine or to the babies' actual survival prospects.

In short, the Hoyer-Greenwood bill does not ''restrict'' abortions after viability, nor does it ''restrict'' third-trimester abortions. Indeed, the Hoyer measure would be an empowerment by Congress for abortionists to perform third-trimester abortions with complete impunity.

Under the Hoyer-Greenwood measure, Congress would confer on the abortionist himself explicit authority to judge, by his own standards and immune from review by any other authority: (1) what ''viability'' means, and (2) whether an abortion would prevent ''serious'' harm to ''health,'' including ''mental health'' or ''psychological trauma,'' in Mr. Hoyer's words.

Thus, under the Hoyer-Greenwood bill, it is impossible for an abortionist to perform an ''illegal'' third-trimester abortion, because he alone decides what is legal. Such a law would be a mere facade—it would not prevent a single partial-birth abortion, nor would it prevent a single third-trimester abortion.

For further documentation on partial-birth abortions, the Partial-Birth Abortion Ban Act, and the Clinton-Hoyer-Daschle ''phony bans,'' contact the National Right to Life Committee's Federal Legislative Office at (202) 626–8820, fax (202) 347–3668, or see the NRLC Homepage at www.nrlc.org.

[From the Washington Post Health Section, Sept. 17, 1996]

VIABILITY AND THE LAW

(By David Brown, M.D.)

The normal length of human gestation is 266 days, or 38 weeks. This is roughly 40 weeks from a woman's last menstrual period.

Pregnancy is often divided into three parts, or ''trimesters.'' Both legally and medically, however, this division has little meaning. For one thing, there is little precise agreement about when one trimester ends and another begins. Some authorities describe the first trimester as going through the end of the 12th week of gestation. Others say the 13th week. Often the third trimester is defined as beginning after 24 weeks of fetal development.

Nevertheless, the trimester concept—and particularly the division between the second and third ones—commonly arises in discussion of late-stage abortion.

Contrary to a widely held public impression, third-trimester abortion is not outlawed in the United States. The landmark Supreme Court decisions Roe v. Wade and Doe v. Bolton, decided together in 1973, permit abortion on demand up until the time of fetal ''viability.'' After that point, states can limit a woman's access to abortion. The court did not specify when viability begins.

In Doe v. Bolton the court ruled that abortion could be performed after fetal viability if the operating physician judged the procedure necessary to protect the life or health of the woman. ''Health'' was broadly defined.

''Medical judgment may be exercised in the light of all factors—physical, emotional, psychological, familial and the woman's age—relevant to the well-being of the patient,'' the court wrote. ''All these factors may relate to health. This allows the attending physician the room he needs to make his best medical judgment.''

Because of this definition, life-threatening conditions need not exist in order for a woman to get a third-trimester abortion.

For most of the century, however, viability was confined to the third trimester because neonatal intensive-care medicine was unable to keep fetuses younger than that alive. This is no longer the case.

In an article published in the journal Pediatrics in 1991, physicians reported the experience of 1,765 infants born with a very low birth weight at seven hospitals. About 20 percent of those babies were considered to be at 25 weeks' gestation or less. Of those that had completed 23 weeks' development, 23 percent survived. At 24 weeks, 34 percent survived. None of those infants was yet in the third trimester.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. FRANK] the ranking member of the Committee on the Judiciary.

Mr. FRANK of Massachusetts. Mr. Speaker, I thank our senior member for yielding me the time. I appreciate the skill with which he is managing our side of this very difficult issue.

I want to call attention to an amendment which the majority refused to allow. When Members have come forward, as the gentlewoman from New York just did, with an eloquence and passion that is a model of how issues ought to be discussed, and talk about threats to the health of women and talk about how this bill does not allow a doctor to take into account serious adverse health consequences, some of my friends on the other side said, well,

health is too vague. Health could mean severe mental health problems. We want to rule that out.

But what they do not say is that they do not only want to rule out mental health, which seems to be a valid consideration, they would deny the use of this procedure to a woman even if the doctor could show that it was necessary to avoid serious physical damage to her health. And I have offered an amendment that says only that, that we will not preclude this if a doctor finds it necessary to avoid long-term serious adverse physical health damage. They will not allow that amendment. They will not allow even a vote on that.

The chairman of the full committee, a man of great intellectual integrity who was against abortion in any form or shape, says the reason he voted against that amendment was that if it is a choice between the life of the fetus and severe physical health damage to the mother, then the mother must incur that damage and not only that, we in Congress will decide that the mother must incur that damage.

I think the failure to allow a vote on serious physical health adverse consequences in the first place deprives them the right to argue about mental health because they will not allow any health requirement.

We are not talking about whether or not you have an abortion at all but about the procedure. And what they are trying to do is to force a vote which would, and let us be very clear, the vote would make it impossible for a doctor to even try to show that it was necessary to use this procedure to avoid serious long-term physical damage.

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

Mr. FRANK of Massachusetts. I yield to the gentleman from Oklahoma.

Mr. COBURN. Mr. Speaker, I think the point is there is not ever a case, never a case where this procedure is needed to protect the life of a woman.

Mr. FRANK of Massachusetts. Mr. Speaker, the gentleman has made his point.

Let me say this, if in fact Members were confident of that, then the amendment would be harmless because this bill does not say, I do not like this bill, but I am dealing with the framework you put forward, the bill does not say, if in the opinion of the physician, it says you can have such an exception for life if it is necessary. My amendment tracks that language. My amendment says, the doctor would have to show that it was necessary to prevent long-term physical health.

The gentleman at the microphone, a doctor, is convinced that never, ever, ever in the whole history of the world would it be physically possible. That is a judgment he is qualified to make.

But I do not believe we as a Congress ought to legislate that it is never possible. The fact is that if it is never possible, the exception will not be a very large one because it is not a subjective amendment.

I will go back to what the chairman of the full committee said, as I said, a man of great integrity, he said, if there is a choice between physical damage to the mother, serious adverse physical damage, and the life of the fetus, even if we are talking about a fetus with the brain on the outside, as the gentlewoman from New York pointed out, that tragic situation, this would not be allowed.

I want to make it clear, I do not believe you should restrict into physical health in general, but here we have an unusual bill. This bill concededly by its sponsors does not try to stop abortions. It would allow all manner of abortion except this procedure.

Now, your mental health would be relevant, and it still would be as to whether or not you could have an abortion. A severely depressive situation would be a justification for an abortion, as the exception. When we are talking only about this procedure versus that procedure, then it seems to me it is relevant to talk only about physical. But again the assertion that it is never, ever going to be physical, and we have had women and doctors who disagree, the doctors do disagree, the question is, Should the Congress adopt the view that it is never valid to try to avoid serious physical health damage to the mother if that means this particular abortion procedure?

That, I wanted to point out, is the amendment that they would not even let us vote on. That is the choice. I think it is unfortunately indicative of some Members who might rather have an issue to take to the country than a piece of legislation.

I believe the adoption of this legislation, of this amendment, even though I might not like it, could lead to a signed bill. The failure even to allow a vote on this and the insistence on defeating it, it seems to me, shows a preference for an issue over a piece of legislation.

I thank my ranking member for yielding me the time.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma [Mr. COBURN].

Mr. COBURN. Mr. Speaker, I think it is important, first of all, having delivered greater than 3,100 babies and cared for over 10,000 women in my medical experience, I want to again reemphasize, there is no medical indication ever for this procedure.

To answer the gentleman from Massachusetts' question, why would you, if in fact there is a reason to do this procedure, why would you do it to a live baby? Why would not the doctor kill the baby first, which in fact is what they do.

The very false arguments, false arguments that are put forward is that the baby, with the encephalocele or the externalized brain, the people that do this procedure actually kill the children first. There is no reason to use that as an argument. That sets up my second point.

This argument is about whether or not we are going to talk about the truth of the procedure. You will not find in any medical textbook, you will not find in any residency training program where they teach doctors to care for women's health, you will never find where this procedure is taught or is shown as an indicated procedure. Why not? Very simple reason: It is not ever indicated. It is not indicated in the medical literature. It has been abhorred.

There was a statement earlier that said that the ACOG was worried about this because it had the potential of inhibiting. They said, they do not like this procedure either. What they said is the Congress dealing with these issues have the potential of inhibiting care. Potential is very much different than changing or affecting care.

We were told that this was done on a small number of infants and that it was always done or most always done on infants with severe deformities. That was an out-and-out lie. I stood on this floor last year and said that was untrue. I will tell Members today, it is untrue, absolutely, without question that this is ever needed to take care of a woman's health.

Second point, it was said that a woman's fertility can only be protected sometimes by using this. That is exactly the opposite of the truth. I can give you cases where women's fertility because of this procedure has been ruined forever. It goes against everything we are taught in the medical community to preserve fertility and to preserve a woman's health.

Mr. CONYERS. Mr. Speaker, I yield 1½ minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I thank the gentleman for yielding time to me.

First, I would say, I think the gentleman from Oklahoma's comments help focus this. He said that as far as this legislation is concerned, if the fetus was killed earlier in the procedure, then this bill would not have any affect. I think that shows, we are not here talking about not having the abortion or not bringing an end to the potential life. I think that ought to be clear.

I think we have heard arguments on the other side that suggested that this is opposition to abortion. That underlines the point that has been made here. This is not a bill about stopping abortions in any circumstances, mental health, whatever the reason. It is saying, well, you did not perform the fatal act early enough.

I think that is a great distinction with very little difference. I think that it undercuts the arguments they have been making. I think people have been led to believe that this was going to prevent late term abortion. We have the acknowledgment that it does no such thing and does not even try to.

Second, as to the medical argument, I do not think Congress ought to arbitrate disagreements among doctors. There are doctors who have said they would find this procedure useful in some particular circumstances. For Congress to legislate that it would never ever be useful physically to use this particular procedure rather than another is, it seems to me, a great overreach.

Again, I want to underline, as the gentleman from Oklahoma made clear, we are not talking about stopping abortions. We are not talking about stopping abortions even late in pregnancy. We are talking about dictating particular procedures to doctors even if they think the physical health of their patient would be better served otherwise.

Mr. CANADY of Florida. Mr. Speaker, I would inquire of the Chair concerning the amount of time remaining on each side.

The SPEAKER pro tempore (Mr. MCINNIS]. The gentleman from Michigan [Mr. CONYERS] has 34¾ minutes remaining, and the gentleman from Florida [Mr. CANADY] has 34¾ minutes remaining.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. BUYER], a member of the Committee on the Judiciary.

Mr. BUYER. Mr. Speaker, I rise in support of this measure to ban the partial-birth abortion procedure. The procedure is defined in the bill as the partial delivery of a living fetus which is then destroyed prior to the completion of delivery. This is a particularly appalling procedure in which the difference between complete birth and abortion is a matter of a few inches in the birth canal.

The bill applies only to the procedure in which the living fetus is partially delivered prior to the abortion act being completed. There is the exception in the bill for the instances in which the life of the mother is at risk. It is amazing for me to listen to people here say we are not going to let Congress get involved in this issue. They should stay out of the operating room, when in fact Congress does get involved with prohibiting certain drugs to be used, overnight stays for mastectomy, prohibiting physician-assisted suicide.

We have got mandates. I heard a gentlewoman from New York standing here who is an advocate of the overnight stays for Medicaid births, and I agree with her. But yet she wants the Government to get involved in certain things but not certain things—drawing the line.

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the gentlewoman from California [Ms. WOOLSEY].

Ms. WOOLSEY. Mr. Speaker, I rise in strong opposition to this bill. Make no mistake about it, this vote with all the emotional rhetoric and the exaggerated testimony is a frontal attack on Roe versus Wade, plain and simple.

The majority leadership wants to do away with Roe, the radical right wants to do away with Roe, and this bill is the first step. So let us be honest about this. This bill, which the President vetoed last year, will outlaw medical technique which is rarely used but is sometimes required in extreme and tragic cases.

□ 1330

For example, when the life of the mother is in danger or a fetus is so malformed that it has no chance for survival. When a woman is forced to carry a malformed fetus to term, they are in danger of chronic hemorrhaging, permanent infertility or death.

Friends, I have a personal story. My life has been touched by these extreme and tragic cases. In the early 1900's, when my grandmother was in the late stages of her first pregnancy, a terrible complication arose. At a critical moment they knew that my grandmother would die unless a late-term abortion was performed. Because of my grandmother's life and health and because her life and health were saved, my mother was born a few years later. A late-term abortion made my life possible.

Let me read my colleagues a brief list of organizations that oppose this bill: The American College of Obstetricians and Gynecologists, the American Public Health Association, the American Nurses Association, the list goes on and on. Doctors and nurses oppose this bill because they see tragic cases like my grandparents all the time. They know that H.R. 1122 will cost women their lives or reproductive health.

The majority party in this House has proved time and again its resolve to make Roe versus Wade ring hollow for most American women. We cannot let this happen. Protect a woman's right to choose, protect women's lives and women's health, leave medical decisions up to the patient and the physician, not the Congress. Vote ''no'' on this bill.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Tennessee, [Mr. BRYANT] a member of the Committee on the Judiciary.

Mr. BRYANT. Mr. Speaker, I guess we have moved from the spirit of Hershey and our bipartisan retreat and we are now talking about the radical right and calling names.

I would remind the gentlewoman from California that this radical right that opposed this procedure voted in record numbers last year, 288 Members of the House, which showed a bipartisan spirit. Both Democrats and Republicans supported this ban. If they are all radical right, then more power to the radical right.

I want to talk very quickly on this issue of health. I sat on the floor last year and heard the arguments from the other side, maybe it is the radical left, I do not know, using numbers: There are only 500 of the procedures done a year and it is only in the most grossly abnormal cases. However, Mr. Fitzsimmons cleared that up when he came out and said no, that is an absolute lie.

We have seen reports out of a New Jersey newspaper where there are 1,500 procedures like this done in one hospital. Are there that many abnormalities in one hospital that they do 1,500 of these? No. I suggest to my colleagues that these are being done for the convenience of the doctors.

It is a grossly inhumane procedure. If it were a criminal penalty, it would be outlawed by the eighth amendment to the Constitution which prevents cruel and inhuman treatment.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York [Mrs. MCCARTHY].

Mrs. MCCARTHY of New York. Mr. Speaker, I have only been here 3 months, and what I hear today upsets me greatly. I am against late-term abortion. I am against any kind of abortion. I am also a nurse. We have 435 Members in this Congress. Two, I believe, are doctors; two, I believe, are nurses; and yet here we are making decisions on women's health and lives and the children.

I am sorry, there is not one person in this Chamber that wants to see a child die, but I feel we are hypocrites.

I am on the Committee on Economic and Educational Opportunities and I am fighting for every dollar to certainly take care of those children that have severe disabilities. I am on the Juvenile Task Force trying to protect the children that are alive. If we cannot take care of the children that are chosen to be born in this country, because women do want children, who are we to have the right to have that decision?

Further down the road we will have bills here that we are going to be voting on so doctors can have the choice of saying what is good for a patient that has breast cancer, and yet here we stand making these choices.

No one wants to take a child's life. Nobody. Who are we to make a decision for that woman? We cannot make that decision for the woman. We are not in her shoes.

And as it seems we are going to make those choices, I am not even allowed to vote on a bill that would certainly take away late-term abortions. I am being forced to vote for a bill that I do not want. Those are the choices that I am being given here. I think that is terrible.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Arkansas [Mr. HUTCHINSON].

Mr. HUTCHINSON. Mr. Speaker, during this debate we have heard a great deal about exceptions, about medical judgment and about statistics. I believe this debate goes much deeper. This debate searches out the soul of our culture. It is ultimately a question of how we are willing to define ourselves as a civilization.

We must ask ourselves, are we so self-indulgent in our Nation that all

notions of right and wrong can be summarily reduced to a matter of choice? Is there no point at which we can agree that the sanctity of human life takes precedence over the lure of choice?

A recent editorial writer in Arkansas defined the true debate that we face today. He said partial-birth abortion has long since ceased to be a medical question. It is a political question. It is about competing values. It is about whether we should be able to destroy human life in order to shape ours in a way that we would prefer. It is about what we hold sacred in our Nation. It is about our culture.

Mr. Speaker, let us reaffirm America as a culture of hope, a culture of life.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentlewoman from Oregon [Ms. FURSE].

Ms. FURSE. Mr. Speaker, I think many people here will have noticed that there are very few women in this body, but I want to speak to the women of America:

You are the ones that this bill will harm. Ask yourself this question. What will it be like if this bill passes? When you go to your doctor's office, who will make the medical decisions? Will you and your physician or will the politicians in this room make the decision?

I want to tell my colleagues about somebody who went to her doctor's office with a terrible decision: Coreen Costello from California. They had a much-wanted pregnancy but they found that the fetus had become dreadfully damaged. What her physician said was, ''We want you to have this surgery because it will save your opportunity to have another child.''

They were opposed to abortion, this family, but this was a medical decision. They went ahead with the procedure. And just 2 years later, Coreen was delivered of a healthy baby.

But let me tell you, make no mistake, women of America, that the next time, if this bill passes, that you go to your doctor's office, you will not get all the options. You will not get the best medical advice. You will get the advice of a great number of politicians.

I am going to vote ''no'' on this bill. I am going to vote for women, I am going to vote for doctors, and I encourage my colleagues to do the same.

Mr. CANADY of Florida. Mr. Speaker, I yield 1¼ minutes to the gentleman from Michigan [Mr. BARCIA].

Mr. BARCIA. Mr. Speaker, today I am wearing a pin given to me by one of my constituents, Luella Britton, from Bay City, Michigan.

These tiny feet that are fully formed are the exact size of an unborn baby's feet at 10 weeks after conception, the first trimester. The procedure we are debating is most often performed during the second or third trimester. In some cases, the baby is fully developed and could survive outside the womb.

If modern medical science considers a child delivered at 24 weeks viable, how can we consider his or her counterpart expendable?

I agree that individuals should have the right to make decisions that affect their lives. I also strongly believe in the sanctity of life. If 80 percent of abortions in this country are elective, we have to reevaluate the value that our society places on human life.

If this decision is not made in the case of rape or of incest, or if the mother's life is not in danger, then this is a selfish decision. At 10 weeks an unborn child's feet are perfectly formed. I ask my colleagues to think of an unborn child at 4 months or 8 months. That child is whole, alive, and in many cases can survive outside the womb.

A vote for House Resolution 1122 will protect children. A vote against House Resolution 1122 will end thousands of children's lives.

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts [Mr. DELAHUNT], a distinguished member of the Committee on the Judiciary.

Mr. DELAHUNT. Mr. Speaker, this legislation infringes on the constitutional right of a woman to elect a medical procedure which may, in the judgment of her physician, be the best means of preserving her life and her health. This bill is not about procedure, it is about women's lives.

At the Committee on the Judiciary markup I read into the record a portion of the testimony of Maureen Britell, a constituent of mine from Sandwich, MA. She is also a woman of remarkable courage who came forward to tell her story because of her concern that the procedure performed on her would be illegal if this bill becomes law. She describes herself as a textbook case of why this legislation is dangerous.

Mrs. Britell discovered in the sixth month of her pregnancy that her unborn daughter had a fatal anomaly in which the fetal brain fails to develop. Her doctors advised her to induce labor and end the pregnancy immediately for the sake of her health. As a devout Catholic, she was extremely reluctant to do this, but ultimately decided, with the support of her family and her priest, to have the abortion.

During the delivery, the fetus became lodged in the birth canal. The doctors had to cut the umbilical cord, ending the baby's life in order to complete the delivery and avoid serious health consequences to Mrs. Britell.

In her testimony she said, ''Although the delivery did not proceed as expected, the doctors acted in a medically appropriate way and I recovered well. At the hospital we were able to hold our baby and say our goodbyes. Our parish priest performed a small Catholic funeral for the family and a few close friends. Our baby was buried at Otis Air Force Base on Cape Cod. My husband and I are still mourning the loss of our daughter.''

One might have hoped that, confronted with a story such as this, the authors of this legislation would think again; that they would try to modify their bill. Unfortunately, nearly all amendments offered in committee were rejected and the bill we are considering excludes even the few that were agreed to.

As we heard, my friend, the gentleman from Massachusetts [Mr. FRANK], offered an amendment to confine the constitutionally mandated health exception to situations in which the abortion is necessary to avert serious adverse physical health consequences to the mother. The proponents defeated that amendment and they have refused to allow a similar amendment to come to the floor today.

Supporters of this bill have expressed a concern that a health exception could mean anything and would allow a woman to have abortions for frivolous reasons.

Mr. CANADY of Florida. Mr. Speaker, I yield 3½ minutes to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, I thank my good friend for yielding this time to me.

Mr. Speaker, the leadership of the pro-abortion movement are highly skilled and extraordinarily savvy in masking the violence and cruelty to baby girls and boys killed by abortion and the harmful effects to women. Nobody muddies the water like they do. That leadership has now been exposed once again by one of its own as a fraud. And to think they almost got away with it again.

Ron Fitzsimmons, the executive director of the National Coalition of Abortion Providers, has publicly confessed that he, ''Lied through his teeth'' when he told a TV interviewer, according to the New York Times, that partial-birth abortion was used rarely and only on women whose lives were in danger or whose fetuses were damaged.

□ 1345

It seems I heard a lot of my colleagues say that in the last debate on this matter. According to the AMA News and the New York Times, Mr. Fitzsimmons now says that his party line defense of this method of abortion was a deliberate lie and that in the vast majority of cases the procedure is performed on a healthy mother with a healthy fetus that is 20 weeks or more along.

Mr. Fitzsimmons says that the abortion folks knew it, which means the whole antibaby gang deliberately tried to deceive us all and the Nation. And they almost got away with it.

Interestingly, he also said the anti-abortion people, the pro-lifers, we knew it as well, and we did, and we said it on this floor. Unfortunately, there were very few who listened when we pointed out these facts.

As a matter of fact, most in the media believed and amplified as true the falsehoods and lies put out by Planned Parenthood Federation of America, the Alan Guttmacher Institute, the ACLU, NARAL, the National Family Planning and Reproductive Health Association, NOW, the National

Republican Coalition for Choice, People for the American Way, Population Action International, Zero Population Growth and others who signed letters that went to my office and yours, one of them on October 25, 1995 that said, ''This surgical procedure is used only in rare cases, fewer than 500 per year, and most often performed in the case of wanted pregnancies gone tragically wrong.''

We know that is not true. It is a lie. We know that these groups have lied to us, and it is not the first time, Mr. Speaker, that these groups have lied to us.

Dr. Bernard Nathanson, the former abortionist who did thousands of abortions and one of the founders of NARAL, has said that lying and junk science were and continue to be commonplace in the pro-abortion movement. It is the way they sell abortion to a gullible public. Dr. Nathanson has said that in the early days they absolutely lied about maternal mortality, they lied about the number of illegal abortions, they lied and said that there is no link between abortion and breast cancer, and there is a link, and they lie about the so-called safety of abortion, and of course, the big lie on partial-birth abortion has been exposed for everybody in this Chamber to see. The procedure is not rare. It is common. It is common, and it is used with devastating consequences on both the mothers as well as on the babies.

Remember last year several of you took to the floor and said that anesthesia caused fetal demise. That falsehood was blown right out of the water as well as another big lie that was used by my friends on the other side of the aisle and on this side of the aisle and spoon fed to you in fact sheets and talking points by the pro-abortion lobby. The president of the American Society of Anesthesiologists, Dr. Noring Ellison came forward and testified before the Senate Judiciary Committee on November 17, 1995 and said:

> I believe this . . . 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 and perhaps life-saving medical procedures, totally unrelated to the birthing process, due to misinformation regarding the effect of anesthetics on the fetus.
>
> In my medical judgment, it would be necessary—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.
>
> I have not spoken with one anesthesiologist who agrees with Dr. McMahon's conclusion, and in my judgment, it is contrary to scientific fact. It simply must not be allowed to stand.

Remember all this when Planned Parenthood, which performs or refers for 230,000 abortions each year, lobbies you and plies you with talking points and fact sheets. They simply are not to be trusted—even their ideological soulmates in the government and media should have serious doubts about these groups' credibility.

These same pro-abortion groups—many of which get huge Federal, State, and local government subsidies—also wrote us that, ''lawmakers . . . have no place . . . in the operating room.''

But unless you construe an unborn baby to be a disease or tumor, it is the abortionists who have turned the operating room into an execution chamber.

Like some deranged horror movie doctor who dresses well and looks respectable on the outside, the abortionist in these execution rooms partially delivers a helpless child, only to thrust a pair of scissors into the baby's head so a suction device can vacuum out his or her brains.

This is madness. This is inhumane. And lawmakers should not shrink from our moral responsibility to stop it.

Mr. CONYERS. Mr. Speaker, would the gentleman from New Jersey be reminded that we do not call each other liars in the course of the debate?

Mr. SMITH of New Jersey. Will the gentleman yield?

The SPEAKER pro tempore [Mr. MCINNIS]. The request of the gentleman from Michigan [Mr. CONYERS] is denied.

The Chair recognizes the gentleman from Michigan.

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the gentlewoman from Colorado [Ms. DEGETTE] and remind our membership that she is replacing Pat Schroeder, our distinguished ranking member on the Committee on the Judiciary.

Ms. DEGETTE. Mr. Speaker, I rise today to urge my colleagues to vote no on this resolution. There has been a great deal of distortion spread about this so-called partial-birth ban. First of all, this bill does not ban abortions, even post viability. It would still allow post viability abortions.

What it does do is outlaw an ill-defined medical procedure. It stops a procedure which is so vaguely defined that it is not even recognized in medical literature because partial-birth is not a medical term at all.

Tragically, deliberate confusion has driven this debate out of control to a point where rational people are ignoring the facts, their own principles and even their own hearts. We have just heard rhetoric today that the pro-choice community has distorted the facts on this procedure. Quite to the contrary. Neither side has concrete national or State statistics on the number of intact D&E procedures that are performed.

Let us focus on what we do know and not on what we do not know. In 1992, the last year for which we have statistics, only .04 percent of all abortions even took place after 26 weeks when this procedure may become necessary. At this stage, every single one of these women were facing threats to their life or health or were carrying a fetus with severe abnormalities.

Mr. Speaker, I urge my colleagues to think rationally. To assume that any woman would choose this tragic procedure after carrying a healthy fetus for 8 or 9 months is offensive to the women who are facing this gruesome decision and it is offensive to all women.

I think if my colleagues had had the opportunity to hear Eileen Sullivan testify before the Committee on the Judiciary last week, they would understand how frightening and dangerous this proposed ban is to women.

Eileen is 1 of 11 children in an Irish Catholic family. She faced this tragedy in the eighth month. She stated to the committee: We wept. We discussed what to do, what was best and safest, and in the end she, her husband, and her doctor made this tragic choice.

Eileen Sullivan chose this procedure as a last resort. She and her husband desperately wanted this baby, but the pregnancy had gone awry. To ban this procedure for women like Ms. Sullivan who face no other option will deprive them of their lives or their future ability to have children.

Let me be clear to those who are unsure of the serious ramifications of this bill or the meaning of their vote today. In the 24 years since Roe versus Wade, American women have never been in more danger of losing their right to choose their own health decisions than they are today.

Mr. Speaker, I urge my colleagues to vote against this bill.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. CHABOT].

Mr. CHABOT. Mr. Speaker, partial-birth abortions should not be a partisan issue. Democrats and Republicans who share a fundamental belief that life is precious are in agreement: The partial-birth abortion procedure is gruesome, it is hideous, and it is unnecessary. We believe that life should be protected, not cut short by a pair of scissors in the hands of an abortionist.

If there is one good thing that we can do this year, one thing that would save the lives of children who are being brutally killed, it is the passage of legislation that would outlaw this terrible procedure. Members on both sides of the aisle know how atrocious it is, and we have all heard the grisly details, because we know the truth, that thousands of partial-birth abortions are performed each year on healthy mothers with healthy babies. We must act now to ban this terrible procedure.

Mr. Speaker, the choice is simple. We can either turn our backs and allow thousands of babies to be killed at the very moment of birth, or we can vote to preserve life, protect innocent children and ban partial-birth abortions once and for all. I urge passage of this important legislation.

Mr. CONYERS. Mr. Speaker, I yield 2½ minutes to the gentlewoman from California [Ms. LOFGREN], a distinguished member of the Committee on the Judiciary.

Ms. LOFGREN. Mr. Speaker, about 2 weeks ago, Members of this body went to Hershey, PA, to learn how we might disagree in a civilized manner, and I think this issue is challenging and testing the commitments we made at

that time to deal and disagree with each other in a way that is respectful and civilized. This is an issue that American people have very strong feelings about, and those strong feelings are shared by Members of this body.

I think it is important that we state where we agree and where we disagree because there are some agreements. I do not believe there is a single Member of this body, and I definitely include myself, who believes that abortion ought to be an elective procedure post viability, and to the extent that any of us have suggested otherwise, we should stop doing that because we do not believe that. That is not where our disagreement is.

There are those of us in this Chamber who believe, and oftentimes it is a matter of religious belief, that abortions should be made illegal in all cases. I am not among those who believe that. But I respect the Members of this body who do. The disagreement is over who should make the decision to terminate a pregnancy post viability, when a woman's life is in danger or she is facing a serious health consequence, and then prior to viability who should make the decision in every case.

There has been a lot of discussion about numbers and who said what when. The issue is this, simply this. If there is even a single woman, and I know one, Vickie Wilson, who needs access to this procedure in order to protect against a very serious health ramification, then in my judgment she and her family, not the Congress of the United States, ought to make that decision.

That is what this issue is about. We have an alternative that would prohibit abortions post viability on an elective basis. I think we ought to adopt this alternative and I think we ought to allow the woman and her family to decide when serious health consequences and her life are at risk.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Alabama [Mr. ADERHOLT].

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

Mr. ADERHOLT. Mr. Speaker, I am not here to reiterate what has already been said about the partial-birth abortion procedure. We all know it is a gruesome and horrific way to end a life. We have heard the testimony of Brenda Pratt Shafer, a pro-choice nurse who wrote that witnessing this procedure was the ''most horrible experience of my life,'' and Mr. Ron Fitzsimmons admitting that we had been lied to about the frequency of abortions on healthy fetuses. We have been told that this procedure is used rarely, in dire circumstances and only to protect the health and life of the mother. But it is just not true.

If we were to begin executing criminals by stabbing scissors in the back of their skulls and then sucking out their brains until the body goes limp, we would have every human rights group in this country screaming.

I ask my colleagues to remember that over 400 doctors, including C. Everett Koop, the former Surgeon General, has stated that it is never medically necessary to have a partial-birth abortion. In fact, in many cases the health of the mother is highly at risk and jeopardized by this procedure.

Mr. CONYERS. Mr. Speaker, I yield 2½ minutes to the gentleman from California [Mr. CAPPS].

Mr. CAPPS. Mr. Speaker, today is the first day of spring, but I believe that we are continuing to be surrounded by darkness. I ask, Mr. Speaker, will the vote we are taking today help us reach what I believe are our twin goals, to preserve the dignity of a woman's right to choose and to decrease and diminish the need for abortions? Sadly, this vote will not.

Does the discussion we are having today create more civility in Congress? Will it create a more resilient bond of trust between ourselves and the people we represent? The answer once again, Mr. Speaker, is not at all.

Abortion is a terribly tragic consequence, but we will not take away the tragedy of abortion by banning it legislatively or by placing extreme restrictions on its availability. In my judgment, exceptions must always be sustained in the event that the life of the mother, the health of the mother, or the future reproductive capacity of the mother, are placed in jeopardy.

I wish to add, Mr. Speaker, that those who are touting this issue as a religious issue, in my humble judgment, should be a bit more cautious. Search the New Testament through and through. There are no references to abortion. For that matter examine the teachings of Jesus and see if you can find one, even one comment on abortion. I submit, Mr. Speaker, that a matter deemed so central to the faith would have drawn at least one comment from the founder of the faith who did say, ''He who is without sin cast the first stone,'' who did say ''I have come that you might have life and have life more abundantly.''

Tout this issue as a religious issue if you will, but please do not forget that, created in the image of God, we humans are endowed with the ability as well as the responsibility to make responsible human choices and to live with the consequences. We in the Congress, still predominantly white males, have not been given authority to usurp choice for the women who must face these terrible life defining decisions, nor are we assigned the task of being moral arbiters of a situation that defies the imposition of moral, religious, and spiritual absolutes.

The challenge that abortion presents to the well-being of this country will not go away because Congress acts on legislation whose primary purpose is to exercise excessively sanctimonious, righteous indignation.

□ 1400

Let us not substitute the real work we have to do in this Congress and in the country with intrusive and restrictive governmental decree or with questionable dogmatic fiat. I am voting against this divisive bill, Mr. Speaker, because of its dehumanizing quality and demeaning spirit that is part of it.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Georgia [Mr. BARR], a member of the Committee on the Judiciary.

Mr. BARR of Georgia. Mr. Speaker, there are certain common themes that seem to be repeating themselves by the pro-abortion arguments on the other side, over and over and over again. There is a very good reason for that. The strategy, including the precise words to use, are well laid out in a memorandum that lays out the blueprint for the pro-abortionist in this argument in order to disguise what is really at stake here. I read from a memo dated September 17, 1996, from Lake Research:

Do not talk about the health and condition of the fetus. Voters believe that this procedure, no matter what we call it, kills an infant.

Truer words were never spoken.

Do not argue about how often this procedure is used. Voters believe that even one time is too many.

Truer words were never spoken.

Do not argue about the procedure. The partial-birth procedure is gruesome. There is no way to make it pleasant to voters or even only distasteful.

Turer words were never spoken.

Yet those on the other side that keep arguing for this horrible, gruesome procedure would have us believe that it is just commonplace, that there is nothing wrong with it, that it is simply a matter of choice. It is not simply a matter of choice, it is a matter of life. They know it, and American voters know it.

[Memorandum]

SEPTEMBER 17, 1996.

To: Clients and friends.
From: Lake Research.
Subject: Positioning on so-called ''partial birth'' abortion.

Many of you have asked for research on the best way to frame a vote against legislation to ban the so-called ''partial birth'' abortion procedure. We have developed the following guidelines from a range of research we have done this fall that has touched on the issue. Overall, we believe that our strongest message is that late abortion is a medically necessary procedure to save the life and health of the mother.

Do talk about the life and the health of mothers.

Voters take the health of women, of mothers especially, very seriously. Importantly, many women who are more traditional (homemakers, for example), who tend to be anti-choice, also believe that motherhood tends to be undervalued, and they are responsive to a message that makes the health of mothers, and protecting their ability to bear children and care for them in the future, a high priority.

Don't talk about the health and condition of the fetus.

Voters believe that this procedures, no matter what we call it, kills an infant. We cannot get around this basic belief. When we

start to talk about cases where the fetus is not viable, we risk sliding down a slippery slope that leads voters to conclude that we should risk subjective judgments about which babies live and which die. However, being sure to use the language of ''severely deformed fetuses'' helps counter this, by making clear that the infant would not be close to being viable.

Do talk about this procedure as medically necessary.

This communicates to voters that having this procedure is not a ''choice,'' and certainly not a decision that is made casually or lightly. On the contrary, these abortions happen only in the most tragic and dire of health circumstances, and only when it is medically necessary. This language also implies that a doctor is involved, and voters believe that politicians should stay out of this decision.

Don't argue about how often this procedure is used.

The absolute number of times this procedure is used is irrelevant. Voters believe that even one time is too many. What we can say is that we wish this procedure was never necessary, but that when it is necessary to save the life and health of the mother, it should not be illegal and it should not be something that involves politicians. Instead, it should be a decision made by a woman, her family, her doctor, and her clergy.

Do put a very human face on the issue.

The other side would like voters to believe that this procedure is chosen by heartless and irresponsible people who are murdering children because it is more convenient. We know that this is not true. The women who undergo this procedure are often mothers with families. This is something tragic that happens to families, and something they would have done almost anything to avoid. President Clinton's veto message was affective in large part because he introduced America to the real women who have suffered through this.

Don't argue about the procedure.

The ''partial-birth'' procedure is gruesome. There is no way to make it pleasant to voters, or even only distasteful. Absolutely do not try to point out inaccuracies in the other side's descriptions. It gets us nowhere.

Note that the message used by many in the pro-choice community that this legislation is just the first chip in Roe versus Wade, a foot-in-the-door strategy towards the ultimate goal of eliminating reproductive rights, works only among pro-choice activist. It is not effective among voters broadly. In addition, the message used by some that this bill is wrong because it is the first time that a specific medical procedure has been the subject of legislation is also ineffective among voters broadly. Remember that, no matter what we say, we cannot make voters think that late-term abortions are a good thing. The public is by-and-large pro-choice, but this mainly means that they think that abortion is an issue the government and politicians should pretty much stay out of, not that they view abortion as a positive choice. Most Americans would agree with President Clinton's framework of ''abortion should be safe, legal, and rare,'' and they are comfortable with many types of regulation, including substantial restrictions on abortion after the first trimester.

In sum, there are many reasons that this legislation appalls us, but voters are most likely to agree with us when we focus on a single argument: that this is a medically necessary procedure to save the life and health of the mother, and that making it illegal is just the wrong thing to do.

Mr. CONYERS. Mr. Speaker, I yield 2½ minutes to the deputy whip of the minority, the gentleman from Georgia [Mr. LEWIS].

Mr. LEWIS of Georgia. Mr. Speaker, this is not a debate that should be occurring in the Congress today. This is not a decision for us, for legislators, for policymakers. We are not men and women of medicine, of science. I am not a doctor; I did not go to medical school. We have no business telling doctors how to practice medicine.

No government, Federal, State or local, should tell a woman what she can or cannot do with her body. Decisions about health, decisions about medicine, decisions about conscience, are not for us to make. These decisions should be left in the homes, churches, and synagogues of women facing these hard, wrenching decisions.

This is an issue between a woman and her family, a woman and her doctor, a woman and her conscience, a woman and her God. Let us not invade the homes of American women, the hospital, and the health care centers. Let us not attempt to play doctor. Let us not attempt to play God. Let us say no to politicians in the bedrooms, the family rooms, and the operating rooms.

Mr. Speaker, let us say no to this ill-conceived bill.

Mr. BARR of Georgia. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Florida [Mr. WELDON] a gentleman who does not play at being a doctor, who is a medical doctor.

Mr. WELDON of Florida. Mr. Speaker, I thank the gentleman for yielding this time to me, and I rise in strong support of this legislation. I would like to reference my comments to some comments made earlier about not lying or calling each other liars. And there has been a lot of debate today with claims that this procedure is rare and only used in the setting of fetal deformities, and there is an abundant amount of information out there that shows that it is not rare. We have one clinic that is reported doing 1,500 in one clinic, and then there is also abundant evidence that in the vast majority of cases there are no fetal deformities. These are done on healthy infants, and the debate is involving are we going to respect the sanctity of the life of the child?

It is not a decision just between a woman and her God. There is a third party involved in this. In many cases it is a fully developed normal child, and to repeat over and over again that it is rare and to repeat over and over again that the children, the babies, have fetal deformities is just wrong.

Mr. CONYERS. Mr. Speaker, I yield myself 1 minute to ask the distinguished doctor and Member of Congress a question.

If we add a doctor, the health exception, we would agree with the gentleman, and this bill could possibly become law. Would the gentleman have any objection to that?

Mr. WELDON of Florida. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Florida.

Mr. WELDON of Florida. Mr. Speaker, I would be willing to accept that if the gentleman from Michigan will define ''health'' in terms of the physical health of the woman. Now the Supreme Court has decided——

Mr. CONYERS. Exactly right.

Mr. WELDON of Florida. Has to include mental health.

Mr. CONYERS. Mr. Speaker, before I yield back to the gentleman I just want to remind him, and I thank him for his agreement, that the gentleman from Massachusetts [Mr. FRANK] tried to offer a physical health limitation amendment and was precluded by the gentleman's party's leadership. That is why we cannot come to closure on this issue. And the gentleman will have on the chance for recommittal to vote for precisely that provision that he has articulated, and I yield to the doctor.

Mr. WELDON of Florida. Mr. Speaker, I have looked into this.

The SPEAKER pro tempore. Time of the gentleman from Michigan has expired.

Mr. CONYERS. Mr. Speaker, I yield 2½ minutes to the gentlewoman from New York [Mrs. MALONEY].

Mrs. MALONEY of New York. Mr. Speaker, today we face yet another attempt by the new majority to roll back a woman's right to choose. Let me place this vote today in perspective.

Last Congress there were 52 antichoice votes on the floor of Congress. My colleagues who support this bill are barely trying to disguise their agenda. They mean to attack Roe versus Wade procedure by procedure. They mean to attack the right of women to control their decisions about their health, their families, and their life. Eliminating late-term abortion is just their first step toward sending the debate back more than 20 years back before the Supreme Court.

Congress can outlaw procedures, but they can never outlaw the circumstances that lead some women to need abortions late in pregnancy. No matter how good the technology gets, tragic discoveries are sometimes made late in pregnancies, and for these women we need to have the best and safest medical care available.

This new bill would have a woman die if her life were threatened by the pregnancy itself. Again instead of allowing a doctor, a woman, and her family to make this decision, they would have the woman die.

This bill also allows abusive and absent husbands to sue doctors who perform procedures that are sometimes necessary in tragic situations. So now we care more about abusive husbands than we do about a woman's health.

How odd that the new majority calls itself family friendly. How odd that the new majority says that they want to get government off our backs. Yet they are trying to dictate, procedure by procedure, the most intimate decisions that a woman has to make in her life about her own life, about her health, and about the future of her family.

Congress has no place in women's decisions and no place in women's tragedies.

Mr. CONYERS. Mr. Speaker, I yield the gentlewoman from New York [Mrs. MALONEY] an additional 30 seconds and I ask her to yield to me.

Mrs. MALONEY of New York. Mr. Speaker, I yield to the gentleman from Michigan.

Mr. CONYERS. The gentlewoman could not be more correct. The Republican platform of 1996 reads that the constitutional protection of women's right to choice should be revoked by constitutional amendment. Here are bills that are pending in the Committee on the Judiciary for doing it, at least the legitimately correct way, through a constitutional amendment. But here they are coming through the back door again with CANADY's partial-birth abortion bill.

The SPEAKER pro tempore. The Chair advises that the gentleman from Michigan [Mr. CONYERS] has 12 minutes remaining and the gentleman from Florida [Mr. CANADY] has 23 minutes remaining.

Mr. CANADY of Florida. Mr. Speaker, I yield 1½ minutes to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN of Virginia. Mr. Speaker, my colleagues know that I do not support the Republican agenda on abortion or constitutional amendments to preclude it. In fact I have fought for a woman's right to choose. But this is an extremist amendment. This is an extremist procedure, and it is not about a woman's right to choose; it is about a baby's right to life.

That is what this is about. We have protected a woman's right to choose. That is why more than 99 percent of all the abortions performed in this country are performed before the third trimester. but if we asked the doctors who performed this procedure, they will tell us that the vast majority of these procedures are performed on young, healthy women with healthy fetuses, and it is wrong.

I spoke to a group of junior high students this morning. They asked me about this issue. I told them my position. They disagreed, and one of the women, young girls; these were 13- and 14-year-old girls; she said ''But what if a girl has a baby and then she decides when that baby is almost due to be delivered that she has a lot of other things in her life and the baby is going to get in her way?'' Hard to understand, but hard to sanction, hard to support.

The fact is that we discredit the credibility of the pro-choice movement, the right of a woman to control her life when we support this kind of extremist position.

I support this bill. The Democratic Party and the pro-choice movement ought to as well.

Mr. Speaker, I have been committed throughout my career to making reproductive choice a right for women as proscribed by the Supreme Court of the United States. I have fought to uphold the principle that no government should tell women that such an important decision is not her own.

And this is what the Supreme Court has said repeatedly. They said in Roe versus Wade that the Government has no right to limit a woman's right to choose to have an abortion in the first trimester of pregnancy. In the second trimester they said that the Government may make some restrictions and in the third they may restrict it entirely except to save her life or health.

With advances in medical technology the Supreme Court updated this decision. In 1992 they reformed the trimester framework in deciding Casey versus Planned Parenthood and said that States may make restrictions only after fetal viability. Recent studies suggest that this occurs around the 24th week of gestation.

The procedure in this bill defined as partial-birth abortion is not a procedure protected by the Supreme Court. It occurs after fetal viability, and despite the lack of recorded information as to its prevalence, recent revelations of several members of the pro-choice community lead us to believe that it occurs on normal fetuses and healthy mothers.

According to the Center for Disease Control, only 1.5 percent of all abortions performed in the United States are performed after 21 weeks gestation. This argument over the number of these procedures performed is irrelevant. This procedure should not be performed on healthy viable fetuses and healthy mothers. Even if it is only once a year, but certainly not 5,000 times a year.

Let me address briefly the controversy surrounding Ron Fitzsimmons, the executive director of the National Coalition of Abortion Providers.

Mr. Fitzsimmons is a constituent of mine, and I have been acquainted with him for many years.

Mr. Fitzsimmons has been the object of criticism from many within the pro-choice community because he made the decision to confirm what had already been reported in the Washington Post and other publications. This was that late term abortions were bring performed more frequently than we were being told, and that they were being performed on normal fetuses. He also confirmed that these facts were plainly inconsistent with previous statements he made.

But this episode is not about Ron Fitzsimmons. It is about the obligation of the pro-choice movement to be candid and forthcoming to members of the public, the President, and Members of this House. I hope that the pro-choice community will learn from this episode and use it as an occasion to re-channel its efforts toward a reaffirmation of the truth in public discourse and a reasonable sense of balance between the freedom to choose and taking responsibility for our actions.

Mr. CONYERS. Mr. Speaker, I reserve the balance of our time. We have a lot less than the gentleman from Florida [Mr. CANADY].

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. POSHARD].

Mr. POSHARD. Mr. Speaker, those of us who are pro-life are concerned about the health of the mother, and I believe those in this body who are pro-choice are concerned about the life of the child. We cannot reduce this debate to simple accusations which demagog rather than try to embrace the whole of our separate concerns, whichever side of this debate on which we fall. The dividing line here is the exception of health of the mother, which some want to incorporate into in bill. No one argues about the need to save the life of the mother.

I have listened to statements by the AMA and Dr. Koop, and I would like to offer a statement by Dr. Bernard Nathanson who has spent a great part of his professional life dealing with these issues. Dr. Nathanson, when he made this statement, was a visiting scholar at the Center for Clinical and Research Ethics at Vanderbilt University. He says and I quote:

> With respect to late-term abortions for women who suffer serious health consequences as a result of the pregnancy, let me assure you that this operation, partial-birth abortion, is so fraught with significant surgical hazards and complications that it is more likely to tip the health scales and kill the pregnant woman than it is to save her life. As the hazards and complications of the procedure, I have yet to see in the conventional peer review medical literature a well-controlled, thoroughly documented study of the procedure in question.

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But given my own extensive experience with abortion, I would venture with reasonable certainty that the short- and long-term consequences of this procedure are, to be charitable, formidable.

Mr. Speaker, I support this bill and I feel it offers the protection necessary for vulnerable children who have no voice in this matter.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from South Carolina [Mr. INGLIS], a member of the Committee on the Judiciary.

Mr. INGLIS of South Carolina. Mr. Speaker, I thank the gentleman for yielding me this time.

I am particularly happy to follow the two colleagues that have just spoken, because I think that it shows that this truly is an issue on which Republicans and Democrats can agree, and particularly it shows that even people like the gentleman from Virginia [Mr. MORAN], who is a pro-choice Member, see this procedure as on the other side of the acceptable line. I think it is very nice to follow both of my colleagues.

Mr. Speaker, I insert in the RECORD an article from the Sunday Record that talks about some of the facts of this procedure and some of the implications of it. I think it is very important that we speak the truth here and that we get to the bottom of this.

Basically, what we are talking about is a procedure that I believe, and I hope most of our colleagues believe, should not be countenanced in a civilized society. It is something really that we cannot tolerate in a civilized society, and therefore something that I hope we can all vote, Republicans and Democrats and yes, even some pro-choice Members, can vote to ban today.

The article referred to is as follows:

[From the Inglis, SC, Sunday Record, Sept. 15, 1996]

REVIEW AND OUTLOOK: THE FACTS ON PARTIAL-BIRTH ABORTION

(By Ruth Padawer)

Even by the highly emotional standards of the abortion debate, the rhetoric on so-called ''partial-birth'' abortions has been exceptionally intense. But while indignation has been abundant, facts have not.

Pro-choice activists categorically insist that only 500 of the 1.5 million abortions performed each year in this country involve the partial-birth method, in which a live fetus is pulled partway into the birth canal before it is aborted. They also contend that the procedure is reserved for pregnancies gone tragically awry, when the mother's life or health is endangered, or when the fetus is so defective that it won't survive after birth anyway.

The pro-choice claim has been passed on without question in several leading newspapers and by prominent commentators and politicians, including President Clinton.

But interviews with physicians who use the method reveal that in New Jersey alone, at least 1,500 partial-birth abortions are performed each year—three times the supposed national rate. Moreover, doctors say only a ''minuscule amount'' are for medical reasons.

Within two weeks, Congress is expected to decide whether to criminalize the procedure. The vote must override Clinton's recent veto. In anticipation of that showdown, lobbyists from both camps have orchestrated aggressive campaigns long on rhetoric and short on accuracy.

For their part, abortion foes have implied that the method is often used on healthy, full-term fetuses, an almost-born baby delivered whole. In the three years since they began their campaign against the procedure, they have distributed more than 9 million brochures graphically describing how doctors ''deliver'' the fetus except for its head, then puncture the back of the neck and aspirate brain tissue until the skull collapses and slips through the cervix—an image that prompted even pro-choice Sen. Daniel P. Moynihan, D–N.Y., to call it ''just too close to infanticide.''

But the vast majority of partial-birth abortions are not performed on almost-born babies. They occur in the middle of the second trimester, when the fetus is too young to survive outside the womb.

The reason for the fervor over partial birth is plain: The bill marks the first time the House has ever voted to criminalize an abortion procedure since the landmark Roe vs. Wade ruling. Both sides know an override could open the door to more severe abortion restrictions, a thought that comforts one side and horrifies the other.

HOW OFTEN IT'S DONE

No one keeps statistics on how many partial-birth abortions are done, but pro-choice advocates have argued that intact ''dilation and evacuation''—a common name for the method, for which no standard medical term exists—is very rare, ''an obstetrical non-entity,'' as one put it. And indeed, less than 1.5 percent of abortions occur after 20 weeks gestation, the earliest point at which this method can be used, according to estimates by the Alan Guttmacher Institute of New York, a respected source of data on reproductive health.

The National Abortion Federation, the professional association of abortion providers and the source of data and case histories for this pro-choice fight, estimates that the number of intact cases in the second and third trimesters is about 500 nationwide. The National Abortion and Reproductive Rights Action League says ''450 to 600'' are done annually.

But those estimates are belied by reports from abortion providers who use the method. Doctors at Metropolitan Medical in Englewood estimate that their clinic alone performs 3,000 abortions a year on fetuses between 20 and 24 weeks, of which at least half are by intact dilation and evacuation. They are the only physicians in the state authorized to perform abortions that late, according to the state Board of Medical Examiners, which governs physicians' practice.

The physicians' estimates jibe with state figures from the federal Centers for Disease Control, which collects data on the number of abortions performed.

''I always try an intact D&E first,'' said a Metropolitan Medical gynecologist, who, like every other provider interviewed for this article, spoke on condition of anonymity for fear of retribution. If the fetus isn't breech, or if the cervix isn't dilated enough, providers switch to traditional, or ''classic,'' D&E—in utero dismemberment.

Another metropolitan area doctor who works outside New Jersey said he does about 260 post-20-week abortions a year, of which half are by intact D&E. The doctor, who is also a professor at two prestigious teaching hospitals, said he has been teaching intact D&E since 1981, and he said he knows of two former students on Long Island and two in New York City who use the procedure. ''I do an intact D&E whenever I can, because it's far safer,'' he said.

The National Abortion Federation said 40 of its 300 member clinics perform abortions as late as 26 weeks, and although no one knows how many of them rely on intact D&E, the number performed nationwide is clearly more than the 500 estimated by pro-choice groups like the federation.

The federation's executive director, Vicki Saporta, said the group drew its 500-abortion estimate from the two doctors best known for using intact D&E, Dr. Martin Haskell in Ohio, who Saporta said does about 125 a year, and Dr. James McMahon in California, who did about 375 annually and has since died. Saporta said the federation has heard of more and more doctors using intact D&E, but never revised its estimate, figuring those doctors just picked up the slack following McMahon's death.

''We've made umpteen phone calls [to find intact D&E practitioners]'', said Saporta, who said she was surprised by The Record's findings. ''We've been looking for spokespeople on this issue. . . . People do not want to come forward [to us] because they're concerned they'll become targets of violence and harassment.''

WHEN IT'S DONE

The pro-choice camp is not the only one promulgating misleading information. A key component of The National Right to Life Committee's campaign against the procedure is a widely distributed illustration of a well-formed fetus being aborted by the partial-birth method. The committee's literature calls the aborted fetuses ''babies'' and asserts that the partial-birth method has ''often been performed'' in the third trimester.

The National Right to Life Committee and the National Conference of Catholic Bishops have highlighted cases in which the procedure has been performed well into the third trimester, and overlaid that on instances in which women have had less-than-compelling reasons for abortion. In a full-page ad in the Washington Post in March, the bishops' conference illustrated the procedure and said women would use it for reasons as frivolous as ''hates being fat,'' ''can't afford a baby and a new car,'' and ''won't fit into prom dress.''

''We were very concerned that if partial-birth abortion were allowed to continue, you could kill not just an unborn, but a mostly born. And that's not far from legitimizing actual infanticide,'' said Helen Alvare, the bishops' spokeswoman.

Forty-one states restrict third-trimester abortions, and even states that don't—such as New Jersey—may have no physicians or hospitals willing to do them for any reason. Metropolitan Medical's staff won't do abortions after 24 weeks of gestation. ''The nurses would stage a war,'' said a provider there. ''The law is one thing. Real life is something else.''

In reality, only about 600—or 0.04 percent—of abortions of any type are performed after 26 weeks, according to the latest figures from Guttmacher. Physicians who use the procedure say the vast majority are done in the second trimester, prior to fetal viability, generally thought to be 24 weeks. Full term is 40 weeks.

Right to Life legislative director Douglas Johnson denied that his group had focused on third-trimester abortions, adding, ''Even if our drawings did show a more developed baby, that would be defensible because 30-week fetuses have been aborted frequently by this method, and many of those were not flawed, even by an expansive definition.''

WHY IT'S DONE

Abortion rights advocates have consistently argued that intact D&Es are used under only the most compelling circumstances. In 1995, the Planned Parenthood Federation of America issued a press release asserting that the procedure ''is extremely rare and done only in cases when the woman's life is in danger or in cases of extreme fetal abnormality.''

In February, the National Abortion Federation issued a release saying, ''This procedure is most often performed when women discover late in wanted pregnancies that they are carrying fetuses with anomalies incompatible with life.''

Clinton offered the same message when he vetoed the Partial-Birth Abortion Ban Act in April, and surrounded himself with women who had wrenching testimony about why they needed abortions. One was an anti-abortion marcher whose health was compromised by her 7-month-old fetus' neuromuscular disorder.

The woman, Coreen Costello, wanted desperately to give birth naturally, even knowing her child would not survive. But because the fetus was paralyzed, her doctors told her a live vaginal delivery was impossible. Costello had two options, they said: abortion or a type of Caesarean section that might ruin her chances of ever having another child. She chose an intact D&E.

But most intact D&E cases are not like Coreen Costello's. Although many third-trimester abortions are for heart-wrenching medical reasons, most intact D&E patients have their abortions in the middle of the second trimester. And unlike Coreen Costello, they have no medical reason for termination.

''We have an occasional amino abnormality, but it's a minuscule amount,'' said one of the doctors at Metropolitan Medical, an assessment confirmed by another doctor there. ''Most are Medicaid patients, black and white, and most are for elective, not medical, reasons: people who didn't realize, or didn't care, how far along they were. Most are teenagers.''

The physician who teaches said: ''In my private practice, 90 to 95 percent are medically indicated. Three of them today are Trisomy-21 [Down syndrome] with heart disease, and in another, the mother has brain

cancer and needs chemo. But in the population I see at the teaching hospitals, which is mostly a clinic population, many, many fewer are medically indicated.''

Even the Abortion Federation's two prominent providers of intact D&E have showed documents that publicly contradict the federation's claims.

In a 1992 presentation at an Abortion Federation seminar, Haskell described intact D&E in detail and said he routinely used it on patients 20 to 24 weeks pregnant. Haskell went on to tell the American Medical News, the official paper of the American Medical Association, that 80 percent of those abortions were ''purely elective.''

The federation's other leading provider, Dr. McMahon, released a chart to the House Judiciary Committee listing ''depression'' as the most common maternal reason for his late-term non-elective abortions and listing ''cleft lip'' several times as the fetal indication. Saporta said 85 percent of McMahon's abortions were for severe medical reasons.

Even using Saporta's figures, simple math shows 56 of McMahon's abortions and 100 of Haskell's each year were not associated with medical need. Thus, even if they were the only two doctors performing the procedure, more than 30 percent of their cases were not associated with health concerns.

Asked about the disparity, Saporta said the pro-choice movement focused on the compelling cases because those were the majority of McMahon's practice, which was mostly third-trimester abortions. Besides, Saporta said, ''When the Catholic bishops and Right to Life debate us on TV and radio, they say a woman at 40 weeks can walk in and get an abortion even if she and the fetus are healthy.'' Saporta said that claim is not true. ''That has been their focus, and we've been playing defense ever since.''

WHERE LOBBYING HAS LEFT US

Doctors who rely on the procedure say the way the debate has been framed obscures what they believe is the real issue. Banning the partial-birth method will not reduce the number of abortions performed. Instead, it will remove one of the safest options for mid-pregnancy termination.

''Look, abortion is abortion. Does it really matter if the fetus dies in utero or when half of it's already out?'' said one of the five doctors who regularly uses the method at Metropolitan Medical in Englewood. ''What matter is what's safest for the woman,'' and this procedure, he said, is safest for abortion patients 20 weeks pregnant or more. There is less risk of uterine perforation from sharp broken bones and destructive instruments, one reason the American College of Obstetricians and Gynecologists has opposed the ban.

Pro-choice activists have emphasized that nine of 10 abortions in the United States occur in the first trimester, and that these have nothing to do with the procedure abortion foes have drawn so much attention to. That's true, physicians say, but it ducks the broader issue.

By highlighting the tragic Coreen Costellos, they say, pro-choice forces have obscured the fact that criminalizing intact D&E would jettison the safest abortion not only for women like Costello, but for the far more common patient: a woman 4½ to 5 months pregnant with a less compelling reason—but still a legal right—to abort.

That strategy is no surprise, given Americans' queasiness about later-term abortions. Why reargue the morality of or the right to a second-trimester abortion when anguishing examples like Costello's can more compellingly make the case for intact D&E?

To get around the bill, abortion providers say they could inject poison into the amniotic fluid or fetal heart to induce death in utero, but that adds another level of complication and risk to the pregnant woman. Or they could use induction—poisoning the fetus and then ''delivering'' it dead after 12 to 48 hours of painful labor. That method is clearly more dangerous, and if it doesn't work the patient must have a Caesarean section, major surgery with far more risks.

Ironically, the most likely response to the ban is that doctors will return to classic D&Es, arguably a far more gruesome method than the one currently under fire. And, pro-choice advocates now wonder how safe from attack that is, now that abortion foes have America's attention.

Congress is expected to call for the override vote this week or next, once again turning up the heat on Clinton, barely seven weeks from the election.

Legislative observers from both camps predict that the vote in the House will be close. If the override succeeds—a two-thirds majority is required—the measure will be sent to the Senate, where an override is less likely, given that the initial bill passed by 54 to 44, well short of the 67 votes needed.

[From the Management of Metropolitan Medical Associates, Englewood, Sept. 23]

ABORTION NUMBERS QUESTIONED

We, the physicians and administration of Metropolitan Medical Associates, are deeply concerned about the many inaccuracies in the article printed on Sept. 15 titled, ''The facts on partial-birth abortions.''

The article incorrectly asserts that MMA ''performs 3,000 abortions a year on fetuses between 20 and 24 weeks, of which at least half are by intact dilation and evacuation.''

This claim is false, as is shown in reports to the N.J. Department of Health and documents submitted semiannually to the state Board of Medical Examiners. These statistics show that the total annual number of abortions for the period between 12 and 23.3 weeks is about 4,000, with the majority of these procedures being between 12 and 16 weeks.

The intact D&E procedure (erroneously labeled by abortion opponents as ''partial-birth abortion'') is used only in a small percentage of cases between 20 and 23.3 weeks, when a physician determines that it is the safest method available for the woman.

Certainly, the number of intact D&E procedures performed is nowhere near the 1,500 estimated in your article. MMA performs no third-trimester abortions, which the state is permitted to ban except where life and health are endangered.

Second, the article erroneously states that most women undergoing intact D&E procedures have no medical reason for termination. The article then misquotes a physician from our clinic as stating that ''most are Medicaid patients . . . and most are for elective, not medical, reasons . . . Most are teenagers.''

This is a misrepresentation of the information provided to the reporter. Consistent with Roe vs. Wade and state law, we do not record a woman's specific reason for having an abortion. However, all procedures for our Medicaid patients are certified as medically necessary, as required by the New Jersey Department of Human Services.

Because of the sensitive and controversial nature of the abortion issue, we feel that it is critically important to set the record straight.

[From the Inglis, SC, Record, Oct. 2, 1996]

LETTERS TO THE EDITOR

The Record's response:

The editor replies: The Record stands behind the story and rebuts the claims in Metropolitan Medical's unsigned letter. Company officials subsequently declined through an attorney to have their names appear on the letter.

Metropolitan Medical's letter contradicts what two prominent staff physicians at the clinic—one of whom is also a high-ranking administrator—told Staff Writer Ruth Padawer independently of each other. The first physician said the clinic each week performs 60 to 100 abortions at 20 weeks gestation or later, or 3,000 to 5,000 a year. The second physician told Padawer that the clinic handles 3,000 such cases a year.

Both physicians also independently told Padawer that at least half the post-20 week abortions performed at the clinic were by the intact D&E method.

Metropolitan Medical asserts that it performs no third-trimester abortions. The Record never said otherwise; we referred only to abortions between weeks 20 and 24.

As for the Metropolitan Medical's claim that a quotation by one of its doctors was ''erroneous'': Padawer read back to him all of his quotations, including the one about the Medicaid patients. She also read him the paragraph preceding the following the quotations. He confirmed the accuracy and context of each quotation. He also said he had no problem with their publication, as long as his name was not revealed. We stood by that promise.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. PAPPAS].

Mr. PAPPAS. Mr. Speaker, when something is wrong, we as a Congress are compelled to address the situation. The last Congress moved the ball forward and raised awareness that it is time for us to finish the job.

I urge this debate to remain focused on the truth. There are those that claim that this procedure is rare, yet one clinic in my home State of New Jersey admitted to performing over 1,500 of these abortions that occur while the baby's heart is still beating.

The number of these procedures, which is nothing less than infanticide, is too many in New Jersey and far too many in our Nation.

Day after day, issue after issue, Members take to the floor of the House and talk about legislation in terms of how much better it will make the lives of the American people. But before we continue on issues that might make life better, we must show a greater commitment to life itself. We must give life a chance before we can make it better.

Mr. CONYERS. Mr. Speaker, I yield 30 seconds to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. Mr. Speaker, I just would like to clarify several statements that we heard from our colleagues. The American College of Obstetricians and Gynecologists states, and I quote, ''D&X may be the best and most appropriate procedure in a particular circumstance to save the life or preserve the health of a woman.''

My colleagues, do we want to compromise that physician's judgment in the delivery room and perhaps cause hazard to the health or life of a woman? Let us think carefully.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Arizona [Mr. SALMON].

Mr. SALMON. Mr. Speaker, I am not going to stand up here and rant and rave or accuse the other side of being evilminded, because frankly, I think there are a lot of people over there that strongly believe in their position, but I believe they are really misguided. I think instead of using their heads, maybe it is time to use their hearts.

This issue is divided between whether we should save the life of the mother or save the life of the child. Life is life. It is important no matter whose life it is. It really saddens me that we cannot stand up for the most innocent of life.

We have detailed how gruesome and how disgusting this procedure is. Many would stand up when we talk about China, when a baby girl has her back snapped when she is born because the people want a baby boy instead of a baby girl and they have a one-child policy. We say that is disgusting. We say that is infanticide. If this is not infanticide, then what is?

I would think that our God goes to the outer edges of our universe and weeps bitterly that a people could do this to the most innocent in a society. Let us stand up for all life, be it the life of the mother or the life of the baby. Let us stop this heinous practice.

Mr. CONYERS. Mr. Speaker, I yield 2½ minutes to the gentlewoman from Texas [Ms. JACKSON-LEE], a distinguished member of the Committee on the Judiciary.

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, it is very important that we take this solemn occasion in the manner that it should be taken, and that is that we are discussing life and death and we are discussing the opportunity for the future life and the fertility of a woman.

I think that this discussion also suggests very clearly that there is much disagreement with how we preserve the life and health of the mother that then preserves the life and health of the child.

Doctors disagree, and therefore, it is important to note that we here on this floor should not take it upon ourselves to interfere with a very important, delicate and personal decision. The American College of Gynecologists and Obstetricians says that the best and the most appropriate procedure in a particular circumstance to save the life or preserve the health of a woman, can only be decided by the doctor, in consultation with the patient, based upon the woman's particular circumstance.

Why are the Republicans trying to first put upon the floor of the House this bill, and then replacing it with last term's bill, and refuse to allow any consideration of real legislation that would preserve the health of the mother in order to preserve the future fertility of a woman.

What about Vicki Stellar? Vicki wanted a child, however, it was determined by her physicians that she had a fetus that did not have a brain, whose cranium was filled with water. They wanted this child. They named him Anthony. But with her God and the physician and her family, they decided that this procedure was the best procedure for Vicki to remain fertile. And because of the procedure, it preserved her fertility, and she was able to get pregnant again and able to give birth to a healthy boy named Nicholas in 1995.

This Congress had a choice that would have helped more women like Vicki. We had a bipartisan approach. We had the Greenwood-Hoyer amendment or substitute that my colleagues on the other side of the aisle could have simply accepted, that would have this Congress to preserve the life and health of the mother. This provision, to preserve the life and health, was rejected and late into the night the Republicans came with an undisclosed piece of legislation.

King Solomon had this choice, one baby and two women, and he represented the government; and King Solomon, in his wisdom, in his Biblical wisdom, knew that the women should decide. He took away government. The women decided, a life was preserved, the baby survived. Leave the choice to the woman, her physician, her family, and her spiritual leader.

Mr. Speaker, I rise this morning to voice my opposition to H.R. 1122. H.R. 1122 as it is written now presents us with a moral issue, a religious issue, and, as Members of Congress who have sworn to uphold the U.S. Constitution, a constitutional issue. I admit today that I am pro-preserving life over the tragedy of having to abort at late term. However, I am also for preserving the life and health of the woman. Sadly, we do not do that today.

Partial birth abortions are performed because a physician, with the benefit of his expertise and experience, determines that, given a woman's particular circumstances, this procedure is the safest available to her; that this is the procedure most likely to preserve her health and her future fertility. Only a doctor can make this determination. We, in Congress, should not interfere with the close relationship that exists between a doctor and patient; but more importantly her spiritual leader and her God.

It is a tragic fact that sometimes a mother's health is threatened by the abnormalities of the fetus that she is carrying. When this occurs the mother is faced with a terrible decision of whether to carry a fetus suffering from fatal anomalies to term and in so doing jeopardize her own health and future fertility or whether to abort the fetus and preserve her chances of bringing a later healthy life into the world.

When a woman is faced with this type of painful circumstance, it is one that she should face free from government interference. This is too intimate, too personal, and too fragile a decision to be a choice made by the government. We should protect the sanctity of the woman's right to privacy and of the home by letting this choice remain in her hands. Families and their physicians, not politicians, should make these difficult decisions. It is a decision that should be between a woman, her physician, and her God. This legislation criminalizes the legal decision of physicians and potentially makes the woman liable.

I am reminded of the story of King Solomon. In that story Solomon is faced with deciding between two women who claim that a certain male child is their own. The power and authority to determine to whom that child belongs rests only with King Solomon, but in his wisdom this man gave those mothers the power to choose the child's fate. In his wisdom, King Solomon realized that the relationship between a mother and child is one with which the State should not interfere.

I believe that anti-abortion activists are truly committed to preserving the sanctity of life. However, those Members in their wisdom, should accept the Greenwood-Hoyer compromise amendment that would protect the health and life of the mother. I intend to vote for that legislation today. With such an exception this legislation would have been made law last year and many of these procedures could have been averted. I believe Republicans do not want bipartisan legislation to save lives. They simply want a crucifixion.

In addition, we cannot ignore the fact that H.R. 1122 is unconstitutional. We in Congress should not attempt to undercut the law of the land as set forth by the U.S. Supreme Court in Roe versus Wade. In Roe the Supreme Court held that women had a privacy interest in electing to have an abortion. This right is qualified, however, and so must be balanced against the State's interest in protecting prenatal life. The Roe Court determined that postviability the State has a compelling interest in protecting prenatal life and may ban abortion, except when necessary to preserve the woman's life or health. In line with this decision, 41 States have already passed bans on late-term abortions, except where the life or health of the mother is involved.

In Planned Parenthood versus Casey, the Court held that the States may not limit a woman's right to an abortion prior to viability when it places an ''undue burden'' on that right. An undue burden is one that has ''the purpose or effect of placing a substantial obstacle in the path of a woman seeking an abortion of a nonviable fetus.'' Let's not try to overturn the law of the land.

H.R. 1122 in its current form interferes with a woman's access to the abortion procedure that her doctor has determined to be safest for her, and so unduly burdens her right to choose. It is therefore inconsistent with the principles outlined in Roe and Casey, which has been reaffirmed by every subsequent Supreme Court decision on this issue, and so is unconstitutional.

I ask my colleagues to vote against H.R. 1122 and in so doing signal their commitment to preserving the health and future fertility of American women and to upholding the U.S. Constitution.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentlewoman from Wyoming [Mrs. CUBIN].

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

Mrs. CUBIN. Mr. Speaker, I thank the gentleman from Florida [Mr. CANADY] for his hard work and diligence on this issue.

I am proud to say that I am an original cosponsor of the ban on partial-

birth abortions. This bill, which is identical to last year's legislation, prohibits medical doctors who perform abortions from utilizing partial-birth abortion procedures.

I am married to a physician, and we have discussed this a lot of times throughout our married life and just through our intimate lives. Taking a life, a viable life, at any stage is not acceptable. One time my son said to me, ''Mom, you know, I do not believe there is such a thing as an unwanted child.'' I believe there is such a thing as unwanted pregnancies, but not an unwanted child, and especially when that life could be viable outside the womb and when the life could go on.

Mr. Speaker, H.R. 929 imposes fines or potential imprisonment of up to 2 years for abortionists who perform partial-birth abortion, and it allows the father or maternal grandparents to file a civil lawsuit against the doctor for monetary damages. The bill, however, does include an exception to save the life of the mother.

Since the beginning of the debate over this legislation, it has become evident that there is still a great deal of misinformation about how often this procedure is actually utilized. In the last few weeks, much has been made of the abortion rights lobbyist, Ron Fitzsimmons, who admitted, and I quote, ''lying through his teeth'' when he said the procedure was rare and invoked almost exclusively to protect the mother's health. He was lying through his teeth when he said that.

A national organization of over 400 physicians who specialize in obstetrics, gynecology, fetal medicine, and pediatrics recently stated that, ''Never is the partial-birth procedure medically indicated. Rather, such infants are regularly and safely delivered alive with no threat to the mother's health or fertility.''

Mr. Speaker I ask my colleagues to support this bill.

Mr. CONYERS. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Texas, Ms. EDDIE BERNICE JOHNSON.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today to admit that I am not pro-abortion. My roots consist of growing up in the Catholic church and being educated at a Catholic college. I am a nurse, and I am pro-choice.

A woman's decision to undergo an abortion procedure is one of the most personally agonizing decisions she will have to make. In late term abortions, women have had the opportunity to choose abortion and did not because they wanted the child. But because of some untoward turn of health events, sometimes this procedure becomes necessary.

To the maximum extent possible, the Government should avoid any intrusion into this painful process. The Government cannot and should not replace family, friends, clergy, and physicians. These are not the kind of issues that any woman comes to this body to ask for an answer. This is not where they seek that advice.

We have been guaranteed by our Constitution a right to privacy and a freedom of religion. This is not the proper body to discuss life and death issues that licensed physicians and families should be making without the intrusion of this body.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Nebraska [Mr. CHRISTENSEN].

Mr. CHRISTENSEN. Mr. Speaker, we hear a lot about the life of the mother, but that is in this bill, right here. It says, ''it is necessary to save the life of a mother whose life is endangered by a physical disorder, illness or injury.''

Mr. Speaker, in the name of compassion, in the name of mercy, what about the choice of the unborn child? Hear her scream, hear his scream. How can we continue to defend something as gruesome as this? Have mercy on this body.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from the District of Columbia [Ms. NORTON].

□ 1430

Ms. NORTON. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, the results of this debate are a foregone conclusion, yet this matter is too serious to have been treated as it has been, as a setup. There was a better way.

We have questions that need answering: Why a bill that is unconstitutional on its face in defiance of Roe versus Wade? Why a bill that was never considered in committee? Why a bill that trades off mother for fetus? Why a bill that is sure to be vetoed? Why a bill that lower Federal courts have already indicated was unconstitutional? Why a bill that makes a tragic necessity for a late-term abortion even more tragic?

This is very serious. It deserved to be treated seriously. It deserved the bipartisan solution that was indeed available. We have compounded the tragedy of late-term abortions here today.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. MICA].

Mr. MICA. Mr. Speaker, for many of us as Christians we begin to celebrate Easter this week. Easter, for our faith, represents the triumph of life over death. This legislation today could represent the triumph of life over death for thousands of the unborn.

How ironic it is for our President to surround himself with children and many photo opportunities, and submit legislation to this Congress to provide health coverage to our children, and then to veto legislation banning the slaughter of innocent unborn.

This great Nation really is separated from other nations not just by a standard of material wealth, but rather, and most exclusively, by our standards of justice. I ask the Members, how can we claim that justice prevails in our Nation when we allow this barbaric procedure to continue unchecked? How can we as a Congress and a nation continue to ignore the health and life of children?

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, I would like to read a letter which I received yesterday from a constituent in Hamden, CT:

DEAR CONGRESSWOMAN DELAURO: I am writing to implore you to vote against the bill banning late-term dilation and evacuation, more commonly known as ''partial-birth abortions''. The bill would ban this abortion when a mother's or the fetus' health is the reason for this choice. This is a very personal issue to me since I am one of the women who opted to undergo this procedure.

We had been trying to conceive a child for more than a year and were in the process of undergoing infertility testing when, to our surprise and utter joy, we discovered that I was pregnant. I spent many hours talking and singing to my child, and dreaming of her future; dreams which all shattered when a routine blood test at 16 weeks revealed abnormalities.

I was urged to undergo amnio- centesis and ultrasound. I found myself lying on that table praying. I knew in my heart that something was terribly wrong.

The 2 weeks that followed were among the longest of my life. At one point I awakened from a nightmare sobbing. Ten days later, my husband came home early from work. He sat down on our bed and told me that our doctor had called him and the news was not good. He burst into tears.

We met with our Rabbi and a genetics counselor from the hospital. Our baby had a very rare chromosomal abnormality, so rare it did not have a name. The genetic counselor came to our home with all the case studies she could find relating to this disorder, fewer than ten. Perhaps there were so few cases because most died young or died in utero.

On December 7, 1992, I chose to end this much-desired and sought-after pregnancy. More than 4 years later I still mourn the loss of this child, a little girl. I know that our decision was the right one for all concerned and I am thankful that we have the right to make it. I feel certain that it was a decision that no woman wants to make, but one which in some situations is the least horrific of truly horrendous alternatives.

After more struggles with infertility, we were finally blessed with a wonderful, happy baby girl. She turned 2 years old last month and has been an endless source of joy and comfort to us. . . . There really are extenuating circumstances that require truly horrible measures to be taken. Thank you. Please continue in your efforts to keep abortion legal, even late in a pregnancy.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Kansas [Mr. RYUN].

Mr. RYUN. Mr. Speaker, the Lord has blessed my wife and me with four precious children. When they were babies I held them, I fed them, I took care of them, and I even helped change their diapers. I knew then that if anyone would really try and hurt them, that I would do whatever I could to defend them, and as I know all the Members would here with their children.

This is the time to stand up and to defend the innocent, the children of our

country. We in this Chamber have been elected to defend the truths of our country, one of which is we believe in the rights of the individual, the pursuit of life and liberty, and the pursuit of happiness.

Have we as citizens allowed our minds and hearts to be seared in such a way that the crushing of the skull that was described earlier and the sucking out of the brains of a head that is still in the mother's womb is really be considered a defensible act? This is a gruesome act, and if Members winch when I talk about that, then they should. How can we allow this to continue? We must stop this. A Nation cannot long endure which condones participation in such brutality and uncivilized acts.

Mr. Speaker, I challenge my colleagues that are here today and will vote later that we end this uncivilized and brutal act of partial-birth abortions.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 1 minute to the gentleman from New York, JERRY NADLER, the ranking member of our subcommittee.

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

Mr. NADLER. Mr. Speaker, this bill says very clearly that a fetus is more important than the physical health of the mother. But this bill is not about abortion. We all have different views. Some people view abortion as murder. Some think it is perfectly permissible. Some think it permissible up to a certain stage, others to a later stage. The Supreme Court says the constitutionally guaranteed right to choose is until viability.

But this bill is not about abortion, it is about electoral politics. If an abortion is permitted under our law at 20 weeks or at 23 weeks or at 24 weeks, what moral distinction, what moral distinction is there between whether the fetus is killed in the uterus and then extracted or partially extracted and then killed? The fetus is still dead, it is an abortion. An abortion involves killing a fetus.

We have different views on abortion here, but the Supreme Court, the Constitution guarantees the right to abortion. There is no moral distinction. It is purely electoral politics, an electoral politics in which the majority wishes to put the health of the mother at risk.

Mr. Speaker, I rise to strongly oppose this unprecedented and mean-spirited assault on the constitutional right to choose.

What this bill says very clearly is that a fetus is more important than the physical health of the mother.

So, let us say a woman becomes pregnant, and while she's pregnant the father rapes her, and beats her to a pulp, and throws her down the stairs.

This abuse then causes severe damage to her and to the fetus, and the doctor tells her that, because of her injuries, carrying the pregnancy to term will probably result in permanent severe physical injury, perhaps leaving her sterilized or paralyzed for life. Maybe the fetus is so severely damaged that it has no chance at life.

Even if the doctor determines that the best abortion procedure to protect her life and health is the one that would be banned by this bill, this woman cannot have that procedure.

This woman, who is now severely traumatized, who is injured by the battering, would be forced to have another procedure that could leave her sterile, or paralyzed. The bill supporters seem to believe that it is OK.

How dare any Member, have the arrogance to step in at this critical moment and say they know best, that they have the right to make this difficult decision.

If she decides to have the abortion anyway, this bill would allow the father to sue her and her doctor. My amendments, which were accepted by the committee and included in the bill up until last night, would have prevented abusive fathers, or fathers who abandon women, from suing for damages. But this provision has been taken out.

Some Members of this House may believe that women have abortions for trivial reasons. Some have even suggested that a woman who has had a fight with her boyfriend might have a late term abortion. That is a vile slander against every woman in America today. In fact, women who choose to have abortions do not do so lightly. Some Members of Congress may not see women as rational and moral individuals, but the Constitution still recognizes their moral and individual autonomy. That is why it prohibits governmental intrusions like this bill.

But this is not about abortion. It is about electoral politics.

How dare a bunch of Washington politicians presume to dictate to American women faced with a difficult situation—in many cases, with a fetus that will not be able to survive and grow—children without brains, or with brains growing on the outside of their heads—women who are faced with the prospect of death or sterility from a ruptured uterus if they don't have this procedure. These are wrenching, life-altering moments. These women have in many instances named their babies, furnished nurseries, notified grandparents, and then, in an instant, their dreams are wiped out by tragedy.

Do we really want to make this situation the subject of a criminal prosecution or a law suit? Do we really want to see doctors in handcuffs? Do we really want to put doctors behind bars for doing what they believe is in the best interest of their patients? Do we really want to make women and their medical providers go to court to prove in lengthy litigation that death would have occurred in any event? Can this always be proved, and if so, how certain do you have to be? Is a 50 percent chance of death tolerable under this law? Twenty-five percent? And a threat to a woman's health or to her ability to try to have more children doesn't even rate consideration in this bill.

By refusing to add an exception in order to avoid serious health consequences to the woman, the proponents of this bill are admitting that they would rather argue this issue, than ban this procedure.

Shame on this House for having the arrogance to judge people in this most vulnerable and tragic of circumstances. Shame on this House for playing politics with the lives of American families.

Mr. CANADY of Florida. Mr. Speaker, I reserve the balance of my time for the purpose of closing.

Mr. CONYERS. Mr. Speaker, I yield 30 seconds to the gentlewoman from California [Ms. PELOSI]

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in opposition to the Canady legislation, because this bill would force doctors to choose between their best medical judgment and a prison sentence. The bill is an unprecedented intrusion by Congress into medical decisionmaking, and in fact, indeed, lacks respect for women.

I urge my colleagues to vote against this legislation, and heed the words of Vicky Wilson, who said, ''I strongly believe this decision should be left within the intimacy of the family unit. We are the ones who have to live with the decision.'' Indeed, Vicky had to do that when she was faced with carrying a fetus who had a fatal condition, and carrying it to term would have imperiled her life and her health.

I urge my colleagues to vote ''no'' on the Canady legislation.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 1½ minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I have not listened to all of the debate, but I know the substance of I think all the debate. There has been some discussion about dishonesty, misrepresentation that existed on the pro-choice side, and I suggest to Members that exists on the pro-life side of this issue.

Mr. Speaker, I will oppose this bill, and will offer at the appropriate time legislation which will in fact speak to stopping late-term abortions.

Will it have exceptions? Yes, it will. I think the overwhelming majority of Americans support exceptions. In fact, the gentleman from Illinois [Mr. HYDE] supports exceptions, rape and incest. As I have pointed out to the Committee on Rules, rape and incest is not a physical competition, it is a mental health exception.

I think, in fairness to the gentleman from Illinois [Mr. HYDE], he intellectually does not believe that ought to be accepted. I think he is intellectually honest in that position. We have legitimate differences.

This bill deals with one procedure, as if to say that this procedure ought to be eliminated. My good friend, the gentleman from New Jersey [Mr. SMITH], for whom I have great respect and affection, will tell us, I think, that none of the alternative procedures are humane, are appropriate, are anything but murder. I think that is his position.

The SPEAKER pro tempore. The gentleman's time has expired.

Mr. SMITH of New Jersey. Will the gentleman yield?

Mr. HOYER. I would yield.

Mr. SMITH of New Jersey. Will the gentleman yield?

The SPEAKER pro tempore. The gentleman's time has expired.

The gentleman will suspend.

The gentleman's time has expired. The gentleman from Michigan [Mr. CONYERS] has 1 minute remaining.

Mr. CONYERS. Mr. Speaker, I yield the balance of our time to the distinguished gentleman from Texas, Mr. CHET EDWARDS.

The SPEAKER pro tempore. The gentleman from Texas [Mr. EDWARDS] is recognized for 1 minute.

Mr. EDWARDS. Mr. Speaker, when I first voted on this bill in November of 1995, I agonized about it, because my wife was pregnant, 8 months pregnant with our first child, a child that I had prayed and hoped for.

Fortunately, that baby was born and is today the joy of our life. But I voted against this bill at that time because I felt no one, no one in this House had the right to tell my wife or me what we should do if her health or her fertility had been at risk.

Today I am voting against this bill with another person in mind, the child by the name of Nicholas Stella, born 1 week before our first blessed child came into this world. Had this bill been law 3 years ago, Nicholas Stella would not be alive today. What right does any Member of this House to tell Vicky Stella that she should have been denied the joy of having her son, just as we have had the joy, so many of us, of having children ourselves?

I am voting pro-life. I am voting for the lives of Nicholas Stella and all the other children who would not be alive today had this bill been the law of the land.

Mr. CANADY of Florida. Mr. Speaker, I am pleased to yield the balance of my time to the gentleman from from Illinois [Mr. HYDE], chairman of the Committee on the Judiciary.

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

□ 1445

Mr. HYDE. Mr. Speaker, I beg of my colleagues the courtesy of not asking me to yield. I do not intend to yield. I have much to say and little time to say it in.

Mr. Speaker, when you have a theme as large and as profound as ours is today, you need the help of great literature to describe the magnitude of the horror of partial-birth abortion. I suppose Edgar Allen Poe could describe it, but it is startling how the words of the ghost of Hamlet's father seem to anticipate our debate today:

> I could a tale unfold, whose lightest word would harrow up thy soul, freeze thy young blood; make thy two eyes, like stars, start from their spheres; thy knotted and combined locks to part; and each particular hair to stand on end, like quills upon the fretful porcupine.

There is no Member of this House who does not know in excruciating detail what is done to a human being in a partial-birth abortion. A living human creature is brought to the threshold of birth. She is four-fifths born, her tiny arms and legs squirming and struggling to live. Her skull is punctured. The wound is deliberately widened. Her brains are sucked out. The remains of the deceased are extracted. In the words of the abortion lobby, the baby undergoes demise. What a creative addition to the lexicon of dehumanization.

If calling an infant a fetus helps you, if calling this obscene act intact dilation and evacuation assuages your conscience, by all means do so. Anything is better than a troubling conscience. But you must know the only thing intact in this procedure is the baby, before, of course, the abortionist plunges his scissors, his assault weapon, into her tiny neck. Then she is not very intact.

Something was rotten in the state of Denmark in Shakespeare's great drama. Something is rotten in the United States when this barbarity is not only legally sanctioned but declared a fundamental constitutional right.

While we are on Hamlet, who can forget the most famous question in all literature: ''To be or not to be?'' Every abortion asks that question, but forbids an answer from the tiny defenseless victim struggling to live.

When this issue was debated in the last Congress, the President and the defenders of partial-birth abortion claimed that the procedure was, in the President's now familiar euphemism, rare, and that it was used only in times of grave medical necessity. All of us know now, as many of us knew then, that those claims were lies. They were lies. The executive director of the National Coalition of Abortion Providers admitted on national television that he and others in the pro-abortion camp simply flatly lied about the incidence of partial-birth abortion.

It is not the case that these abortions are rare. It is not the case that this procedure is used only reluctantly and in extremis. It is not the case that this procedure is used only in instances of medical emergency. Partial-birth abortion, infanticide in plain English, is business as usual in the abortion industry. That is what the executive director of the National Coalition of Abortion Providers told us.

Is this House prepared to defend the proposition that infanticide is a fundamental constitutional right?

Partial-birth abortion is not about saving life. Partial-birth abortion is about killing. Killing is an old story in the human drama, fratricide scarred the first human family, according to Genesis, but the moral prohibition on killing is as old as the temptation to kill. Most of the familiar translations of the Bible render the commandment, Thou shalt not kill. A more accurate translation of the Hebrew text would read, Thou shalt not do murder. That is to say, Thou shalt not take a life wantonly for the purposes of convenience or problem solving or economic benefit, nor trade a human life for any lesser value.

The commandment in the Decalogue against doing murder is not sectarian dogma. Its parallel is found in every moral code in human history. Why? Because it has been understood for millennia that the prohibition against wanton killing is the foundation of civilization.

There can be no civilized life in a society that sanctions wanton killing. There can be no civil society when the law makes the weak, the defenseless and the inconvenient expendable. There can be no real democracy if the law denies the sanctity of every human life. The founders of our Republic knew this. That is why they pledged their lives, their fortunes, their sacred honor to the proposition that every human being has an inalienable right to life.

Our Constitution promises equal protection under the law. Our daily pledge is for liberty and justice for all. Where is the protection, where is the justice in partial-birth infanticide?

Over more than two centuries of our national history, we Americans have been a people who struggled to widen the circle of those for whom we acknowledge a common responsibility. Slaves were freed, women were even franchised, civil rights and voting rights acts were passed. Our public spaces made accessible to the handicaped, Social Security mandated for the elderly, all in the name of widening the circle of inclusion and protection.

This great trajectory in our national experience, that of inclusion, has been shattered by Roe versus Wade and its progeny. By denying an entire class of human beings the protection of the laws, we have betrayed the best in our tradition. We have also put at risk every life which someone, some day, somehow might find inconvenient. ''No man is an island,'' preached the Dean of St. Paul's in Elizabethan times. He also said, ''Every man's death diminishes me, for I am involved in mankind.''

We cannot today repair all the damage done to the fabric of our culture by Roe versus Wade. We cannot undo the injustice that has been done to 35 million tiny members of the human family who have been summarily killed since the Supreme Court, strip-mining the Constitution, discovered therein a fundamental right to abortion. But we can stop the barbarity of partial-birth abortion. We can stop it. We must stop it, and we diminish our own humanity if we fail.

Historians tell us we live in the bloodiest century in human history. Lenin, Stalin, Hitler, Mao, Pol Pot, the mountain of corpses reaches to the heavens and hundreds of millions of innocents cry out for justice.

We cannot undo the horrors inflicted on the human spirit. We cannot repair the wounds already sustained by civilization. We can only say, never again.

But in saying never again, we commit ourselves to defend the sanctity of life. In saying no to the horrors of 20th century slaughter, we solemnly pledge

not to do murder, because the honoring of that pledge is all that stands between us and the moral jungle.

Mr. Speaker, we have had enough of the killing. The constitutional fabric has been shredded by an unenumerated abortion license which, sad to say, includes the vicious cruelty of partial-birth abortion. The moral culture of our country is eroding when we tolerate a cruelty so great that its proponents do not even wish us to learn the truth about this procedure.

This Congress has been blatantly, willfully, maliciously lied to by proponents of the abortion license.

Enough. Enough of the lies, enough of the cruelty, enough of the distortion of the Constitution. There is no constitutional right to commit this barbarity. That is what we are being asked to affirm.

In the name of humanity, let us do so, and in the words of St. Paul, ''Now is the acceptable time.''

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MCINNIS). The Chair would remind visitors in the gallery that they are not allowed to express approval or disapproval. The Chair asks that they respect that rule.

Mr. PICKERING. Mr. Speaker, several weeks ago, a national journalist asked, ''What kind of nation are we that would allow a procedure known as the partial birth abortion?''

I am proud to be an original cosponsor of H.R. 929—the Partial-Birth Abortion Ban Act of 1997. Currently, thousands of these types of abortions are performed annually from the fifth and sixth months of pregnancy through the full term on healthy mothers carrying healthy babies—babies that have reached the point of viability.

The partial birth abortion is so gruesome, even some supporters of abortion are opposed to it. Senator DANIEL PATRICK MOYNIHAN refers to this heinous procedure as infanticide. In 1995, the American Medical Association's Legislative Council—a panel consisting of 12 doctors—unanimously voted to recommend banning partial birth abortions. One of these doctors described the procedure as ''basically repulsive.'' More than 300 physicians and medical specialists joined former U.S. Surgeon General C. Everett Koop last year in saying that this procedure is never medically necessary to protect a mother's life or her future fertility.

Mr. Speaker, it is unfortunate and disturbing that President Clinton, even when presented with clear medical evidence, refuses to support a ban on partial birth abortions. Opponents of the ban on this type of abortion characterized the procedure, in previous congressional debates, as a rare technique seldom used for anything but protection of the life of the mother or in cases of extreme fetal abnormality. But then, Mr. Ron Fitzsimmons, executive director of the National Coalition of Abortion Providers, a pro-abortion group, admitted that he ''lied through his teeth'' last year when he said that this procedure is rare and only performed about 500 times a year under extreme circumstances. Mr. Fitzsimmons now says that thousands upon thousands of these procedures are performed every year, on primarily healthy women with healthy babies.

Mr. Speaker, I have four young children. During each of my wife's pregnancies, modern technology allowed me to hear our babies' heartbeats. Sonograms allowed me to see inside the womb as my children kicked and moved. I watched their heartbeats and counted their fingers and toes. In later stages, I touched and felt their movements inside their mother. These experiences presented clear and unmistakable evidence that there is life before birth.

Through recent technological advances, we now know many things about child development prior to birth. Sonograms and other technologies make it possible for all parents to hear, see, and touch our children before actual delivery. With this new knowledge, we cannot turn our backs on our responsibility to protect the lives of innocent children.

We must ask ourselves the same question as the journalist, ''What kind of nation are we that would allow partial birth abortions?'' An early observer of America, Alexis de Tocqueville, said ''America is great because America is good.'' If this is to continue to be true, we must act now to stop this grisly procedure that opponents and supporters of abortion alike refer to as infanticide.

Mr. Speaker, it's time to call on our Nation's conscience and the ''better angels of our nature.'' It's time to stop partial birth abortions and pass this bill for our children. We are a better Nation than one that allows such practices to exist. We can start here to renew and reaffirm that we hold certain truths as self-evident—that life and liberty are inseparable and both should be held as sacred.

Ms. MCCARTHY of Missouri. Mr. Speaker, when Congress considers issues as critical as those debated today involving the life and health of American women, public policy considerations should take precedence over partisan politics. I am disappointed that we were unable to engage in such a discussion on this difficult issue.

The procedural maneuvers of the majority party removed all hope of having meaningful consideration of the late term abortion issue. The original language proposed in H.R. 929 was dropped by the Rules Committee last night and the consideration of the bipartisan Hoyer-Greenwood measure prohibited. The Frank motion would have allowed the House to reflect further on language which would provide necessary safeguards for women who might have no other option but to use this procedure.

I firmly support the current law of the land regarding a woman's right to privacy. I believe that viable pregnancies dictate more protection and that adopting the Frank language is a reasonable solution. Unfortunately, political gamesmanship has thwarted thoughtful policymakers who want to meaningfully address this issue.

I have wrestled with this difficult vote in terms of balancing my concern associated with this specific procedure and the need to observe the Roe decision which reflects the mainstream in Congress and in America. I will continue to work for a more thoughtful deliberation by the House of Representatives on this divisive issue.

Mr. Speaker, thank you for the opportunity to discuss this important subject.

Mr. LEVIN. Mr. Speaker, I do not favor late-term abortions and feel they should only be allowed when necessary to preserve the life of or prevent serious health consequences to the mother. The bill we are considering today, like the similar bill I opposed last year, does not protect a woman from serious threats to her health—from serious threats to her future ability to have children.

Unfortunately, the leadership did not allow us to consider an alternative today that does provide an exception to preserve the life of the mother or to prevent serious health consequences to the mother. I support the Greenwood-Hoyer legislation that would ban all late-term abortions—not just those considered ''partial-birth'' abortions in H.R. 1122—except in cases when necessary to preserve the life of or to prevent serious health consequences to the mother, as required by the Supreme Court.

Mr. SENSENBRENNER. Mr. Speaker, I rise in earnest support of the Partial-Birth Abortion Ban Act. I thank the chairman of the Constitution Subcommittee, Mr. CANDY, for yielding and for his dedication to this cause. It is regrettable the President vetoed this bill, but thankfully, Mr. CANDY, along with Chairman HYDE, have continued the fight and today we again have the opportunity to present our case to the American people and to appeal directly to the President to reconsider his misguided position.

The President's veto of the Partial-Birth Abortion Ban Act is indefensible and his reason for vetoing the bill does not hold up under scrutiny. The President claims this abortion procedures is the ''only way,'' for women with certain prenatal complications to avoid serious physical damage, including the ability to bear further children. If this is accurate, then why is partial-birth abortion not taught in a single medical residency program anywhere in the United States? Why has no peer-reviewed medical research ever endorsed it?

The fact is a partial-birth abortion is never necessary to preserve the health or future fertility of the mother. However, you do not have to take my word for it. Former Surgeon General C. Everett Koop has stated he believes the President was ''mislead by his medical advisors on what is fact and what is fiction in reference to late-term abortions.'' Dr. Koop concluded that there was no way he could twist his mind to see that a partial-birth abortion is a medical necessity for the mother. Hundreds of other doctors have come forward to reiterate Dr. Koop's position. The sad and dangerous fact is the partial-birth abortion procedure itself is very risky and poses a significant threat to the pregnant woman's health and fertility.

The difference between a partial-birth abortion and homicide is a mere 3 inches. A Congress, President, and society that strives for civility and decency should not tolerate such barbarism.

Mr. COYNE. Mr. Speaker, I am opposed to late-term abortions except in cases where it is absolutely necessary to preserve the life or the health of the mother. Accordingly, I am opposed to H.R. 929 because it does not provide for the serious health concerns of the mother when she and her doctor believe that her health is in jeopardy.

This procedure should only be used in cases where there is a serious risk to a woman's life or health, and I believe that H.R. 929

could have been drafted to allow a limited exception for those cases in which it is truly necessary.

Currently the 40 States—including Pennsylvania—that prohibit postviability abortions must provide exceptions for the life and health of the mother. Surely the supporters of H.R. 929 could have written exceptions that would prohibit the procedure in most cases but that would allow women and their physicians, in the most limited and serious of cases, access to a procedure that will preserve both the life and health of the women involved.

Further, I believe that H.R. 929 is inconsistent with Supreme Court precedent set forth in Roe versus Wade and upheld in Planned Parenthood versus Casey. Even those Justices who dissented in Roe asserted that life and health exceptions in abortion laws could not constitutionally be forbidden. Further, the Supreme Court has consistently held—in both Roe and Casey—that States cannot prohibit abortions before fetal viability. Because H.R. 929 does not provide an exception for threats to the mother's health, and because it prohibits some previability abortions, I believe that the legislation is unconstitutional and would be declared so by the current Supreme Court.

I believe that H.R. 929 is a tragedy. It is a tragedy not only because of the terrible consequences it will have for women facing devastating circumstances, but also because of the manner in which the bill has been moved through the legislative process. The legislation's proponents fully realize the constitutional infirmities of H.R. 929 and they fully realize the likelihood that the Supreme Court will declare the legislation unconstitutional. They have nevertheless persisted in refusing to incorporate changes in the legislation that would allow it to become law and thereby consistent with Supreme Court decisions. Because of the bill's supporters' intransigence, the good that could come from limiting the number of late-term abortions—with the appropriate constitutional protections—may never be realized. I can only conclude that this legislation is being exploited for political gain. That is a tragedy.

For these reasons, I cannot support H.R. 929.

Mr. PORTMAN. Mr. Speaker, as an original cosponsor of the Partial-Birth Abortion Ban Act, I wish to express my support for outlawing the troublesome practice of partial-birth abortions. I cosponsored and supported this legislation during the last session of Congress and voted to override the President's unfortunate veto of the bill.

As my distinguished colleague from Illinois, Mr. HYDE, so eloquently pointed out earlier, partial-birth abortion is, in many respects, a polite term for infanticide. Indeed, Mr. Speaker, I ask you: What will future generations think of a society that allows this practice? For the moral health of our country, and for future generations, we should take action today to ban partial birth abortions.

Opponents of the ban suggest that partial-birth abortions are needed to protect mothers with pregnancy-related complications, but this argument simply does not hold up to the testimony of abortion providers and medical experts. Indeed, the executive director of the National Coalition of Abortion Providers has admitted that, in most cases, the partial-birth abortion procedure is performed on a healthy mother with a healthy fetus more than 20 weeks old. Former Surgeon General of the United States C. Everett Koop has said that there is ''no way'' he can see a medical necessity for this barbaric procedure. The American American Medical Association's legislative council has unanimously supported the partial-birth abortion ban.

Congress has the opportunity today to do the right thing by banning partial-birth abortions. We have a duty to protect the unborn from this horrific procedure. I hope my colleagues will listen to their consciences and vote to make partial-birth abortions illegal once and for all.

Ms. HARMAN. Mr. Speaker, I rise today in strong opposition to H.R. 1122, the late-term abortion ban, which represents a direct challenge to Roe versus Wade and a woman's right to choose. I cannot support legislation which takes choices about a woman's health from her, her family, and her doctor, and places them in the hands of legislators.

And make no mistake about it: that's exactly what this bill is designed to do. With no exception for the health of the mother, this bill is not about families and children; it's about laying the groundwork for an assault on reproductive choice.

Since the initial introduction of this bill, I have met with a number of women who had the procedure this bill attempts to ban, and in each case the story was the same. These were wanted children but, to each woman's horror, it was learned at 30 weeks or more of pregnancy that the baby had such severe deformities—no internal organs, a brain outside the head, no brain—as to prevent its survival outside the womb. As Coreen Costello told me:

> In my 30th week of my third pregnancy, I had a procedure that would have been banned by [H.R. 1122]. Our daughter, Katherine Grace, was diagnosed with a lethal neurological disorder that left her unable to move any part of her tiny body for almost two months. Her muscles had stopped growing and her vital organs were failing. Her head was swollen with fluid, her little body was stiff and rigid and excess fluid was puddling in my uterus. Our doctors—some of the best medical experts in the world—told us there was no hope for our daughter. Because of our strong pro-life views, we rejected having an abortion. But when it became apparent that the pregnancy was affecting my health and might ruin my fertility, we knew we had to act and an intact D&E was the best option for my circumstances.

For women like Coreen Costello, the ability to bear children in the future will be jeopardized if they do not have the medical option that H.R. 1122 bans. This is a tremendously difficult, painful, and above all personal choice, and legislators should not force their will on women or medical professionals in this situation.

Mr. Speaker, there is simply no reason not to include an exemption in this bill for a woman's health. The fact that there is no such exemption in the bill's language points to the political nature of this legislation. I urge my colleagues to consider the importance of protecting women, and to vote against this bill.

Mr. WELDON of Pennsylvania. Mr. Speaker, once again we are on the floor of the House to discuss the partial birth abortion. Because of the political debate surrounding this important issue, advocates have been able to take a truly horrific procedure and whittle it down to a 5-second soundbite, a paragraph in type, and a few diagrams and charts; none of which can truly capture this gruesome operation. Gruesome as it is, however, the debate should not be about the operation itself, but rather its victim.

We are often quick to forget in this age of convenience, that as a result of each one of these procedures, a single, special, unique human life is lost. Each time, a life is stolen along with all of its potential and promise and we will never know how many future astronauts, fathers, teachers, counselors have been lost in the mechanical movement of those metzenbaum scissors.

As recent information has shown, most of the lives snuffed out are those of healthy, viable children whose only crime is temporary inconvenience. Each one is a hope, a future, and a promise that is lost and can never be recovered.

Mr. Speaker, today we have the opportunity to make a difference, to protect the lives and futures of these victims. For their future, I urge my colleagues to vote for this bill and I will look forward to the Senate and President joining us in our important work.

Mr. DOOLITTLE. Mr. Speaker I rise today in strong support of the Partial-Birth Abortion Ban Act, just as I did a year ago. I would like to insert into the RECORD the following column by Charles Krauthammer, which destroys many of the myths surrounding this issue.

[From the Washington Post, Mar. 14, 1997]

SAVING THE MOTHER? NONSENSE

(By Charles Krauthammer)

Even by Washington standards, the debate on partial-birth abortion has been remarkably dishonest.

First, there were the phony facts spun by opponents of the ban on partial-birth abortion. For months, they had been claiming that this grotesque procedure occurs (1) very rarely, perhaps only 500 times a year in the United States, (2) only in cases of severe fetal abnormality, and (3) to save the life or the health of the mother.

These claims are false. The deception received enormous attention when Ron Fitzsimmons, an abortion-rights advocate admitted that he had ''lied through his teeth'' in making up facts about the number of and rationale for partial-birth abortions.

The number of cases is many times higher—in the multiple thousands. And the majority of cases involve healthy mothers aborting perfectly healthy babies. As a doctor at a New Jersey clinic that performs (by its own doctors' estimate) at least 1,500 partial-birth abortions a year told the Bergen Record: ''Most are for elective, not medical, reasons: people who didn't realize, or didn't care, how far along they were.''

Yet when confronted with these falsehoods, pro-abortion advocates are aggressively unapologetic. Numbers are a ''tactic to distract Congress,'' charges Vicki Saporta, executive director of the National Abortion Federation. ''The numbers don't matter.'' Well, sure, now that hers have been exposed as false and the new ones are inconvenient to her case.

Then, the defenders of partial-birth abortion—led by President Clinton—repaired to their fall-back position: the heart-tugging claim that they are merely protecting a small number of women who, in Clinton's words, would be ''eviscerated'' and their bodies ''ripped . . . to shreds and you could never have another baby'' if they did not have this procedure.

At his nationally televised press conference last Friday, Clinton explained why this is so: ''These women, among other things, cannot preserve the ability to have

further children unless the enormity—the enormous size—of the baby's head is reduced before being extracted from their bodies.''

Dr. Clinton is presumably talking about hydrocephalus, a condition in which an excess of fluid on the baby's brain creates an enlarged skull that presumably would damage the mother's cervix and birth canal if delivered normally.

Clinton seems to think that unless you pull the baby out feet first leaving in just the head, jam a sharp scissors into the baby's skull to crack it open, such out the brains, collapse the skull and deliver what is left—this is partial-birth abortion—you cannot preserve the future fertility of the mother.

This is utter nonsense. Clinton is either seriously misinformed or stunningly cynical. A cursory talk with obstetricians reveals that there are two routine procedures for delivering a hydrocephalic infant that involve none of this barbarity. One is simple to tap the excess (cerebral spinal)fluid (draw it out by means of a small tube while the baby is still in utero) to decompress (reduce) the skull to more normal size and deliver the baby alive. The other alternative is Caesarean section.

Clinton repeatedly insists that these women, including five he paraded at his ceremony vetoing the partial-birth abortion ban last year, had ''no choice'' but partial-birth abortion. Why, even the American College of Obstetricians and Gynecologists, which supports Clinton's veto, concedes that there are ''no circumstances under which this procedure would be the only option to save the life of the mother and preserve the health of the women''—flatly contradicting Clinton.

Moreover, not only is the partial-birth procedure not the only option. It may be a riskier option than conventional methods of delivery.

It is not hard to understand that inserting a sharp scissors to penetrate the baby's brain and collapse her skull risks tearing the mother's uterus or cervix with either the instrument or bone fragments from the skull. Few laymen, however, are aware that partial-birth abortion is preceded by two days of inserting up to 25 dilators at one time into the mother's cervix to stretch it open. That in itself could very much compromise the cervix, leaving it permanently incompetent, unable to retain a baby in future pregnancies. In fact, one of the five women at Clinton's veto ceremony had five miscarriages after her partial-birth abortion.

Why do any partial-birth abortions, then? ''The only possible advantage of partial-birth abortion if you can call it that,'' Dr. Curtis Cook, a specialist in high-risk obstetrics, observes mordantly, ''is that it guarantees a dead baby at time of delivery.''

Hyperbole? Dr. Martin Haskell, the country's leading partial-birth abortion practitioner, was asked (by American Medical News) why he didn't just dilate the woman's uterus a little bit more and allow a live baby to come out. Answer: ''The point is here you're attempting to do an abortion . . . not to see how do I manipulate the situation so that I get a live birth instead.''

We mustn't have that.

Mr. LARGENT. Mr. Speaker, I would like to insert the following article from the American Medical News into the RECORD.

[From the American Medical News, Mar. 3, 1997]

MEDICINE ADDS TO DEBATE ON LATE-TERM ABORTION

[By Diane M. Gianelli]

WASHINGTON.—Breaking ranks with his colleagues in the abortion rights movement, the leader of one prominent abortion provider group is calling for a more truthful debate in the ongoing battle over whether to ban a controversial late-term abortion procedure.

In fact, Ron Fitzsimmons, executive director of the National Coalition of Abortion Providers, said he would rather not spend his political capital defending the procedure at all. There is precious little popular support for it, he says, and a federal ban would have almost no real-world impact on the physicians who perform late-term abortions or patients who seek them.

''The pro-choice movement has lost a lot of credibility during this debate, not just with the general public, but with our pro-choice friends in Congress,'' Fitzsimmons said. ''Even the White House is now questioning the accuracy of some of the information given to it on this issue.''

He cited prominent abortion rights supporters such as the *Washington Post's* Richard Cohen, who took the movement to task for providing inaccurate information on the procedure. Those pressing to ban the method call it ''partial birth'' abortion, while those who perform it refer to it as ''intact'' dilation and extraction (D&X) or dilation and evacuation (D&E).

What abortion rights supporters failed to acknowledge, Fitzsimmons said, is that the vast majority of these abortions are performed in the 20-plus week range on healthy fetuses and healthy mothers. ''The abortion rights folks know it, the anti-abortion folks know it, and so, probably, does everyone else,'' he said.

He knows it, he says, because when the bill to ban it came down the pike, he called around until he found doctors who did them.

''I learned right away that this was being done for the most part in cases that did not involve those extreme circumstances,'' he said.

The National Abortion Federation's Vicki Saporta acknowledged that ''the numbers are greater than we initially estimated.''

As for the reasons, Saporta said, ''Women have abortions pre-viability for reasons that they deem appropriate. And Congress should not be determining what are appropriate reasons in that period of time. Those decisions can only be made by women in consultation with their doctors.''

BILL'S REINTRODUCTION EXPECTED

Rep. Charles Canady (R, Fla.) is expected to reintroduce legislation this month to ban the procedure.

Those supporting the bill, which was also introduced in the Senate, inevitably evoke winces by graphically describing the procedure, which usually involves the extraction of an intact fetus, feet first, through the birth canal, with all but the head delivered. The physician then forces a sharp instrument into the base of the skull and uses suction to remove the brain. The procedure is usually done in the 20- to 24-week range, though some providers do them at later gestations.

Abortion rights activists tried to combat the images with those of their own, showing the faces and telling the stories of particularly vulnerable women who have had the procedure. They have consistently claimed it is done only when the woman's life is at risk or the fetus has a condition incompatible with life. And the numbers are small, they said, only 500 to 600 a year.

Furthermore, they said, the fetus doesn't die violently from the trauma to the skull or the suctioning of the brain, but peacefully from the anesthesia given to the mother before the extraction even begins.

The American Society of Anesthesiologists debunked the latter claim, calling it ''entirely inaccurate.'' And activists' claims about the numbers and reasons have been discredited by the very doctors who do the procedures. In published interviews with such newspapers as American Medical News, The Washington Post and The Record, a Bergen County, N.J., newspaper, doctors who use the technique acknowledged doing thousands of such procedures a year. They also said the majority are done on healthy fetuses and healthy women.

The New Jersey paper reported last fall that physicians at one facility perform an estimated 3,000 abortions a year on fetuses between 20 and 24 weeks, of which at least half are by intact D&E. One of the doctors was quoted as saying, ''We have an occasional amino abnormality, but it's a minuscule amount. Most are Medicaid patients . . . and most are for elective, not medical reasons: people who didn't realize, or didn't care, how far along they were.''

A Washington Post investigation turned up similar findings.

'SPINS AND HALF-TRUTHS'

Fitzsimmons says it's time for his movement to back away from the ''spins'' and ''half-truths.'' He does not think abortion rights advocates should ever apologize for performing the procedure, which is what he thinks they are doing by highlighting only the extreme cases.

''I think we should tell them the truth, let them vote and move on,'' he said.

Charlotte Taft, the former director of a Dallas abortion clinic who provides abortion counseling near Santa Fe, N.M., is one of several abortion rights activists who share many of Fitzsimmons' concerns.

''We're in a culture where two of the most frightening things for Americans are sexuality and death. And here's abortion. It combines the two,'' Taft said.

She agrees with Fitzsimmons that a debate on the issue should be straightforward. ''I think we should put it on the table and say, 'OK, this is what we're talking about: When is it OK to end these lives? When is it not? Who's in charge? How do we do it?' These are hard questions, and yet if we don't face them in that kind of a responsible way, then we're still having the same conversations we were having 20 years ago.''

Fitzsimmons thinks his colleagues in the movement shouldn't have taken on the fight in the first place. A better bet, he said, would have been ''to roll over and play dead, the way the right-to-lifers do with rape and incest.'' Federal legislation barring Medicaid abortion funding makes exceptions to save the life of the mother and in those two cases.

Fitzsimmons cites both political and practical reasons for ducking the fight. ''We're fighting a bill that has the support of, what, 78% of the public? That tells me that we have a PR problem,'' he said, pointing out that several members of Congress who normally support abortion rights voted to ban the procedure the last time the measure was considered.

From a practical point of view, it also ''wasn't worth going to the mat on. . . . I don't recall talking to any doctor who said, 'Ron you've got to save us on this one. They can't outlaw this. It'd be terrible.'' No one said that.''

He added that ''the real-world impact on doctors and patients is virtually nil.'' Doctors would continue to see the same patients, using an alternative abortion method.

In fact, many of them already do a variation on the intact D&E that would be completely legal, even if the bill to outlaw ''partial birth'' abortions passed. In that variation, the physician makes sure the fetus is dead before extracting it from the birth canal. The bill would ban only those procedures in which a live fetus is partially vaginally delivered.

Lee Carhart, MD, a Bellevue, Neb., physician, said last year that he had done about 5,000 intact D&Es, about 1,000 during the past

two years. He induces fetal death by injecting digoxin or lidocaine into the fetal sac 72 hours before the fetus is extracted.

DAMAGE CONTROL

Fitzsimmons also questions whether a ban on an abortion procedure would survive constitutional challenge. In any event, he concludes that the way the debate was fought by his side ''did serious harm'' to the image of abortion providers.

''When you're a doctor who does these abortions and the leaders of your movement appear before Congress and go on network news and say these procedures are done in only the most tragic of circumstances, how do you think it makes you feel? You know they're primarily done on healthy women and healthy fetuses, and it makes you feel like a dirty little abortionist with a dirty little secret.''

Saporta says her groups never intended to send this message to doctors.

''We believe that abortion providers are in fact maligned and we work 24 hours a day to try to make the public and others understand that these are heroes who are saving women's lives on a daily basis,'' she said.

When Fitzsimmons criticizes his movement for its handling of this issue, he points the finger at himself first. In November 1995, he was interviewed by ''Nightline'' and, in his own words, ''lied,'' telling the reporter that women had these abortions only in the most extreme circumstances of life endangerment or fetal anomaly.

Although much of his interview landed on the cutting room floor, ''it was not a shining moment for me personally,'' he said.

After that, he stayed out of the debate.

DON'T GET 'SIDETRACKED' BY SPECIFICS

While Fitzsimmons is one of the few abortion rights activists openly questioning how the debate played out, it is clear he was not alone in knowing the facts that surround the procedure.

At a National Abortion Federation meeting held in San Francisco last year, Kathryn Kohlbert, one of the chief architects of the movement's opposition to the bill, discussed it candidly.

Kohlbert, vice president of the New York-based Center for Reproductive Law and Policy, urged those attending the session not to get ''sidetracked'' by their opponent's efforts to get them to discuss the specifics of the procedure.

''I urge incredible restraint here, to focus on your message and stick to it, because otherwise we'll get creamed,'' Kohlbert told the group.

''If the debate is whether the fetus feels pain, we lose. If the debate in the public arena is what's the effect of anesthesia, we'll lose. If the debate is whether or not women ought to be entitled to late abortion, we probably will lose.

''But if the debate is on the circumstances of individual women . . . and the government shouldn't be making those decisions, then I think we can win these fights,'' she said.

PUBLIC REACTION

The abortion rights movement's newest strategy in fighting efforts to ban the procedure is to try to narrow the focus of the debate to third-trimester abortions, which are far fewer in number than those done in the late second trimester and more frequently done for reasons of fetal anomaly.

When the debate shifts back to ''elective'' abortions done in the 20- to 24-week range, the movement's response has been to assert that those abortions are completely legal and the fetuses are considered ''pre-viable.''

In keeping with this strategy, Sen. Thomas Daschle (D, S.D.), plans to introduce a bill banning third-trimester abortions. Clinton, who received an enormous amount of heat for vetoing the ''partial birth'' abortion ban, has already indicated he would support such a bill.

But critics counter that Daschle's proposed ban—with its ''health'' exception—would stop few, if any, abortions.

''The Clinton-Daschle proposal is constructed to protect pro-choice politicians, not to save any babies,'' said Douglas Johnson, legislative director of the National Right to Life Committee.

Given the broad, bipartisan congressional support for the bill to ban ''partial birth'' abortions last year, it's unlikely Daschle's proposal would diminish support for the bill this session—particularly when Republicans control both houses and therefore, the agenda.

And given the public reaction to the ''partial birth'' procedure—polls indicate a large majority want to ban it—some questions occur: Is the public reaction really to the procedure, or to late-term abortions in general? And does the public really make a distinction between late second- and third-trimester abortions?

Ethicists George Annas, a health law professor at Boston University, and Carol A. Tauer, PhD, a philosophy professor at the College of St. Catherine in St. Paul, Minn., say they think the public's intense reaction to the ''partial birth'' abortion issue is probably due more to the public's discomfort with late abortions in general, whether they occur in the second or third trimesters, rather than to just discomfort with a particular technique.

If Congress decided to pass a bill banning dismemberment or saline abortions, the public would probably react the same way, Dr. Tauer said. ''The idea of a second-trimester fetus being dismembered in the womb sounds just about as bad.''

Abortions don't have to occur in the third trimester to make people uncomfortable, Annas said. In fact, he said, most Americans see ''a distinction between first-trimester and second-trimester abortions. The law doesn't but people do. And rightfully so.''

After 20 weeks or so, he added, the American public sees a baby.

''The American public's vision of this may be much clearer than [that of] the physicians involved,'' Annas said.

Mr. CUNNINGHAM. Mr. Speaker, I rise today in support of H.R. 1122, the Partial Birth Abortion Ban Act, as an original cosponsor of similar legislation, H.R. 929.

This important legislation will bring to an end the common practice of a most mean and extreme procedure. As we know, Congress adopted the Partial Birth Abortion Ban Act in 1995–96, only to see President Clinton veto the measure. The House overrode the President's veto, but it was sustained in the Senate. Thus, this grotesque procedure remains in place today.

Partial birth abortion is obviously strongly opposed by Americans who are pro-life. But it is so outrageous and so extreme that a respected Member of the other body—a member of the President's political party—said that partial birth abortion is just too close to infanticide. Thus, many Americans who are pro-choice also oppose partial birth abortion. I expect that many pro-choice Representatives will vote to ban partial birth abortion today.

Unfortunately, supporters of this procedure have gone to every length to continue to protect partial birth abortion for every purpose. The President justified his veto based on facts which have since been debunked.

The Washington Post editorialized in a piece titled ''Lies and Late-Term Abortions,'' on March 4, 1997, that ''Ron Fitzsimmons, executive director of the National Coalition of Abortion Providers, has admitted . . . that he, and by implication other pro-choice groups, lied about the real reasons women seek this particular kind [partial-birth] of abortion . . . Mr. Clinton will be hard-pressed to justify a veto on the basis of the misinformation on which he rested his case last time.'' Mr. Fitzsimmons said he ''lied through his teeth'' about the nature and frequency of partial birth abortion in the United States. Furthermore, according to Dr. Pamela Smith, the Director of Medical Education in the Department of Obstetrics and Gynecology at Mt. Sinai Hospital in Chicago, ''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.''

I believe all sides of this issue should base their case on the truth. And the truth is that partial birth abortion is barbaric. This measure represents simple mainstream common sense. I urge support of the bill.

Mr. WATTS of Oklahoma. Mr. Speaker, I thank Mr. CANADY of Florida and I congratulate him on his leadership on this critical issue.

Let us not fool ourselves about what we are voting on here today. The partial-birth abortion procedure inflicts a terrible violence on the body of a helpless child. This is not a point of debate—everyone acknowledges the medical details of what the abortionist does during a partial-birth abortion. It is a violent and horrific procedure.

And let us be clear. A partial-birth abortion is never medically necessary to protect a mother's health or her future fertility. In fact, the procedure can significantly threaten a mother's health or ability to carry future children to term.

So how can we—the citizens of a supposedly civilized society—how can we say that abortion is a procedure that will be unrestrained and unrestricted—that there will be absolutely no limits and no parameters placed on this procedure that does such terrible violence to its victim.

Who will speak for the victim—the unborn child, or in this case the partially-born child—who has no voice—unless we are their voice, unless we speak for them.

My colleagues, I urge you to speak for these voiceless victims today by voting to ban this brutal abortion procedure.

Mr. STOKES. Mr. Speaker, I rise in opposition to H.R. 1122, the Partial-Birth Abortion Ban Act. This legislation constitutes an unprecedented intrusion by Congress into medical decisionmaking, and poses a significant risk to women's health. In addition, this legislation fails to meet clearly established constitutional standards.

H.R. 1122, introduced by Congressman SOLOMON, is identical to the partial-birth abortion ban legislation vetoed by President Clinton during the 104th Congress. I voted against this measure during the last Congress, and will continue to oppose a ban on certain abortion procedures that does not provide an exception to protect a woman's life or health.

Moreover, since partial-birth abortion is not a medically recognized term, H.R. 1122 uses extremely vague and nonmedical terminology to indicate exactly what is outlawed. As a result, the measure could be interpreted to prohibit a wide range of medical procedures. Furthermore, there are no accepted medical or

legal guidelines to help doctors determine whether procedures they perform may fall within the prohibitions of this bill.

This would have a devastating impact on a medical community already intimidated by murders, threats, and violent blockades of medical facilities. Doctors would now fear imprisonment for performing late-term abortions where a fetus will not survive, or where a woman's life, health, or future reproductive capacity may be severely threatened.

The intact D&E, one of the procedures this bill appears designed to outlaw, is used by some physicians who have stated that, in their judgment, it best protects their patient's health. In these situations, these doctors report that the intact D&E procedure causes less trauma to the woman, lowers the risk of unnecessary bleeding and reduces complications, including enhancing a woman's prospect for success in future pregnancies. In this regard, H.R. 1122 unethically forbids doctors from exercising their best professional judgment on behalf of their patients.

Mr. Speaker, a law banning a specific surgical technique would be an unprecedented intrusion by Congress into the practice of medicine, and an intrusion that has no basis under the Constitution. By banning the use of certain abortion procedures before fetal viability, H.R. 1122 is a clear violation of the Roe versus Wade decision which affirmed that, before viability, a woman has the right to choose to terminate her pregnancy without interference by Government.

Furthermore, without an exception to protect a woman's health or life, H.R. 1122 also violates the Supreme Court's 1992 Planned Parenthood versus Casey decision. This ruling asserted that, after viability, the Government may restrict abortion, but only if the law contains exceptions for pregnancies that, if carried to term, would endanger the woman's life or health. I support the Court's decision and will continue to oppose efforts that would take this right away from the individual.

Mr. Speaker, it is ill-advised and potentially harmful to any individual seeking medical attention for Congress to interfere with professional medical judgments and outlaw treatment options that may best preserve a patient's health. I urge my colleagues to join me in opposing H.R. 1122.

Mr. GOODLATTE. Mr. Speaker, as a member of the Subcommittee on the Constitution and an original cosponsor of this important legislation. I rise in strong support of H.R. 929, the Partial-Birth Abortion Ban Act of 1997.

Partial-birth abortions are gruesome procedures. They are something I wouldn't wish on my worst enemy. Only the most calloused among us can hear a description of this procedure and not wince. To borrow from John Wesley, it is the ''sum of all villainies''—infanticide in its rawest form.

A greater tragedy occurred last year, however, than the several thousand partial-birth abortions that were performed in the fifth and sixth months of pregnancy on the healthy babies of healthy mothers. That tragedy occurred when President Clinton vetoed our attempt to stop this horrific procedure.

During the debate over partial-birth abortions in the 104th Congress, the pro-abortion camp asserted that this procedure is rarely performed. Those of us who supported a ban on partial-birth abortions took serious exception to this allegation, arguing that they are performed with alarming frequency. In vetoing the Partial-Birth Abortion Ban Act last year, President Clinton obviously bought into the arguments of the pro-abortion lobby.

In the last few weeks, Ron Fitzsimmons—the executive director of the National Coalition of Abortion Providers—has admitted that he ''lied through his teeth'' about the nature and number of partial-birth abortions. As we argued last year, Mr. Fitzsimmons is now admitting that thousands of partial-birth abortions are performed every year, in the fifth and sixth months of pregnancy or later, on healthy babies with healthy mothers. Clearly, the pro-abortion lobby engaged in a pattern of deception regarding this issue—only time will tell whether President Clinton was an ignorant victim or a knowing perpetrator of this terrible cover-up.

With the Partial-Birth Abortion Ban Act of 1997, Congress is giving President Clinton an opportunity to atone for last year's sinful veto. The President still has time to do the right thing. I hope he will.

I was asked recently why, since we failed in our attempt to ban this procedure last year and Bill Clinton is still the President, the 105th Congress believes it will succeed where the 104th Congress failed. Leaving the recently-exposed lies of the abortion industry aside for a moment, the answer is that regardless of the odds, we have a duty to end injustice where we find it, and a solemn responsibility to protect those who cannot protect themselves.

At a recent subcommittee hearing, representatives from the pro-abortion lobby repeated time and again that Congress should not involve itself with this issue. However, the pro-abortion lobby needs to remember that Congress consists of the people's representatives. What these people are really saying, therefore, is that the American people should not be allowed to debate this issue through their duly elected representatives. I strongly disagree—a civilized society cannot afford to abandon its standards of morality.

Mr. Speaker, Congress will continue the fight to protect and preserve innocent children. I urge all of my colleagues, whatever their position on abortion, to vote ''yes'' on H.R. 929. I yield back the balance of my time.

Mr. BLUMENAUER. Mr. Speaker, I rise today in opposition to H.R. 1122. This deeply personal and private decision is between a woman, her family, her physician and her beliefs, not the Federal Government. Without providing protection for the health and life of the mother, legislation that prevents doctors from providing patients with the most appropriate medical care is unacceptable. My position on this most sensitive of personal decisions is very simple. When the life or health of a woman is at stake, the Federal Government should not tell the family and their doctor what to do. Regrettably, the alternate bill introduced by Representatives GREENWOOD and HOYER that provided an exception for severe health consequences will not be considered today. Instead, with this legislation, Congress is once again promoting an indifference to the health of women instead of rendering a serious policy determination on a matter of grave consequence.

Mr. RILEY. Mr. Speaker, I rise today in support of the Partial-Birth Abortion Ban Act of 1997 which would put an end to the barbaric procedure known as the partial-birth abortion.

Mr. Speaker, it is now a matter of public record that this type of abortion is performed at least several thousand times a year, usually in the fifth or sixth month of pregnancy.

I want to be clear on one point. We have heard time and again from the other side today that we must protect the life of the mother.

Hundreds of medical doctors including former Surgeon General C. Everett Koop have come forward and stated without reservation that the ''partial birth abortion is never medically necessary to protect a mothers health or her future fertility.''

Let me repeat that, ''partial birth abortion is never medically necessary * * *''

So let's stop playing politics and using fear and scare tactics. Let's honestly debate the issue at hand.

Partial birth abortion is a horrifying procedure that must be ended. We have a moral obligation to stand up for the sanctity of life.

I urge my colleagues to join in this bi-partisan effort to protect those who cannot protect themselves.

Mrs. CHENOWETH. Mr. Speaker, I rise today in strong support of H.R. 929, the Partial-Birth Abortion Ban Act.

Last year—apologists for this abominable practice raised a fog of mendacity during our deliberations. Today that fog has been pierced.

What everyone can clearly see today, Mr. Speaker, is that partial-birth abortion is a practice that exposes abortion for what it truly is—the killing of an infant.

This debate is not about when life begins—for the infants targeted by this procedure are most certainly alive. This debate is over a matter of inches.

And Mr. Speaker—I submit that the constitutional right to life has jurisdiction over those inches.

Ms. KILPATRICK. Mr. Speaker, my colleagues, I rise in opposition to the final passage of legislation in this form. As a life-long pro-choice elected official, I would normally reject this legislation as a matter of principle. However, my opposition to this legislation is also based on several specific reasons that, if implemented by this legislation, would have a chilling effect upon the lives and safety of women and for the respect of precedents established by the Supreme Court.

This legislation is constitutionally unsound. This legislation directly opposes the precedents established in the Supreme Court under Roe versus Wade, in that it bans a particular procedure during the pre-viability stage of pregnancy.

This legislation handcuffs health care options for physicians. While I am not a medical doctor, a lot of the procedures that doctors perform—gynecological examinations, emergency tracheotomies, setting broken bones—are not pretty and can seem downright gruesome. However, sometimes, procedures that are needed to absolutely, positively save someone's life is necessary. For example, I am sure that many of us recall the person who had to have her leg amputated while trapped in the rubble of the Oklahoma City bomb blast. This operation was the only way that this person's life would have been spared. If we ban

this procedure, what will be next? Congress has no business telling a well-trained and intelligent physician what is or is not acceptable medical procedures.

This legislation does not allow an exception for the utilization of this procedure to spare the life or the health of the mother. Physicians often have to make life or death decisions. While it is my hope that this procedure is performed during those infinitesimal instances in which it is absolutely necessary, we should not eliminate the possibility that it might be needed to save the life or preserve the health of the mother. Like you, we have all heard the different statistics on how often this procedure is used. But statistics do not mean a thing if that is your mother, your wife, your sister, or your daughter on the gurney and the choice is this procedure or the death of your loved one.

The decision to have or not have a child is a very difficult one. This is a decision that should remain among a woman, a man, and a doctor—not the Federal Government. It is my hope and desire that as individuals of the family of humanity, we will do all that we can to proactively provide the education and support to our Nation's women so that abortion is a choice that fewer and fewer women have to make.

The doctors of our Nation deserve to be able to fully implement their Hippocratic oath—''I will use treatment to help the sick according to my ability and judgment''—without governmental intervention. I urge my colleagues to support our Nation's doctors, the lives and health of women, and the Supreme Court, and ask for a ''nay'' vote on final passage of this legislation.

Mr. PACKARD. Mr. Speaker, today I rise to discuss a procedure that I find—and an overwhelming number of Americans find—absolutely abhorrent, partial birth abortion. It is brutal and inhumane. It is not necessary and should not be permitted.

Last year, when we brought a bill to the floor to ban the practice, abortion advocates falsely claimed the procedure was both rare and a necessary late term procedure. The President vetoed our bill based on this misrepresentation. Finally, the media got wind of the lie.

Ron Fitzsimmons, leader of the National Coalition of Abortion Providers, in a March 3, 1997, interview with the American Medical News, said that he ''lied through [his] teeth'' when he said the procedure was rarely used. He now admits that pro-life groups are accurate in saying that the procedure is more common.

To add insult to injury, Mr. Fitzsimmons also admitted that, in the vast majority of cases, the partial-birth abortion procedure is performed on a healthy mother with a healthy fetus that is 20 or more weeks along.

Americans overwhelmingly oppose this form of elective infanticide. It has no place in our society. This practice is indefensible, and I challenge my colleagues to give the President another chance to ban the procedure. The President can no longer hide behind pro-abortion falsehoods. He should admit he was wrong and show the moral courage Americans expect from their President.

Mr. ABERCROMBIE. Mr. Speaker, today I rise to discuss the Partial-Birth Abortion Ban, H.R. 1122 that was introduced yesterday and which we are voting on today. This measure is supposed to be a new improved version of Representative CANADY's bill, H.R. 929. However, it is more draconian, offensive and degrading to women. This newly introduced bill, like the one we were supposed to debate, still tears apart the principle that women have reproductive rights which was set in Roe versus Wade (1973) and reaffirmed in Planned Parenthood of Southeastern Pennsylvania versus Casey (1992). H.R. 1122 also still uses the same vague, nonmedical terms as Representative CANADY's bill. However, H.R. 1122 does include two provisions that were not in Representative CANADY's bill, H.R. 929. First of all, a ''partial-birth abortion,'' whatever that means, can not be performed to save the life of the mother even if her very life was endangered by the pregnancy itself. Secondly it allows would-be fathers who had abused or abandoned the mother to sue and collect monetary damages from the physician who performed the improperly defined medical procedure. I find this provision one of the hardest to comprehend—why allow a person that has abused a woman repeatedly to be able to gain monetarily if he gets her pregnant and something goes tragically awry to her fetus after viability?

If supporters of H.R. 1122 are concerned about abortions being performed after viability, they would support Representative HOYER and GREENWOOD's bill, H.R. 1032, which bans all abortions after viability except in cases when ''the abortion is necessary to preserve the life of the woman or to avert serious adverse health consequences to the woman.'' But, as my colleagues well know, we can not even debate that bill today under this closed rule. This bill takes away a woman's right to choose. H.R. 1122 says to American women: Your health and fertility are not an issue. It demotes women to second class citizenry.

I strongly urge my colleagues to re-read the testimony given last year by women like Coreen Costello and Mary-Dorothy Line. These women wanted their babies. However, once they realized that their babies could not survive outside of the womb, they had to make a soul searching decision. That was a very difficult decision made by the women and their husbands, but because they chose to have an intact dilation and evacuation they saved their lives and preserved their ability to have more children.

In addition, proponents still do not understand that no matter what has been said about the number of abortions performed using the intact dilation and evacuation procedure before and after viability, the law of the land already grants individual States the right to ban abortion after fetal viability except when necessary to preserve a woman's life or health. Forty States and the District of Columbia, ban post-viability abortions. The U.S. Supreme Court has struck a balance between a woman's right to choose and the protection of potential life. I fully support a woman's right to choose as upheld by the U.S. Supreme Court.

I strongly urge my colleagues to vote against H.R. 1122.

Mr. POMEROY. Mr. Speaker, I rise in support of H.R. 1122, a bill to ban the late-term abortion practice known as partial birth abortion.

While I will vote in favor of this legislation, as I did last year, I regret that the bill is being considered under a closed rule that will not allow the House to debate and vote on amendments proposed by my colleagues on both sides of the aisle. That is why I voted against the rule, and why I will vote in favor of motions that provide Members the opportunity to offer amendments to this legislation. In my view, the House ought to uphold a standard of democratic and open debate that allows alternative proposals to receive a fair hearing.

Second, as my colleagues know, the legislation before us is identical to the bill that was passed last year and vetoed by the President. In the interests of enacting legislation that will bring an end to this abhorrent procedure, I believe it advisable to support amendments that address the concerns stated by the President. Therefore, if the motion to recommit H.R. 1122 contains instructions to include an exception where the physical health of the mother is severely at risk, I will support the motion.

Mr. Speaker, in the final analysis, it is my position that the partial birth abortion is an inhumane and unnecessary procedure that should be outlawed. I believe that Congress ought to pass legislation that will gain the President's signature and achieve that end.

Mr. SKAGGS. Mr. Speaker, I wish we were debating the best way to reduce the number of late term abortions. That is a goal we all can share.

Instead, under the terms of debate imposed on this bill, we are able to consider only a text drafted to make a political statement and keep an issue alive rather than to solve a problem.

The question, that the advocates of this bill haven't, and can't answer, is this: Why should the Congress prohibit this particular medical procedure when a physician has determined: First, that a late term abortion is medically necessary to preserve the health of the mother and second, that this procedure is the one that is medically prudent?

The bill would substitute the political judgment of the Congress for the medical judgment of a woman's physician. The bill provides no exception for medical circumstances involving grave physical risks to the health of the mother, no matter what the circumstance nor how tragic the circumstance may be.

As we debate this issue, we need to remember how the Supreme Court has interpreted the Constitution. In Roe versus Wade the Court stated: ''For the stage subsequent to viability, the State in promoting its interest in the potentiality of human life may, if it chooses, regulate, and even proscribe, abortion except where it is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother.''

That decision is the law of the land. Its language is clear and unambiguous. States may not proscribe late term abortions that are medically necessary to preserve a mother's life or health. Nor may the Congress.

What Roe versus Wade does permit, however, is the Government's restriction on or prohibition of late term abortions that are not necessary to protect the mother's life or health. Unfortunately, this bill would do nothing to reduce the number of such late term abortions. That should be our common goal.

In considering this bill, the Congress is attempting to set itself up as a national board of medical examiners. The country and professional medical practice won't be well-served if we become the arbiter of which medical judgments should be respected and which medical procedures should be performed.

If there is a medical need for an abortion to protect a woman's health and if this particular

procedure is determined by a woman's physician to be medically warranted under the circumstances, then the Congress should respect that judgment not criminalize it. We should not substitute our political judgment for professional medical judgment grounded in the particular circumstances of real cases.

This bill should be defeated.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 100, the bill is considered as having been read for amendment and the previous question is ordered.

The question is on engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. HOYER

Mr. HOYER. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. HOYER. Yes, Mr. Speaker, I am.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. HOYER moves to recommit the bill H.R. 1122 to the Committee on the Judiciary with instructions to report the same back to the House forthwith with the following amendments:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Late Term Abortion Restriction Act''.

SEC. 2. PROHIBITION ON CERTAIN ABORTIONS.

(a) IN GENERAL.—It shall be unlawful, in or affecting interstate or foreign commerce, knowingly to perform an abortion after the fetus has become viable.

(b) EXCEPTION.—This section does not prohibit any abortion if, in the medical judgment of the attending physician, the abortion is necessary to preserve the life of the woman or to avert serious adverse health consequences to the woman.

(c) CIVIL PENALTY.—A physician who violates this section shall be subject to a civil penalty not to exceed $10,000. The civil penalty provided by this subsection is the exclusive remedy for a violation of this section.

POINT OF ORDER

Mr. CANADY of Florida. Mr. Speaker, I rise to a point of order that the motion to recommit is not germane to the bill.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. CANADY of Florida. Mr. Speaker, the fundamental purpose of the underlying bill, H.R. 1122, deals with a very limited class of abortions, specifically partial-birth abortions. This is one specific type of procedure as defined in the bill.

The fundamental purpose of the motion to recommit amendment deals with any abortion procedure done post-viability. It purports to cover a much broader class of procedures than the one procedure specifically prohibited in this bill.

Therefore, since the fundamental purpose of the motion to recommit purports to deal with a class of procedures that is broader than the one procedure in the underlying bill, a proposition on a subject different from that under consideration, it is not germane to the bill and I insist on the point of order.

The SPEAKER pro tempore. Does the gentleman from Maryland [Mr. HOYER] wish to be heard on the point of order?

Mr. HOYER. I do, Mr. Speaker.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I thank the Chair for recognizing me on the point of order.

Mr. Speaker, this amendment is offered for the purpose, as it says, of limiting all late-term abortions, of prohibiting all late-term abortions, including abortions to which the gentleman spoke. We believe it does in fact expand upon but is inclusive of the procedures to which the gentleman's bill speaks. We believe it is an effort and an opportunity for the Congress to say that not only the late-term partial birth to which the bill speaks but that all procedures to effect late-term abortions ought to be prohibited. They ought to be prohibited as the policy of the United States of America.

It does provide, as does the underlying bill, with certain exceptions: The life of the mother, as is consistent with the bill on the floor. It also expands upon that to say serious adverse health consequences as well.

We believe in that context and, frankly, got an initial judgment as it was offered in the Committee on the Judiciary that this amendment was believed initially to be in order.

We believed that initial judgment was in fact correct. We believed this gives an opportunity for Members not only to speak to the instant issue raised by the particular 1122 bill, but also importantly gives to Members the opportunity to express their view that all late-term abortions, not just one procedure, but that procedure and all procedures to effect post-viability abortions be outlawed, be illegal, be against the policy of the United States of America, except in very limited circumstances.

Because of that, Mr. Speaker, Members will have the opportunity to express themselves as being against late-term abortions, which is the context, I suggest to the Speaker, in which this debate has occurred and proceeded.

Because of that, this gives Members the opportunity to particularly but more broadly, as Mr. CANADY did in fact correctly observe, express themselves on limiting all procedures for late-term abortions.

For that reason, we think it expands upon, he is correct, expands upon and makes more broad the prohibition on late-term abortions. It is for that reason that we think it critically important that the Chair rule that this is in fact in order so that Members can appropriately—because we believe it to be in order—express themselves in opposition to late-term abortions.

□ 1500

The SPEAKER pro tempore (Mr. MCINNIS). The gentleman from Florida has made a point of order that the amendment proposed——

Mr. EDWARDS. Mr. Speaker, the gentleman from Florida stated his point of order very rapidly and I want to be clear on this.

Is the parliamentary point of order on the point that the bill before the House only prohibits one type of abortion procedure, but the motion of the gentleman from Maryland [Mr. HOYER] would actually prohibit more types, in fact all types of late-term abortion procedures?

Is that the point of order that the gentleman from Florida is trying to make and objecting to letting the measure of the gentleman from Maryland up on the floor?

Mr. CANADY of Florida. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS. I yield to the gentleman from Florida.

The SPEAKER pro tempore. The gentlemen will suspend. The Chair will recognize Members to argue the point of order. Does the gentleman from Florida seek that recognition?

Mr. CANADY of Florida. Mr. Speaker, I seek the opportunity to respond to the question posed by the gentleman from Texas.

The SPEAKER pro tempore. The Chair will hear argument confined to the point of order. The gentleman may proceed, confined to the point of order.

Mr. CANADY of Florida. Mr. Speaker, the point of order is the fundamental purpose of the underlying bill, H.R. 1122, deals with a very limited class of abortion, specifically partial-birth abortions.

One specific type of procedure in the bill is what is dealt with in H.R. 1122. The fundamental purpose of the motion to recommit, in contrast to that, deals with any abortion procedure done post viability. It, therefore, purports to cover a much broader class of procedures.

I believe that the impact of the motion to recommit would essentially be nil, because although it purports to affect a broader class of procedures, due to the exceptions contained in the motion to recommit, it is essentially meaningless.

Mr. EDWARDS. Mr. Speaker, I guess going back to my original question to the Speaker, the point of order is being made on the basis that the bill before the House simply outlaws one type of abortion procedure, the motion made by the gentleman from Maryland would actually ban many other types of late-term-abortion procedures, and the gentleman from Florida objects to that being voted upon in the House; is that correct, Mr. Speaker?

The SPEAKER pro tempore. The Chair hopes to clarify this point in the Chair's ruling. The Chair is now prepared to rule.

The gentleman from Florida makes a point of order that the amendment proposed in the instructions with the motion to recommit offered by the gentleman from Maryland is not germane.

The pending bill prohibits a certain class of abortion procedures.

The amendment proposed in the motion to recommit prohibits any or all abortion procedures in certain stages of pregnancy. It differentiates between the stages of pregnancy on the basis of fetal viability. In so doing, the amendment arguably addresses a subset of the category of pregnancies addressed by the bill. Still, by addressing any or all abortion procedures, the prohibition in the amendment exceeds the scope of the prohibition in the bill.

The bill confines its sweep to a single, defined class of abortion procedures. Thus, even though the amendment differentiates between pregnancies on narrower bases than does the bill, the amendment also, by addressing any or all abortion procedures, broadens the prohibition in the bill.

One of the basic lines of precedent under clause 7 of rule 16, the germaneness rule, holds that a proposition addressing a specific subject may not be amended by a proposition more general in nature. As noted in section 798f of the House Rules and Manual, this principle applies even when both propositions address a common topic.

Thus, on March 23, 1960, the Chair held that an amendment to criminalize the obstruction of any court order was not germane to a bill to criminalize only the obstruction of court orders relating to the desegregation of public schools.

On the reasoning reflected in this line of precedent, the Chair holds that the amendment proposed in the motion to recommit is not germane to the bill. Accordingly, the point of order is sustained and the motion to recommit is not in order.

Mr. HOYER. Mr. Speaker, it is with great reluctance, because I believe very strongly that the Chair's rulings ought to be upheld, but in this instance, Mr. Speaker, I am compelled, because of the importance of the issue and the closed rule that prevented any amendments, and because I believe, Mr. Speaker, in your ruling you correctly indicated that the Hoyer and Greenwood bill broadens the scope of this bill and broadens the application to procedures beyond what the bill refers to, and for that reason held it not to be germane, I am compelled to appeal the ruling of the Chair.

Mr. CANADY of Florida. Mr. Speaker, I move to lay the appeal on the table.

The SPEAKER pro tempore. First of all, the question is, Shall the decision of the Chair stand as the judgment of the House?

Now, the Chair will recognize the gentleman from Florida [Mr. CANADY].

MOTION TO TABLE OFFERED BY MR. CANADY OF FLORIDA

Mr. CANADY of Florida. Mr. Speaker, I move to lay the appeal on the table.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. CANADY] to lay on the table the appeal of the ruling of the Chair.

The question was taken; and the Chair announced that the ayes appeared to have it.

Mr. HOYER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 265, nays 165, not voting 2, as follows:

[Roll No. 63]

YEAS—265

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehner
Bonilla
Bono
Borski
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Coble
Coburn
Collins
Combest
Cook
Cooksey
Costello
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kildee
Kim
King (NY)
Kingston
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manton
Manzullo
Mascara
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McIntyre
McKeon
McNulty
Metcalf
Mica
Miller (FL)
Moakley
Molinari
Mollohan
Moran (KS)
Murtha
Myrick
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Ortiz
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Poshard
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Regula
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schiff
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Stupak
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NAYS—165

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clyburn
Condit
Conyers
Coyne
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Dicks
Dingell
Dixon
Doggett
Dooley
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Green
Greenwood
Gutierrez
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kennedy (MA)
Kennedy (RI)
Kennelly
Kilpatrick
Kind (WI)
Kleczka
Lampson
Lantos
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Markey
Martinez
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McKinney
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moran (VA)
Morella
Nadler
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pickett
Pomeroy
Price (NC)
Rangel
Reyes
Rivers
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Shays
Sherman
Skaggs
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stokes
Strickland
Tanner
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Wise
Woolsey
Wynn
Yates

NOT VOTING—2

Kaptur
Oxley

☐ 1525

Messrs. BASS, KINGSTON, and RAMSTAD, and Mrs. KELLY changed their vote from ''nay'' to ''yea.''

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

☐ 1530

MOTION TO RECOMMIT OFFERED BY MR. FRANK OF MASSACHUSETTS

Mr. FRANK of Massachusetts. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore (Mr. MCINNIS). Is the gentleman opposed to the bill?

Mr. FRANK of Massachusetts. I am in its form, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. FRANK of Massachusetts moves to recommit the bill H.R. 1122 to the Committee on the Judiciary with instructions to report the same back to the House forthwith with the following amendments:

Page 2, line 10, insert after the words ''or injury'' the following:

'', including a life endangering physical condition caused by or arising from the pregnancy itself, or to avert serious adverse longterm physical health consequences to the mother''

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. FRANK) is recognized for 5 minutes in support of his motion to recommit.

Mr. FRANK of Massachusetts. Mr. Speaker, after the Committee on Rules tried to keep this from being heard, I appreciate your helping make sure that it is.

This is an amendment that would in its most important form add one more exception. Remember we had the bill that does not prevent the abortions, as the gentleman from Florida acknowledged, but bans a particular procedure.

Mr. Speaker, the bill bans a specific procedure. The sponsors said in opposition to the amendment that we just voted on that was ruled nongermane when it came up before, well, we do not like health as an exception. I do. I wanted health as an exception. That was voted down, and I regret it. But now I am offering a narrower one that meets some of the arguments we heard.

Health broadly defined by the Supreme Court when there is no other reference, and it is just health when there is no modifier, the Supreme Court has said that includes mental health, et cetera, as I think it should. But in this case where we are talking about one procedure where we have already voted down health, I have a further amendment. This says, ''You can have an exception if it is necessary to avert serious adverse long-term physical health consequences.'' This, Mr. Speaker, is what the House is about to vote on.

I ask my colleagues, ''Are you prepared to say to a doctor if you believe in your best medical judgment that it is necessary to avert serious physical long-term adverse health consequences, and the only way to avert them is to use this procedure, this amendment says to a doctor, because it follows the language of the bill, if it is necessary, not if it's in your subjective opinion, but if it's necessary, and you can show in a judicial proceeding that it was necessary to avert serious long-term adverse physical health consequences you can perform the procedure.'' And the majority is going to say no apparently.

Well, some say it is never possible. If my colleagues really believe that, then the amendment would do no harm. But is the House ready to tell every doctor in America that never under any circumstances can he or she use a medical judgment to say this procedure? Because again we are not talking about whether or not there can be an abortion. There can be an abortion. It may be on mental health grounds, it may be on physical health grounds. Then the question is what is the procedure. And we are asking for a vote that says if it is necessary so that a woman does not lose her fertility so that there is not permanent damage to her organs, if she is not in horrible pain for a prolonged period.

Is that not likely to happen? I do not know; along with almost everybody in the House, I do not know. And therefore I am not prepared to legislate it. I am prepared to say that the physicians can decide that.

How much time do I have remaining, Mr. Speaker?

The SPEAKER pro tempore. The gentleman from Massachusetts has 2 minutes remaining.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield to the gentlewoman from Connecticut [Mrs. KENNELLY).

Mrs. KENNELLY. Mr. Speaker, in all my years in the House I have never been more disturbed by a vote, but yet what happened in the Committee on Rules last night and on the floor here today, my concerns have not been allayed. Mr. Speaker, let me talk about those concerns.

I do not think the State should interject itself before viability and that women should have the right to protect their life and their health as under Roe versus Wade. I am concerned about viability of pregnancies, and I know health has been broadly interpretated, but under Frank it will be interpretated as the serious, serious physical health of the mother.

I am concerned about this, and it is before us, this method. It is brutal, it is inhuman, and it should never be used. However, may I say that is not my decision. Under Roe versus Wade the law of the land aids the decision of the mother and the doctor.

Mr. Speaker, I am so concerned about this body today. We have let political considerations and efforts do away with Roe versus Wade take over this and not let us resolve this situation.

Forty States, Mr. Speaker, have resolved this situation. We can resolve it by putting the serious health of the mother into this mix.

Mr. Speaker, we can do better.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me anticipate. Members on the other side have said, ''Well, when you say health, the Supreme Court reads a broader version.'' Yes, I have that opinion right here. When it only said health, the Supreme Court interpreted a statute referring to health more broadly. The Supreme Court has never said that health always—that physical health does not just mean physical health. There is no argument for that, and the Supreme Court has never interpreted a statute on physical health. That is the key issue here.

I also add a language point that others have brought up making it clear that, if life is endangered by a condition arising from the pregnancy itself, that is also an exception. And that is not in the bill explicitly, and it ought to be, but this key point is before us now: ''Do you believe as the chairman of the committee said, and the chairman of the committee in his intellectual integrity said if the choice is serious long-term physical health damage to the mother or the life of the fetus, apparently even a severely damaged fetus that could not live long, the woman's health must suffer.''

I hope the House will not vote that way.

The SPEAKER pro tempore. Is the gentleman from Florida opposed to the motion to recommit?

Mr. CANADY of Florida. I am, Mr. Speaker.

The SPEAKER pro tempore. The chair recognizes the gentleman from Florida [Mr. CANADY] for 5 minutes in opposition to the motion to recommit.

Mr. CANADY of Florida. Mr. Speaker, regarding the life exception language contained in the gentleman's proposal, it is already covered in H.R. 1122. The language in the amendment simply restates what is obvious in the language in the bill. The life exception in H.R. 1122 states, and I will read it; it is on page 2 beginning on line 7:

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 physical disorder, illness, or injury.

That very statement is made on the floor today that this bill does not provide an exception for the life of the mother. It is clearly right here in the bill. I have asked the Members to read it, look at it with their own eyes.

Regarding the health exception, partial-birth abortion is never necessary for a mother's health or future fertility. Hundreds of obstetricians, gynecologists, and maternal fetal specialists, along with former Surgeon General C. Everett Koop, have come forward to unequivocally state that, quote, ''Partial-birth abortion is never medically necessary to protect the mother's health or her future fertility. On the contrary, this procedure can pose a significant threat to both,'' close quote.

Furthermore, in an American Medical News article Dr. Warren Hern, a late-term abortionist, disputed the safety of the partial-birth abortion procedure. I want to quote directly from this article. Now, this is Dr. Hern, M.D., one of the leading experts on abortion procedures in this country. This is what he said:

I have very serious reservations about this procedure, said Dr. Hern, the

author of Abortion Practice, the Nation's most widely used textbook on abortion standards and procedures. He specializes in late-term procedures. He opposes the bill, he said, because he thinks Congress has no business dabbling in the practice of medicine. But of the procedure in question he says this: ''You really can't defend it. I'm not going to tell someone else that they should not do this procedure, but I'm not going to do it.''

Now, Dr. Hern's concern centers around claims that the procedure in late-term pregnancy can be safest for the pregnant woman and that without this procedure women would have died, and this is what Dr. Hern says: ''I would dispute any statement that this is the safest procedure to use,'' close quote. ''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, M.D., director of medical education in the department of obstetrics and gynecology at Mt. Sinai Hospital of Chicago added two more concerns. Cervical incompetence and subsequent pregnancy caused by 3 days of forceful dilation of the cervix and uterine rupture caused by rotating the fetus within the womb. Partial-birth abortion is used by some abortionists for their own convenience. It is never necessary to partially deliver a live child and jam scissors into the back of his or her head to preserve the mother's health. Just consider what is involved in this procedure.

I would ask my colleagues to consider what is involved in this procedure. A living human child is partially delivered. With the child three-fourths out of the mother, with only the head remaining in the mother, the child is stabbed in the back of the head.

I hate describing this, but this is what goes on.

Explain to me how stabbing the child in the back of the head in this gruesome procedure protects the mother's health. It is nonsense; it does not. It is not necessary. What we are seeing here is an effort by people who believe that abortion should be permitted under any circumstance at any time during pregnancy for any reason, an attempt to derail this bill, put in amendments that will create loopholes and will render the bill meaningless.

I urge my colleagues who are serious about addressing this procedure to oppose this motion to recommit and support the bill.

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

Mr. COBURN. Mr. Speaker, we once again deal with deception. There is no serious adverse long-term physical health consequence to the mother that can be best treated by this procedure. It does not exist, it has never existed, it will never exist. It is a falsehood, it is an untruth. Partial-birth abortion, D&E on the live baby is done for the convenience of an abortionist. It is never done for any other reason. It is done for the convenience of an abortionist.

This is a deceptive way to confuse the issue. There is no truth that this allowance needs to be there, because it never exists. It is a falsehood. It is something that was set up so that we can create a false climate.

I will repeat. It never happens. It never is indicated.

□ 1545

The SPEAKER pro tempore (Mr. MCINNIS). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. FRANK of Massachusetts. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 149, noes 282, not voting 2, as follows:

[Roll No. 64]

AYES—149

Ackerman
Andrews
Baldacci
Barrett (WI)
Becerra
Bentsen
Berman
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Capps
Cardin
Carson
Castle
Clay
Clayton
Clyburn
Conyers
Coyne
Cummings
Davis (FL)
Davis (IL)
DeFazio
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dixon
Doggett
Dooley
Edwards
Engel
Eshoo
Etheridge
Evans
Fattah
Filner
Flake
Ford
Frank (MA)
Frelinghuysen
Frost
Furse
Gejdenson
Gephardt
Gilchrest
Gilman
Gonzalez
Green
Greenwood
Hastings (FL)
Hilliard
Hinchey
Hinojosa
Hooley
Horn
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kilpatrick
Kind (WI)
Kleczka
Klug
Kolbe
Lampson
Lantos
Levin
Lewis (GA)
Luther
Maloney (CT)
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McKinney
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Moakley
Moran (VA)
Morella
Neal
Obey
Olver
Owens
Pallone
Pastor
Payne
Pomeroy
Price (NC)
Ramstad
Rangel
Reyes
Rivers
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Scott
Serrano
Shays
Sherman
Skaggs
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stokes
Strickland
Thompson
Thurman
Tierney
Torres
Towns
Vento
Waters
Watt (NC)
Wise
Woolsey
Wynn
Yates

NOES—282

Abercrombie
Aderholt
Allen
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Berry
Bilbray
Bilirakis
Bliley
Blunt
Boehner
Bonilla
Bono
Borski
Boswell
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Chabot
Chambliss
Chenoweth
Christensen
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeGette
DeLay
Diaz-Balart
Dickey
Dingell
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Farr
Fawell
Fazio
Foglietta
Foley
Forbes
Fowler
Fox
Franks (NJ)
Gallegly
Ganske
Gekas
Gibbons
Gillmor
Gingrich
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson, Sam
Jones
Kanjorski
Kasich
Kildee
Kim
King (NY)
Kingston
Klink
Knollenberg
Kucinich
LaFalce
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Maloney (NY)
Manton
Manzullo
Martinez
Mascara
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McNulty
Metcalf
Mica
Miller (FL)
Mink
Molinari
Mollohan
Moran (KS)
Murtha
Myrick
Nadler
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Ortiz
Packard
Pappas
Parker
Pascrell
Paul
Paxon
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Poshard
Pryce (OH)
Quinn
Radanovich
Rahall
Regula
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schiff
Schumer
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Velazquez
Visclosky
Walsh
Wamp
Watkins
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wolf
Granger
Young (AK)
Gutierrez
Young (FL)

NOT VOTING—2

Kaptur
Oxley

Mr. FOGLIETTA changed his vote from ''aye'' to ''no.''

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore [Mr. MCINNIS]. The question is on the passage of the bill.

The question was taken.

RECORDED VOTE

Mr. CONYERS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 295, noes 136, not voting 2, as follows:

[Roll No. 65]

AYES—295

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bereuter
Berry
Bilbray
Bilirakis
Bliley
Blunt
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boyd
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dingell
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Etheridge
Everett
Ewing
Fawell
Flake
Foglietta
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gingrich
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hinojosa
Hobson
Hoekstra
Holden
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jefferson
Jenkins
John
Johnson (WI)
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kennedy (RI)
Kildee
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kucinich
LaFalce
LaHood
Lampson
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Maloney (CT)
Manton
Manzullo
Martinez
Mascara
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McNulty
Metcalf
Mica
Miller (FL)
Minge
Moakley
Molinari
Mollohan
Moran (KS)
Moran (VA)
Murtha
Myrick
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Ortiz
Packard
Pappas
Parker
Pascrell
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Regula
Reyes
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schiff
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Visclosky
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOES—136

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Becerra
Bentsen
Berman
Bishop
Blagojevich
Blumenauer
Boehlert
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Capps
Cardin
Carson
Clay
Clayton
Clyburn
Conyers
Coyne
Cummings
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dixon
Doggett
Dooley
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gilman
Gonzalez
Green
Greenwood
Gutierrez
Harman
Hastings (FL)
Hilliard
Hinchey
Hooley
Horn
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Johnson (CT)
Johnson, E. B.
Kennedy (MA)
Kennelly
Kilpatrick
Kolbe
Lantos
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (NY)
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McKinney
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Mink
Morella
Nadler
Olver
Owens
Pallone
Pastor
Payne
Pelosi
Pickett
Price (NC)
Rangel
Rivers
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sawyer
Schumer
Scott
Serrano
Sherman
Skaggs
Slaughter
Smith, Adam
Snyder
Stabenow
Stark
Stokes
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Velazquez
Vento
Waters
Watt (NC)
Waxman
Wexler
Wise
Woolsey
Wynn
Yates

NOT VOTING—2

Kaptur
Oxley

□ 1618

Mr. BENTSEN changed his vote from ''aye'' to ''no.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF HOUSE RESOLUTION 91, PROVIDING AMOUNTS FOR THE EXPENSES OF CERTAIN COMMITTEES ON THE HOUSE OF REPRESENTATIVES IN THE ONE HUNDRED FIFTH CONGRESS

Mr. DREIER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 101 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 101

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the resolution (H. Res. 91) providing amounts for the expenses of certain committees of the House of Representatives in the One Hundred Fifth Congress. The resolution shall be considered as read for amendment. The amendment in the nature of a substitute recommended by the Committee on House Oversight now printed in the resolution shall be considered as adopted. The previous question shall be considered as ordered on the resolution, as amended, to final adoption without intervening motion or demand for division of the question except: (1) 1 hour of debate equally divided and controlled by the chairman and ranking minority member of the Committee on House Oversight; (2) the further amendment specified in the report of the Committee on Rules accompanying this resolution, if offered by a Member designated in the report, which shall be considered as read, shall be in order without intervention of any point of order, and shall be separately debatable for the time specified in the report equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit.

The SPEAKER pro tempore (Mr. MCINNIS). The gentleman from California [Mr. DREIER] is recognized for 1 hour.

Mr. DREIER. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts [Mr. MOAKLEY], 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. DREIER asked and was given permission to revise and extend his remarks and to include extraneous material.)

Mr. DREIER. Mr. Speaker, this rule makes in order House Resolution 91, authorizing funding for all but one of the committees of the House of Representatives for the 105th Congress under a modified closed rule.

It provides that the Committee on House Oversight amendment in the nature of a substitute now printed in the resolution shall be considered as adopted.

The rule further provides one hour of debate equally divided and controlled by the chairman and ranking minority member of the Committee on House Oversight.

The rule provides the further amendment specified in the report of the Committee on Rules, if offered by a Member designated in the report, shall be in order without intervention of any point of order and shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent. Finally the rule provides one motion to recommit.

Mr. Speaker, the process established by this rule for the consideration of House Resolution 91 is no different than the process established for previous committee funding resolutions.

Under clause 4(a) of rule XI, committee funding resolutions are privileged