

makes abortion just another sign of the times.

This debate itself may rise and fall, but my view on this matter is straightforward—I believe America should ban partial-birth abortion because it is wrong.

For too long, our society has drifted too far from that simple conclusion. In this body—as in this country—we are adept at weighing and debating the pros and cons. We know how to balance competing interests. We know how to strike compromises. But do we think often enough about the consequences of our actions?

I fear we have strayed from seeking straightforward answers to tough questions. We have too often strayed from making public policy based solely on what is right.

The vote we are about to cast is about banning a specific method of abortion. But the debate in which we are engaged is about larger questions.

Have we become coarsened by a society that cheapens life—from our failure to stop violence in our streets to our unwillingness to keep violence from our television screens?

Have we come to accept what should never be acceptable—a society where drug use is termed recreational, and irresponsible behavior is just a sign of the times?

Have we lost the basis of a civil society? Are we no longer willing to stand up and say enough is enough?

Mr. President, I came to this Senate with a firm belief that we can make a real difference for America's future. I have no doubt we can put our financial books in order—by cutting spending, cutting taxes, cutting regulations, and balancing the budget.

But can we put our values in order? If we, as leaders, fail to do what is right and fail to stop what is wrong, will we really have left a better America for our children and our grandchildren?

I think not.

For two centuries, America has rested on a value system anchored by personal responsibility. Our society has always been underpinned by respect for others, respect for self, faith in God and family, and helping those in need. We have always held these values important—worth struggling for and worth fighting for.

People of good character stood up for these values in their own lives, and in their communities. They expected their leaders to stand up for them as well.

Mr. President, I have every confidence that this body will vote to outlaw this gruesome procedure because the goodness of our people will demand it. Just as families across America wake up every day and try to do the right thing, so they are expecting their leaders to do the same.

The vote we will cast on this issue is important. It goes to the heart of who we are as a people and who we want to be as a Nation.

I hope we will all take pause, in this body and throughout America, to re-

flect on what type of society we have become and what type of society we want to leave for our children and grandchildren.

Thank you, Mr. President. I yield the floor.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I ask unanimous consent the 12 minutes remaining for the Democratic side be divided 5 minutes to Senator BINGAMAN and 5 minutes to the Senator from Arkansas, who will share it with the Senator from Georgia, Senator CLELAND, and 2 minutes to the Senator from Wisconsin, Mr. KOHL.

The PRESIDING OFFICER. Is there objection?

Mr. THOMAS. Reserving the right to object, is there time left on our original 10 minutes?

The PRESIDING OFFICER. The Senator has 3 minutes and 42 seconds.

Mr. THOMAS. I wonder if it would be possible for us to go ahead and finish and then do it as the Senator described?

Mr. BUMPERS. Is the Senator objecting to the request?

Mr. THOMAS. No, sir, I am asking that we finish the 10 minutes we were allocated and then transfer to you to do it in the method that you asked.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Oregon is recognized.

Mr. SMITH of Oregon. Mr. President, in that I only have 3 minutes remaining, I am going to put aside my written remarks and, frankly, speak from the heart.

I rise today, first, to thank Senator SANTORUM for his leadership on this issue but, more important, to stand with those who stand for the principle of life today on this very important bill. I have consistently supported this principle and have tried to listen with some care and compassion to those who advocate the other view. I heard them say things like, "Let's make abortion safe, legal, and rare," except for the fact that when it comes to doing anything to make it rare, I seldom see them helping us in this endeavor. Conversely, I have tried very hard to reach out on issues of education and prevention to try to make abortion rare.

Today presents us with an opportunity not to end abortion but simply to ban one incredibly gruesome procedure and to make all unborn American children safe from this procedure.

It is clear, because of testimony that has come out, that the partial-birth abortion is anything but rare in this country, and today we need to make it impossible.

I refer to the statement by the Surgeon General C. Everett Koop, a man much admired for his service in health care in this country, who said:

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.

As I ponder partial-birth abortion, I come to the conclusion that Americans must be bigger than this procedure performed on the most innocent among us. We are bigger than this, and I believe that Americans today in the United States will rise above this procedure to make it unlawful and to contribute towards the common desire of those who are pro-life and pro-choice to make abortion rare.

Thank you, Mr. President.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. I thank the Chair.

(The remarks of Mr. BINGAMAN pertaining to the introduction of S. 748 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The Senator from Arkansas.

Mr. BUMPERS. I thank the Chair.

(The remarks of Mr. BUMPERS and Mr. CLELAND pertaining to the introduction of S. 745 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. KOHL addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Mr. President, I ask unanimous consent for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Wisconsin is recognized.

JUDICIAL NOMINATIONS

Mr. KOHL. Mr. President, yesterday Mr. LEAHY and several of my colleagues spoke about judicial confirmations. Let me make a few additional points. First, we are experiencing a record slowdown in confirming judges. Last year, only 17 Federal judges were confirmed, and not a single judge for a court of appeals. This year, the process has gotten even worse—only two judges have been confirmed, and the year is almost half over. Indeed, at our current pace, with only 5 judges likely to be confirmed a year, and an average of more than 50 retiring, we would have no federal judges at all in 20 years. Literally, an empty bench.

Second, we need these judges, both to prosecute and sentence violent criminals and to prevent more backlogs in civil cases. This is about justice—it shouldn't be about politics. Don't take my word on this, ask Chief Justice Rehnquist. He says "filling judicial vacancies is crucial to the fair and effective administration of justice." Chief Justice Rehnquist is right.

Or ask Judge George Kazen from the Southern District of Texas. He is the subject of a front page article in today's Washington Post with the headline "Cases Pile Up as Judgeships Remain Vacant." He is hearing a dramatic increase in criminal cases now

because we're cracking down on illegal immigration and drug smuggling in his border district. He desperately wants and needs help. But we haven't helped. Instead, the Senate has held up a nominee for his district for almost 2 years. I ask unanimous consent to print this article in the RECORD at the conclusion of my remarks.

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

(see exhibit 1.)

Mr. President, third, inaction now can only make matters worse. If we don't start moving judges, some Senators might feel compelled to put a hold on all other legislative business. Or the President could be forced to make recess appointments to the Federal bench. Of course, no one wants either of these things, including me. But if we don't confirm nominees through the normal process, I am afraid this is what could happen.

Mr. President, let's breathe life back into the confirmation process. Let's vote on the nominees who already have been approved by the Judiciary Committee, and let's set a timetable for future hearings on pending judges. Let's fulfill our constitutional responsibilities; justice demands that at a minimum, I thank you, and I yield the floor.

EXHIBIT 1

[From the Washington Post, May 15, 1997]

CASES PILE UP AS JUDGESHIP REMAIN VACANT

(By Sue Anne Pressley)

LAREDO, TX.—The drug and illegal immigrant cases keep coming. No sooner does Chief U.S. District Judge George Kazen clear one case than a stack of new cases piles up. He takes work home at night, on weekends.

"It's like a tidal wave," Kazen said recently. "As soon as I finish 25 cases per month, the next 25 are on top of me and then you've got the sentence reports you did two months before. There is no stop, no break at all, year in and year out, here they come."

"We've already got more than we can say grace over down here," he said.

This is what happens to a federal judge on the southern border of the United States when Washington cracks down on illegal immigration and drug smuggling. It is a situation much aggravated by the fact that the Senate in Washington has left another federal judgeship in this district vacant for two years, one of 72 vacancies on federal district courts around the country.

As Border Patrol officers and other federal agents swarm this southernmost region of Texas along the Mexican border in ever-increasing numbers, Judge Kazen's docket has grown and grown. He has suggested, so far unsuccessfully, that a judgeship in Houston be reassigned to the Rio Grande Valley to help cope.

In Washington, where the laws and policies were adopted that has made Kazen's life so difficult, the Senate has made confirmation of federal judges a tedious process, often fraught with partisan politics. In addition to the 72 federal district court vacancies (the trial level), there are 25 circuit court vacancies (the appellate level) and two vacant international trade court judgeships across the country, leaving unfilled 99 positions, or 11 percent of the federal judiciary. Twenty-six nominations from President Clinton are pending, according to Jeanne Lopatto,

spokeswoman for the Senate Judiciary Committee, which considers nominations for recommendation to the full Senate for confirmation.

Of those 99 vacancies, 24 qualify as judicial emergencies, meaning the positions have been vacant more than 18 months, according to David Sellers of the Administrative Office of the U.S. Courts. Two of the emergencies exit in Texas, including the one in Kazen's southern district.

Lopatto said the thorough investigation of each nominee is a time-consuming process. But political observers say Republicans, who run the Senate, are in no hurry to approve candidates submitted by a Democratic president. The pinch is particularly painful here in border towns. The nominee for Brownsville, in Kazen's district, has been awaiting approval since 1995. Here in Laredo, Kazen's criminal docket has increased more than 20 percent over last year.

"We have a docket," he said, "that can be tripled probably at the drop of a hat. * * * The Border Patrol people, the Customs people at the [international] bridges will tell you, they don't catch a tenth of who is going through. The more checkpoints you man, the more troops you have at the bridges, will necessarily mean more stops and more busts."

And many more arrests are expected, the result of an unprecedented focus on policing the U.S.-Mexico border. Earlier this year, Clinton unveiled a \$367 million program for the Southwest for fiscal 1998, beginning Oct. 1, that includes hiring 500 new Border Patrol agents, 277 inspectors for the Immigration and Naturalization Service, 96 Drug Enforcement Administration agents and 70 FBI agents.

In Kazen's territory, the number of Border Patrol agents already has swollen dramatically, from 347 officers assigned to the Laredo area in fiscal 1993 to 411 officers in fiscal 1996. More tellingly, in 1993, agents in the Laredo sector arrested more than 82,000 people on cocaine, marijuana and illegal immigration charges. By 1996, arrests had soared to nearly 132,000, according to data supplied by the INS.

All of which is keeping Kazen and the other judges here hopping. "I don't know what the answer is," said U.S. District Judge John Rainey, who has been acting as "a circuit rider" as he tries to keep Kazen out in Laredo from his post in Victoria, Tex. "I certainly don't see it easing up anytime soon. There still seems to be such a demand for drugs in this country, and that's what causes people to bring them in. Until society changes, we won't see any changes down here."

In a letter to Rep. Henry B. Gonzalez (D-Tex.) in February, Kazen outlined the need for a new judge in the Laredo or McAllen division, rather than in Houston, where a vacancy was recently created when then-Chief Judge Norman Black assumed senior status. "The 'border' divisions of our court—Brownsville, McAllen and Laredo—have long borne the burden of one of the heaviest criminal dockets in the country, and the processing of criminal cases involves special pressures, including those generated by the Speedy Trial Act," he wrote.

On a recent typical day, Kazen said, he sentenced six people on drug charges and listened to an immigration case. His cases tend to involve marijuana more often than cocaine, he said.

"The border is a transshipment area," he said. "The fact is, a huge amount of contraband somehow crosses the Texas-Mexican border, people walking through where the river is low, and there are hundreds and hundreds of miles of unpatrolled ranchland."

"In some cases," Kazen continued, "we're seeing a difference in the kind of defendant.

We're almost never seeing the big shots—we're seeing the soldiers. Once in a while, we'll see a little bigger fish, but we're dealing with very, very smart people. We see some mom-and-pop stuff, too. There was a guy who came before me who had been in the Army umpteen years, and he needed the money, he was going bankrupt, so he did this 600-pound marijuana deal. He said he stood to pick up \$50,000, and now he's facing five to 40 years.

"We see kids 18 and 19 years old," Kazen said. "We see pregnant women. We see disabled people in wheel-chairs. This is very, very tempting stuff." In Washington, the argument over court vacancies continues. On April 30, Attorney General Janet Reno told the Judiciary Committee, "Chief judges are calling my staff to report the prospect of canceling court sittings and suspending civil calendars for lack of judges, and to ask when they can expect help. This committee must act now to send this desperately needed help."

In remarks yesterday to the Federal Judges Association meeting in Washington, Reno warned that "the number [of vacancies] is growing."

"As you are no doubt aware," Reno told the judges, "the level of contentiousness on the issue of filling judicial vacancies has unfortunately increased in recent times."

PARTIAL-BIRTH ABORTION BAN ACT OF 1997

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to H.R. 1122, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1122) to amend title 18, United States Code, to ban partial-birth abortions.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER (Mr. INHOFE). Under the previous order, the Senator from California is recognized to call up an amendment.

Mrs. FEINSTEIN. Thank you, Mr. President.

AMENDMENT NO. 288

(Purpose: To prohibit certain abortions)

Mrs. FEINSTEIN. Mr. President, I would like to begin this debate by sending an amendment to the desk. This amendment is sent on behalf of myself, Senator BOXER, and Senator MOSELEY-BRAUN.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. FEINSTEIN], for herself, Mrs. BOXER, and Ms. MOSELEY-BRAUN proposes an amendment numbered 288.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Post-Viability Abortion Restriction Act".

SEC. 2. PROHIBITION ON CERTAIN ABORTIONS.

(a) IN GENERAL.—It shall be unlawful, in or affecting interstate or foreign commerce, for