

I suspect it will pass unanimously. I realize that is one of the reasons why it is brought up as a bed-check vote at 8 o'clock at night tonight, because everyone knows the Senator from Illinois has a good idea and the Senator from Utah has a good idea. Those are the kind that we use for bed-check votes.

I should tell the American people, though, notwithstanding that, it is a very valuable piece of legislation and I am delighted to see it and I am going to be very happy to vote for it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Indiana (Mr. COATS), the Senator from Wyoming (Mr. ENZI), the Senator from North Carolina (Mr. HELMS), the Senator from Alabama (Mr. SESSIONS), and the Senator from Alabama (Mr. SHELBY) are necessarily absent.

Mr. FORD. I announce that the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Massachusetts (Mr. KERRY), the Senator from Michigan (Mr. LEVIN), and the Senator from New York (Mr. MOYNIHAN) are necessarily absent.

I further announce that, if present and voting, the Senator from New York (Mr. MOYNIHAN) would vote "aye."

The result was announced—yeas 89, nays 0, as follows:

[Rollcall Vote No. 276 Leg.]

YEAS—89

Abraham	Durbin	Lugar
Akaka	Faircloth	Mack
Allard	Feingold	McCain
Ashcroft	Feinstein	McConnell
Baucus	Ford	Mikulski
Bennett	Frist	Moseley-Braun
Biden	Glenn	Murkowski
Bingaman	Gorton	Murray
Bond	Graham	Nickles
Boxer	Gramm	Reed
Breaux	Grams	Reid
Brownback	Grassley	Robb
Bryan	Gregg	Roberts
Bumpers	Hagel	Rockefeller
Burns	Harkin	Roth
Byrd	Hatch	Santorum
Campbell	Hutchinson	Sarbanes
Chafee	Hutchison	Smith (NH)
Cleland	Inhofe	Smith (OR)
Cochran	Jeffords	Snowe
Collins	Johnson	Specter
Conrad	Kempthorne	Stevens
Coverdell	Kerrey	Thomas
Craig	Kohl	Thompson
D'Amato	Kyl	Thurmond
Daschle	Landrieu	Torricelli
DeWine	Lautenberg	Warner
Dodd	Leahy	Wellstone
Domenici	Lieberman	Wyden
Dorgan	Lott	

NOT VOTING—11

Coats	Inouye	Moynihan
Enzi	Kennedy	Sessions
Helms	Kerry	Shelby
Hollings	Levin	

The amendment (No. 3600) was agreed to.

MODIFICATION OF AMENDMENT NO. 3595, AS MODIFIED

Mr. SANTORUM. Mr. President, I ask unanimous consent that amend-

ment No. 3595, previously agreed to, be modified with the change that I now send to the desk.

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

The modification follows:

Strike pages 33 through 42.

AMENDMENT NO. 3595

Mr. GRASSLEY. Mr. President, I ask unanimous consent that amendment No. 3595 be agreed to and the motion to reconsider be laid upon the table.

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

The amendment (No. 3595) was agreed to.

The PRESIDING OFFICER. The Senator from New Mexico.

PARTIAL-BIRTH ABORTION BAN  
ACT OF 1997—VETO

Mr. DOMENICI. Mr. President, I rise to speak in support of the overriding of the President's veto on partial-birth abortion. Before I give my comments and observations, I want to look across the Senate to the freshman Senator from Pennsylvania, RICK SANTORUM. I want to say to him that when he spoke on this issue today, and when he spoke on this issue the last time we debated it here, I was never more proud of a Senator than I was to observe him and watch him. I can assure him that even though he may not have won the last time in terms of what we are doing in a veto override, and he may not win this time, there are millions of Americans who have watched him. Whether they were concerned about this issue or not, if they watched for a while, they are concerned right now. You can't ask for anything more.

I read the Senator's wife's book with reference to the problems they had with reference to an abortion they had no control over, an early delivery of a child that died. I am so proud, I can hardly express it tonight.

I want to once more congratulate him for what he has done here on the floor of the Senate. It is not easy, but he did it with great, great style.

Mr. President, this debate is about infanticide. Frankly, I didn't dream that concept up. There is a very distinguished Senator from the State of New York—I know Senator D'AMATO from New York is here and I think he would concur when I say a distinguished Senator named Senator MOYNIHAN—who looked at this problem and it didn't take him very long. We talk all around it. He talked right to it when he said this is infanticide.

So this debate is about humanity and necessity. The procedure of partial-birth abortion, to put it bluntly, is inhumane.

By now, many Americans are uncomfortably aware of the details of partial-birth abortion. They have heard the testimony of doctors who performed this procedure, nurses who witnessed this procedure, and they have most likely seen informational ads or read

descriptions of this procedure. Maybe they have even watched us debate this issue on prior occasions. So I am not going to go through the details of the procedure. I will only say that, at a minimum, it is cruel and inhumane. I find it ironic that our Constitution, via the eighth amendment, protects criminals from cruel and unusual punishment; however, that same amendment does not protect innocent babies when it comes to cruel and inhumane procedures that are known as partial-birth abortions.

Proponents of partial-birth abortion claim that the procedure is rare, occurring only about 500 times a year. However, that is simply not true. The number of partial-birth abortions is closer to between 3,000 and 5,000 a year. In New Jersey alone, at least 1,500 procedures are done each year. Besides being inhumane and quite prevalent, partial-birth abortion is also unnecessary.

Opponents of this legislation argue that partial-birth abortion is necessary to protect the health of the mother. However, most experts say this is also simply not true. According to more than 500 doctors nationwide, who make up what is called the Physicians' Ad Hoc Coalition for Truth, it is never—I repeat never—medically necessary to perform a partial-birth abortion to protect the health or fertility of the mother. A former Surgeon General, who we admire and respect when he sort of agrees with our views but we ignore him when he disagrees, Surgeon General Everett Koop, has also stated that partial-birth abortion is never medically necessary to protect the mother's health or fertility. So amidst all this evidence, how can the opponents of this bill tell the American people that partial-birth abortion is sometimes medically necessary?

If this procedure is not medically necessary, why do we allow it? As I told you, Mr. President, this debate is not about Roe v. Wade or the choice of life. It is not about any of those things. But it is about a baby, a life that is destroyed in a cruel and inhumane way. It is about a life that is unnecessarily destroyed and need not happen. It is for these reasons that I will gladly vote to override the President's veto of the Partial-Birth Abortion Ban Act of 1997.

I suggest tonight to my good friend, the leader of this cause, that if at first you don't succeed, try, try again. If indeed that means that you have already tried three times, then try and try again. What is so patently right will soon prevail.

I yield the floor.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER (Mr. DEWINE). The Senator from New York is recognized.

Mr. D'AMATO. Mr. President, I associate myself with the remarks made by my distinguished friend and colleague, the great senior Senator from New Mexico, Senator DOMENICI. He touched on the eloquence and passion and the rightness and the moral certainty of

Senator SANTORUM's very cogent argument and presentation. This entire subject, I believe, is uncomfortable for all of us. But it is so necessary. Senator DOMENICI spoke about the great senior Senator from New York, and I say that because I have great admiration and respect for the senior Senator from New York, who is fearless and courageous in saying that this was infanticide. That is what this is—the killing of a youngster, which is absolutely unnecessary, when the AMA, the American Medical Association, has come out and said there is no reason for this procedure. What are we talking about when we move down this line and say that anyone can do anything, even where we have a life, a new and innocent life?

And so, Mr. President, I, too, say to my colleague and friend from Pennsylvania, we thank you for having the moral certainty and courage of not giving up and fighting to preserve the opportunity for those lives that have really come into being, to be what they can be and what they should be. When we talk about preserving the sanctity of life, there is no greater fight, no greater cause.

I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I say to Senator SANTORUM, for all you have gone through and all the courage that it has taken for you to do what you have done, I hope that tonight, by staying here a few minutes with you—and there is nobody else on the floor but us—you understand that we are very appreciative of your leadership and we are with you. We are going to vote with you, and we are going to vote with you again, until it finally prevails. I thank the Senator.

Mr. SANTORUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SANTORUM. Mr. President, I thank the Senator from New Mexico and the Senator from New York for their overly gracious comments. They have been in this Chamber a lot longer than I and have been fighting many noble causes, including the cause of life. They have served as tremendous models for me in this effort. I thank them for their terrific heartfelt support on this issue and other issues pertaining to life.

#### MORNING BUSINESS

Mr. SANTORUM. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

Mr. HUTCHINSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

#### PARTIAL-BIRTH ABORTION BAN ACT OF 1997—VETO

Mr. HUTCHINSON. Mr. President, I rise in support of the ban on the partial-birth abortion procedure and in support of the vote to override the President's veto. It is inexplicable to me why that veto occurred, and I think it is unfortunate and tragic. We have an opportunity tomorrow to right that wrong. I join my distinguished colleagues in praising Senator SANTORUM, the distinguished Senator from Pennsylvania, who has so eloquently put forth the case for banning this procedure and appealing to our consciences as Americans, as human beings, and as civilized people to end the condoning of this procedure in this country.

I think, as I listened to the Senator from Pennsylvania this afternoon, and as I recall the previous debates on this issue, I was moved, as I know millions of Americans were moved, as we listened to not only the logic but the moral persuasiveness of the need to ban this procedure. I think this evening, as I say those laudatory words about my colleague from Pennsylvania, it is appropriate that we say also that there are many in the other Chamber, the House of Representatives, who have fought this battle over and over to ensure that that veto was overridden in the House of Representatives.

I think of my friend from Florida, CHARLES CANADY, who is the chairman of the Constitution Subcommittee in the House of Representatives, who has so eloquently and so forcefully argued for this legislation and carried this crusade across this country.

I think of the distinguished chairman of the House Judiciary Committee, who has come under such unfair and scathing attack in recent days and yet who has been, I think, the most eloquent and passionate voice for the unborn that modern America has seen.

I rise in defense of him and in support of Congressman HYDE this evening and appreciation for all that he has done for the cause of the unborn. On more than one occasion, as I served in the House of Representatives, I saw minds change and hearts change under the persuasiveness of his oratory.

It is my hope that even as we look at this very important vote in the morning, that, yes, there will be those in this body who will look deep within their soul, who evaluate their own conscience, and examine their own hearts, and that we might even yet see those two or three votes necessary to change in order to see this veto overridden.

It is often suggested in this debate that government should stay out of the abortion issue. But if the protection of innocent lives is not government's duty, then I ask, What is government's duty? Thomas Jefferson once wrote, "The care of human life—not its destruction, is the first and only legitimate objective of good government. Legislative efforts to protect the weak and defenseless are right and should be pursued." I can think of none who are

weaker, I can think of none in the human family more defenseless, than those who are but inches from enjoying life.

In fact, in March of last year, my home State of Arkansas joined a number of other States in banning such a procedure when the State legislature passed and the government signed our partial-birth abortion ban in the State of Arkansas.

This procedure is a barbaric, uncivilized procedure, shockingly close to infanticide, as has been so frequently observed on the floor of the Senate today. It is so close to infanticide that, in fact, no civilized country, no compassionate people, should allow it. Any woman knows that the first step of partial-birth abortion—breach delivery—is something to avoid, not something to intentionally cause.

During the last debate that we had on this subject, I quoted Jean Wright, associate professor of pediatrics and anesthesia at Emory University. It is a quote that I think deserves being said again during this debate. She was testifying against the argument that fetuses who are candidates for partial-birth abortion do not feel pain during the procedure. She testified that the fetus is sensitive to pain, perhaps even more sensitive—more sensitive—than a full-term infant. She added, and this is the part that is especially striking, and I quote her words as she testified: "This procedure, if it was done on an animal in my institution, would not make it through the institutional review process." And then she said, "The animal would be more protected than this child is."

How tragic that we allow that situation to exist where, in an institution of higher learning in this country, animals have greater protections than do unborn children.

So I am glad this evening very briefly to rise in support of the Senator from Pennsylvania, to rise in support of this override of the President's veto. As has been said, this is not about choice nor compulsion, it is about inhumane disposal of unwanted babies.

This legislation does not prevent a woman from receiving medical care or reproductive care. It does not overturn *Roe v. Wade*. It simply ends an unnatural and unhealthy practice that results in the loss of human life. We must help the helpless, we must defend the defenseless, and we must give voice to the voiceless.

I commend the Senator from Pennsylvania and my colleague from Ohio, who will speak soon, for giving voice to the voiceless, for standing up and defending the defenseless, and for helping the most helpless and most innocent in our society, the unborn.

Mr. President, I yield the floor.

Mr. SANTORUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I want to speak for a couple of minutes. I know the Senator from Ohio, the Presiding Officer, will be coming down and speaking.