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Senate

The Senate met at 9:32 a.m. and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

This is Character Counts Week, established by the Senate to build the character of the American people. And today we consider two of the pillars of character: fairness and caring.

Let us pray.

O dear God, in a world where so much seems not fair and in a culture that has become so careless, where people so often are unfair and uncaring to each other, we ask You to give us more love, self-sacrifice, and more likeness of You so that we may do battle with anything that denies fairness or caring of people who are cherished by You. May our fairness and caring go beyond a cautious give and take. Teach us to sacrifice our own comfort to comfort others, our own preferences to give others a sense of what is good for them. Make us fair in thought, kindly in attitude, gentle in word, generous in deed. Remind us that it is better to give than to receive, to forget ourselves than to put ourselves first, to serve rather than expect to be served.

O dear God, help us care for our Nation and its future. May the Senators' caring for every phase of our society be an example to the American people. May there be a great crusade of caring and fairness, beginning right here and spreading across this land. May children see from their parents and from these leaders that caring and fairness are not only crucial but are the crux of our civilization. Dear God, make us courageous, caring, and fair people, for You are our Lord and Savior. Amen.

PLEDGE OF ALLEGIANCE

The Honorable WAYNE ALLARD, a Senator from the State of Colorado, led the Pledge of Allegiance, as follows:

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

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

Mr. SANTORUM. I thank the Chair.

SCHEDULE

Mr. SANTORUM. Mr. President, today the Senate will immediately resume debate on the motion to proceed to the partial-birth abortion bill. There will be 20 minutes of debate with a vote to occur at approximately 9:50 a.m. It is anticipated the motion will be adopted, and therefore debate on the bill will continue throughout the day. It is the hope of the majority leader that an agreement can be reached with regard to amendments so the bill can be completed by the close of business tomorrow. The Senate may consider any conference reports available for action. I thank my colleagues for their attention.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. ALLARD). Under the previous order, leadership time is reserved.

PARTIAL-BIRTH ABORTION BAN ACT OF 1999—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will now resume debate on the motion to proceed to S. 1692, which the clerk will report by title.

The bill clerk read as follows:

Motion to proceed to the consideration of S. 1692, a bill to amend title 18, United Sates Code, to ban partial-birth abortions.

The PRESIDING OFFICER. Under the previous order, there will be 20 minutes for debate equally divided and controlled between the majority and minority leaders.

The Senator from Pennsylvania is now recognized.

Mr. SANTORUM. I thank the Chair.

Mr. President, we will be voting on a motion to proceed to a bill that we have brought up in the Senate now for the third session of the Senate, third Congress in a row. I do not believe there is much controversy with respect to considering this bill. Obviously, this bill is going to pass, and it is going to pass by an overwhelming vote.

The concern that was voiced last night, and I think will be voiced today, is that we are moving off campaign finance reform to the partial-birth abortion bill. I am hopeful we can recognize that we had a good debate on campaign finance reform; amendments were offered; there were several days for those amendments to be offered; and it is apparent there is not enough votes to overcome cloture, to break a filibuster, if in fact that was going to be called for, and that it is time to move on to other business, whether it is partial birth or bankruptcy or appropriations bills and the like, and that a week, almost a week-long debate on the issue of campaign finance reform was, in fact, sufficient.

We know where the votes are going to come out. I don't think anyone is going to be changed by further debate and further amendments. It is time to move on to the other business at hand. I hope we can have some sort of comity here that would allow the business to continue. I think that would be good for all of us, particularly those of us who would not like to be here through the holidays for a long period of time, who would like to get back home after we finish our business to spend some time with our constituents in our States.

So, again, I think a fair debate was had, the votes are clear, and further debate will do nothing other than take up

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the time of the Senate and delay action on important matters that we have to get to before we adjourn for the end of the year.

So with that, I am hopeful my colleagues, frankly, on both sides of the aisle will support moving off campaign finance reform.

With that, I reserve the remainder of my time.

Mr. LEVIN. Mr. President, do I understand there are 10 minutes for this side?

The PRESIDING OFFICER. The Senator is correct.

Mr. LEVIN. The majority leader has authorized me to allocate time to myself. I yield to myself 4 minutes.

A majority of the House and a majority in the Senate support campaign finance reform. It was clearly indicated yesterday that we have a majority in favor of campaign finance reform. A minority of the Senate is not in favor of campaign finance reform, and they have decided to try to block the will of the majority, which is their right. They can filibuster this legislation to which they are so strongly opposed, and I defend their right to oppose this legislation with all their might, although I disagree with them with all my might.

The supporters of campaign finance reform have every right to try to pass the bill. That means we have every right to not agree to withdraw campaign finance reform legislation just because we didn't get cloture on the first, second, or third vote. It took four votes to get civil rights legislation passed in the late 1960s and 7 weeks to get that legislation passed. It wouldn't have passed had the supporters of civil rights legislation, after they did not get the necessary votes to adopt cloture the first time, backed off from their cause.

We, the supporters of campaign finance reform, are just as passionately in support of closing the soft money loophole as the opponents are passionate in their opposition. We do not need to withdraw as long as we are in the majority. We don't have to go quietly into that good night after a failed cloture vote.

This vote we are about to take on a motion to proceed to another item of business, this motion to end the Senate's consideration of campaign finance reform in the face of a filibuster by the opposition, is the vote that really counts on campaign finance reform. This is the moment of truth. A cloture vote simply decided that we did not succeed in breaking the filibuster. Today the majority will decide whether to give in to that filibuster. That is what this vote is about, whether or not a majority of this Senate which favors closing the campaign loopholes in the law that are supposed to put limits on how much a person can contribute to a campaign or candidate, gives in to a filibuster, whether those laws which have been so totally undermined by the soft money loophole, in effect, will be restored to good health. That is the decision we are going to make.

This is the vote that tests the determination of supporters of campaign finance reform against the determination of the opponents—whether the majority which went on record yesterday as favoring campaign finance reform will say we are going to give up our cause for whatever length of time because we haven't gotten 60 votes yet. We would not have had civil rights legislation if that were the position taken by the supporters of civil rights—8 long weeks on just one of the civil rights bills in the 1960s and four cloture votes, which finally, with the help of a bipartisan group, were able to take them over the finish line.

Yes, the opponents have a right to filibuster, a right to tie up the Senate. However, we in the majority on campaign finance reform do not have to back down. This is the vote that counts: Whether we in the majority agree we will move to something else or whether we will say to the filibusters they may do what they are doing under our rules and we will defend that right, but we need not and will not back down to that filibuster.

I yield the floor.

Mr. FEINGOLD. Mr. President, how much time remains on the Democratic leader's time?

The PRESIDING OFFICER. Six minutes.

Mr. FEINGOLD. Mr. President, I ask I be yielded such time as I shall consume.

I especially thank the Senator from Michigan for his great determination on this issue. I am certainly going to join him on this.

I will vote ''no'' on the motion to proceed in a few minutes, but it is not because I oppose moving to the late-term abortion bill at this time. Supporters of campaign finance reform are prepared to move that bill by consent, which keeps the campaign finance bill as the pending business of the Senate—that is all we are trying to do—and thereby allows the Senate to return to it once the late-term abortion bill is completed.

This vote we are going to have in a few minutes is not about whether we will debate late-term abortion. Everybody here is prepared to do that. It is about whether we will keep working on the campaign finance bill after a short hiatus to do other business.

I want to be clear: Senator MCCAIN and I are ready to move forward in debating our bill. I thought we had an exciting series of votes yesterday, the upshot of which is, we have three new supporters of reform. We need to keep up the pressure for reform. We did not have adequate time on the floor to do that. The majority leader promised on the record 5 days of debate. We had 4 days, and 1 of the days was yesterday when all we did was vote on cloture.

I say to my Republican colleagues who say they want the chance to offer amendments, now that we have had those two cloture votes, we can do that. There is every opportunity now to offer amendments. There are a variety of ways to clear places on the amendment tree so the debate can proceed and we can see if we can work something out and actually pass the bill.

I appreciate the candor of the Senator from Pennsylvania, who just said, as I understand it, we had a fair debate. This is not what some of the other Republicans said. He also indicated there had been an opportunity to offer amendments. That is what the Senator said. That is the opposite of what many of the opponents of reform said. Which is it? Was there an opportunity to offer amendments or not? Maybe it is an academic debate at this point. It is a very interesting difference in the way the last few days have been characterized.

What really counts is that amendments can be offered right now. If there is any Senator out there who is saying he has not had that chance to offer amendments, they should vote to have the Senate continue on the campaign finance reform bill and come down and offer an amendment. Now is not the time to put campaign finance reform back on the calendar, which in this case means the back burner. It is time to come together and work to find a consensus.

Whatever different spin is put on this issue, the bottom line is this: The soft money system is wrong and it must be ended. Mr. President, 55 Members of this body have now voted for reform. The time has come to finish the job.

I urge my colleagues to vote ''no'' on this motion to proceed and help the Senate take a step toward doing that.

I suggest the absence of a quorum and ask the time be equally divided.

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

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SANTORUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. SANTORUM. Mr. President, again I ask my colleagues to join with me in voting to move to proceed to the Partial-Birth Abortion Ban Act. It is a bill that is important business. It is something that has overwhelming support in the Senate. I hope we can move to this issue.

If there is a need to debate campaign finance reform in the future, then that is a matter for the leaders to work out, whether we want to come back to that issue. I think we have spent enough time on this bill. It is very clear where this issue is going. At least the issues of McCain-Feingold and Shays-Meehan do not have the necessary votes to pass in this Senate. Maybe there are other kinds of campaign finance that could, and maybe we could use this time over the next several months to find some middle ground to get a compromise.

We are not there right now. It is time to move on with the business of the Senate and the American people.

I yield the remainder of my time.

Mr. BIDEN. Mr. President, I rise to comment briefly on why I will vote against the motion to proceed to S. 1692, the Partial-Birth Abortion bill. I support this legislation. I have voted for passage of this bill in the past, and I have twice voted to override the President's veto. I think we should take up this bill in the Senate, and I am quite certain we will get to it. Yesterday, in fact, we offered to move to this bill by unanimous agreement and, had that been accepted, we would be on it now.

The problem with this procedural tactic of having a recorded vote on this motion is that it ends the Senate's work on campaign finance reform, and we are not finished with that bill yet. We started debating campaign finance reform last week, and we have a chance to make some genuine improvements in American politics. We should finish what we have started.

Mr. McCAIN. Mr. President, I intend to vote against the motion to proceed to S. 1692, legislation to ban partial birth abortions.

This is an unnecessary parliamentary maneuver designed solely to displace S. 1593, the campaign finance reform bill, from the floor. A unanimous-consent agreement was offered, with no known opposition, to temporarily lay aside the campaign finance reform bill so that the Senate could consider the partial birth abortion ban legislation. Under that procedure, when the Senate finishes its work on the latter bill, we could then return to complete the debate on campaign finance reform. But if this procedural vote is successful, the McCain-Feingold bill will be returned to the Senate calendar, effectively cutting off the debate, well short of the time promised to consider this important issue.

I want to make very clear, my strong support for this bill and my unequivocal and long-standing opposition to the practice of partial birth abortion. I am pro-life and oppose abortion except in the case of rape or incest, or when the life of the mother is in danger. Partial birth abortion is a repugnant procedure and an abomination, which should be outlawed.

I am a cosponsor of this legislation, as I was in previous years. I have voted five times over the past 5 years to ban this repugnant and unnecessary procedure, including two votes to overturn the President's veto of this legislation. When the Senate votes on S. 1692, I will again vote for the ban.

As I stated yesterday, I will not give up the fight to enact meaningful reform of our campaign finance system. If the McCain-Feingold bill is pulled from the floor today, I will return to the Senate floor with amendments on campaign reform this year, next year, and as long as it takes.

The PRESIDING OFFICER. The question is on agreeing to the motion to proceed. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER (Mr. GRAMS). Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 52, nays 48, as follows:

[Rollcall Vote No. 332 Leg.]

YEAS—52

Abraham	Fitzgerald	McConnell
Allard	Frist	Murkowski
Ashcroft	Gorton	Nickles
Bennett	Gramm	Roberts
Bond	Grams	Santorum
Breaux	Grassley	Sessions
Brownback	Gregg	Shelby
Bunning	Hagel	Smith (NH)
Burns	Hatch	Smith (OR)
Byrd	Helms	Specter
Campbell	Hollings	Stevens
Cochran	Hutchinson	Thomas
Coverdell	Inhofe	Thompson
Craig	Kyl	Thurmond
Crapo	Landrieu	Voinovich
DeWine	Lott	Warner
Domenici	Lugar	
Enzi	Mack	

NAYS—48

Akaka	Feingold	Lincoln
Baucus	Feinstein	McCain
Bayh	Graham	Mikulski
Biden	Harkin	Moynihan
Bingaman	Hutchison	Murray
Boxer	Inouye	Reed
Bryan	Jeffords	Reid
Chafee	Johnson	Robb
Cleland	Kennedy	Rockefeller
Collins	Kerrey	Roth
Conrad	Kerry	Sarbanes
Daschle	Kohl	Schumer
Dodd	Lautenberg	Snowe
Dorgan	Leahy	Torricelli
Durbin	Levin	Wellstone
Edwards	Lieberman	Wyden

The motion was agreed to.

Mr. OTT. Mr. President, I move to reconsider the vote.

Mr. COVER DELL. I move to lay that motion on the table.

Mr. LEVIN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 47, as follows:

[Rollcall Vote No. 333 Leg.]

YEAS—53

Abraham	DeWine	Hutchison
Allard	Domenici	Inhofe
Ashcroft	Enzi	Kyl
Bennett	Fitzgerald	Landrieu
Bond	Frist	Lott
Breaux	Gorton	Lugar
Brownback	Gramm	Mack
Bunning	Grams	McConnell
Burns	Grassley	Murkowski
Byrd	Gregg	Nickles
Campbell	Hagel	Roberts
Cochran	Hatch	Santorum
Coverdell	Helms	Sessions
Craig	Hollings	Shelby
Crapo	Hutchinson	Smith (NH)
Smith (OR)	Thomas	Voinovich
Specter	Thompson	Warner
Stevens	Thurmond	

NAYS—47

Akaka	Feingold	McCain
Baucus	Feinstein	Mikulski
Bayh	Graham	Moynihan
Biden	Harkin	Murray
Bingaman	Inouye	Reed
Boxer	Jeffords	Reid
Bryan	Johnson	Robb
Chafee	Kennedy	Rockefeller
Cleland	Kerrey	Roth
Collins	Kerry	Sarbanes
Conrad	Kohl	Schumer
Daschle	Lautenberg	Snowe
Dodd	Leahy	Torricelli
Dorgan	Levin	Wellstone
Durbin	Lieberman	Wyden
Edwards	Lincoln	

The motion was agreed to.

PARTIAL-BIRTH ABORTION BAN ACT OF 1999

The PRESIDING OFFICER. The clerk will report the bill.

The legislative clerk read as follows:

A bill (S. 1692) to amend Title 18, United States Code, to ban partial-birth abortions.

The Senate proceeded to consider the bill.

Mr. SANTORUM. Mr. President, we now, somewhat belatedly, begin the debate on partial-birth abortion. To review the actions of this body on this issue and the actions of the Congress, this is the third time this bill or some form of this bill has been voted on to pass the Senate. We passed this bill in 1995 and in 1997. Here we are again in 1999. We had two override attempts of the President's veto in 1996 and 1998, and I am fairly sure we will probably have another attempt on a Presidential veto override next year, in the year 2000.

Each time this bill has been voted on, succeeding Congresses picked up votes. In other words, we have gotten closer to the two-thirds necessary, 67 Senators, to override an anticipated Presidential veto. I am hopeful we will continue that trend. We started in 1995 with a vote of 55 or 56 Senators supporting banning this procedure. As of the vote last year, we were up to 64 Senators in this body agreeing this procedure is not necessary. It is, in fact, unhealthy and it is a threat to the health and life of the mother, as well as being a brutal and barbaric procedure.

I am hopeful through the course of this debate we can have a fair debate about this issue. Some have tried to turn this into a broader debate about abortions and view this as just the first shot at Roe v. Wade, an attempt to put a chink in the armor, intimating there is a grand agenda to try to chip away abortion rights that were given by the Supreme Court in Roe v. Wade.

Let me assure my colleagues that is not my intention. This bill is a straightforward piece of legislation that deals with a specific procedure. In fact, I am hopeful we will be able, through an amendment process, to make it even more clear we are referring simply to the procedure known as

partial-birth abortion. I will describe what that procedure is in a moment. But there is no such intent here. In fact, one of the reasons we are offering this amendment is because we believe this comports with Roe v. Wade; that this is a constitutional restriction and, in fact, it falls outside the concerns of Roe v. Wade because the baby is outside of the mother. The baby is no longer in the mother's womb.

So decisions have been made in the courts across the country. There have been several State bans that have been held unconstitutional, one that was held constitutional. So my guess is we will continue to see States deal with this issue, courts continue to be all over the map, some saying it is unconstitutional, some saying it is constitutional, until we get, finally, to the Supreme Court and they can look at it. I am confident it is constitutional.

Having said that, we just finished a debate on campaign finance reform where the very Members who stand before the body to say we cannot pass this because it is unconstitutional voted for campaign finance reform bills that are clearly unconstitutional, clearly in violation of the Supreme Court's edict on allowing unlimited soft money. But they come here and say: We think the Court is wrong and we are going to ban it anyway. This is directly on point with a Supreme Court decision.

In our case, with partial-birth abortion, where the baby is killed in the process of being born, the baby is outside the mother, under Roe v. Wade they let stand a Texas statute that was under appeal under Roe v. Wade prohibiting the killing of a child in the process of being born.

So in a sense we have a case on point in Roe v. Wade that says this kind of thing is, in fact, constitutional. Yet you will hear the arguments, I am sure, at length in the next day or two that we cannot pass this because some courts have said this is unconstitutional. I think at best that is an unclear argument. At worst, I would argue it is clearly constitutional because of the Roe v. Wade decision.

To make that argument the very day—or the day after, now—many of the Members making this argument vote for something that is clearly unconstitutional because they want to send it to the Court and have the Court take another look at it strikes me as a little disingenuous; that you would make one argument one day and do a 180 degree turn and say we cannot pass it because it is unconstitutional when the day before you pass what you know is unconstitutional and you hope the Court will change its mind.

I think now what I want to do is go through briefly what a partial-birth abortion is, how it is performed, when it is performed, who performs it, where it is performed, and why. If I could first start out with a chart that describes the procedure, you can see this is a baby. By the way, that is at least 20 weeks of gestation. During a 40-week gestational period, partial-birth abortions are performed on babies who are at least 20 weeks. So this is a late-term abortion. This is a second- and in some cases a third-trimester abortion. Let me start with how it starts.

First, the mother presents herself to the abortion clinic. The abortionist decides what procedure he or she wants to use to kill the baby. In a small percentage of second- and third-trimester abortions, a partial-birth abortion is used. It is not the most common method of abortion in late trimester. In fact, it is relatively rare. We are not sure of the numbers. The reason we are not sure of the numbers is we have to rely on the abortion industry—which, by the way, opposes this bill—to give us their numbers on how many they say they do. The Federal Government does not keep track of the method of abortion used in the second and third trimester. In fact, they don't keep track of the method of abortion period. So we do not know from any Government statistics or any independent source how many of these abortions are performed. We only can go by what the opponents of this bill tell us is the number.

They originally told us there were just a few hundred. Then a report came out in a paper in northern New Jersey, the Bergen County Record, and they just happened to have a good reporter who thought maybe he would ask his local abortion clinic how many of these abortions were performed. He took the time, as reporters I think would want to do, to find out the accuracy of the story he was reporting. He contacted an abortion clinic in northern New Jersey and the abortion clinic there said they did 1,500 a year at that clinic. Where the national organization said they did 500 nationally, there were 1,500 done at that clinic. The person at the clinic who said they did 1,500 there said they had trained a couple of other abortionists who perform them in New York, in addition to the 1,500 that were done there.

So when I say a small percentage, that is what has been reported to us, again, by the people who oppose this and who realize the more they report the harder it is for them to defend. Because, again, what you hear the President and other advocates of this procedure talk about is this is a rare case—just to protect the mother's health or life, in the case of a severely deformed baby, so it is very rarely done. What we found is that is not the case.

I think it is clear and many have admitted since within the abortion industry, that is just not true. So what we have is a case where we do not know how many are performed but we believe, according to them, it is around 5,000 or more a year. I want to stop right there and pause for a minute. I want everybody to think if we heard about the murder of 5,000 children a year through a procedure or some act of violence—if we heard about 5,000 a year, people would be marching on Congress and saying: How can you let 5, much less 5,000, babies be killed in such a horrific way? But because we put it under the rubric of abortion, it is OK.

What I want to show today, looking at this procedure, is this is not like abortion. This is like infanticide. This is a baby who is all but born and then killed. So I think we need to look at it and have this debate focus on not the issue of abortion because there are plenty, as is evidenced by the numbers, of other procedures available to perform abortions. This is a rogue procedure that is infanticide. That is why Members on both sides of the aisle who are supporters of abortion rights have joined with us because they believe this is a step too far. We have drawn the line in the wrong place. Once the baby is in the process of being born, we have to say: Wait a minute; this baby is now outside of the mother, almost outside of the mother. This is not abortion anymore.

What happens is the mother presents herself to the abortionist and the abortionist decides they would like to do an intact D&E, or a partial-birth abortion. What happens is the abortionist will give the mother pills to dilate the mother's cervix so the abortionist can then perform the abortion. Not immediately; this is a 3-day procedure. The mother comes back in 2 days. On the third day, after she has taken the pills the first day and the second day, she presents herself back to the abortionist with the cervix dilated.

I can get into all the health reasons why this is dangerous and could lead to infections and problems, and what we have seen, not just infections but it can lead to and, in fact, has led to babies being born as a result of the dilation of the cervix. The mothers go into labor and babies are born and born alive. In fact, we have cases in the last few weeks where a baby who was to have been aborted through a partial-birth abortion was born alive and is alive today. By the way, this is a perfectly healthy little girl. So when the argument is these babies wouldn't live or these babies are deformed or it is for the health of the mother, none of this is true. None of this is true.

Now we have cases—in fact, just in the last few weeks, a case where this baby is alive today. Another baby was born alive but not attended to by the abortionist, not attended to. They let the baby die.

Again, the point I am trying to make is, the line is a very important one. You can see from the case where the baby was allowed to die that once we begin to think of this little baby outside the mother as just a disposable item, then we have lost something. We have blurred the line, which I do not think we as a society want to allow to be blurred, about who is protected by our Constitution and our right to life.

Clearly, I hope we all believe that once a baby is born, that baby is entitled to life. Where we draw the line as

to when that occurs is significant. That is why many people who are, again, for abortion rights say: Once the baby is outside, I am a little uncomfortable saying you can kill the baby, as well they should.

The mother presents herself, on the third day of the cervix being dilated, to the abortionist. The abortionist uses an ultrasound to examine the mother and guide the abortionist to insert forceps in through the cervix, up into the uterus.

Those of you who have been involved in the birth of children know—we have six children—babies are usually at that age in a head-down position. They move around, but as they go further in pregnancy, the baby usually has its head in the down position.

They reach up with the forceps and grab the baby by the foot or the leg. Again, this is a 20-week-plus baby. We have plenty of documentation that this has gone on at 22, 23, 24, 25, 26, and even older—but rare as it gets older, I admit that. This is a fully developed baby that would otherwise, if delivered at this week of gestation, be born alive.

They take the baby and grab the leg with the forceps. Then they turn the baby around in the uterus. Many of you are familiar with the term ''breech birth.'' When you present yourself for delivery of a baby and you are told your baby is in a breech position, bells and whistles go off. Obstetricians get very nervous because there are a lot of difficulties with delivering a baby in a breech position. There are a lot of complications, obviously for the baby, but also for the mother. To deliberately turn a baby into a breech position, by common sense, endangers the mother. Obviously, in abortion it dramatically endangers the baby.

They take the leg, and they pull the baby feet first out of the uterus through the birth canal. All of the baby is delivered except for the head. The entire baby is outside the mother with the exception of the baby's head. Again, we get back to the question, Is this an abortion or is this infanticide?

The reason this debate is so crucial is that it is where worlds intersect. It is the line we are going to draw. There are a lot of people who are for abortion rights who say: Look, the line is, the baby is inside the mother; the mother can abort the baby, period. And they say: But yes, obviously, when the baby is outside the mother, you cannot kill the baby.

This is where the worlds intersect because we have a situation where the baby is almost outside the mother. This baby would be born alive because this procedure occurs after 20 weeks. What the abortionist does is deliver the baby, all but the head. Why? Because the head is the largest part of the body at that age, so the most difficult to deliver.

There is also some question that if the baby comes out head first and once the head is delivered, will the Constitution treat it differently, if the head comes out first as opposed to the feet coming out first? Some have argued that once the baby's head is through the cervix, that is birth, so maybe they are under constitutional rights.

Do you see how fuzzy this line is, and do you see why some on both sides of this issue believe it is important to draw the line so we do not get into this rather difficult situation?

The baby is delivered, all but the head. The abortionist then does a barbaric thing. I even think those who support this procedure would argue and would agree with me that this is barbaric. This is a living baby, a human being. It is delivered outside of the mother. Its arms, its legs, its torso are outside the mother. The doctor, because they cannot see; it is a blind procedure—the baby is face down—feels up the spine to the base of the neck, base of the skull, top of the neck, finds the point at the bottom of the base of the skull, takes a pair of scissors, and jams it into the base of the baby's skull.

I do not have to tell you, a baby at 20-plus weeks has a fully developed—I should not say fully—has a developed nervous system and feels pain, acutely some have suggested, more than you would feel pain. A medical doctor takes a pair of scissors and jabs the baby in the skull.

Nurse Brenda Shafer, who testified before the Senate and House Judiciary Committees, described the reaction of one of the babies when this occurred. The baby threw out its arms and legs. If you ever held a little baby and you gently bounced them in your arms, they stick out their arms because they are not sure, they lose their equilibrium. She said it was just like that. The little baby lost its equilibrium and then fell down.

The baby is dead now. The abortionist has killed the baby that was 3 inches from being protected by the Constitution. Three inches more and everybody in America would say—everybody but a couple of people in Princeton—that baby should no longer be able to be killed. But for those 3 inches, that little baby is allowed to be executed in the most painful, brutal, insensitive, barbaric fashion of which I think any of us have heard.

To add insult to injury—let me put it a different way. To add insult to execution, they take the suction catheter, insert it in the hole made by the scissors, and they suction out the baby's brains. And a baby's skull is soft. It has those plates that move, grow, allow the baby's head to expand. The baby's head just collapses as a result of the suction. And then this otherwise beautiful, healthy, normal baby—that would otherwise be born alive and, in a vast majority of the numbers, particularly after 22 weeks, would not only be born alive but would be viable outside the mother—is then extracted completely from the womb.

If you described what I just described as a procedure done on any human being in some foreign country as a way of torture, the American public would be aghast, they would be outraged, outraged that such barbarism could occur in a civilized country. But this barbarism occurs every single day in America. Thousands of times a year, little babies are killed in this brutal fashion. Why? I will get to that in a minute.

Who performs this? And where, by the way? Is this performed in hospitals? The answer to that is no. No hospital would do an abortion such as this. Is this in the medical literature? The answer is no. It is not taught in any medical school. It is not taught anywhere except by the developer and another person from Ohio who developed this procedure.

Is the person who developed this abortion technique a well-known obstetrician, someone who is board certified, someone who is an expert in internal fetal medicine? No. No. Not only is this person not board certified, not only is this person not an expert in internal fetal medicine, this person is not even an obstetrician.

The person who developed this procedure was a family practice doctor who, I guess, could not make it saving children so went into the abortion business and developed this procedure, not because this was a procedure that was in the best interest of anybody concerned, except the abortionist, but because this is a much simpler procedure in the sense it takes less time, so you can do more abortions during a day. It takes less time than other late-term abortions, so you can do more of them. And, of course, when you get paid for these, the more you can do, the more money you make.

Why is this procedure done? You will hear arguments today that this procedure is done to protect the life and health of the mother—that is what you will hear: life and health—and another thing which is health related: the future fertility of the mother. We will have a long debate about that. I am not going to take a lot of time in my opening statement about that, but I do want to address it briefly.

No. 1, life. There is a clear life-of-the-mother exception in this bill. If this procedure needs to be used to protect the life of the mother, it can be used. Having said that, the person who developed this procedure, the person who does, from what we know—again, we do not have good information—most of these kinds of procedures, a guy named Dr. Haskell from Ohio, has said under oath in a court of law—in a court of law, under oath—that this procedure is never used to protect the life of the mother.

Under oath, in a court of law, what would seemingly be an admission against his own interest, in one of these suits that challenges the constitutionality of this, he admitted, as, frankly, has everybody else—except a few folks on the other side of the aisle who have it in their mind that somehow this is needed to save the life of the mother—it is never used.

Do you know what we say? Fine. It is never used? We will still put it in the bill. If there is some strange occurrence that no obstetrician I have heard of has come forward with to say needs to be used to protect the life of the mother, it is covered.

Think about this intuitively. This is why the doctor arrived and why everybody who has looked at this issue has arrived at the conclusion that this is never used to protect the life of the mother.

If you had a mother who presents herself in a life-threatening situation, would you give her two pills and say come back in 3 days? You do not have to be an obstetrician to figure this one out, folks. If someone is in a life-threatening situation, you do not give them two pills and say go home and come back in 3 days, and dilate their cervix during that 3-day period.

So the argument that this is somehow used to protect the life of the mother is as bogus as a number of other lies I will go through here in a minute that have been put forward by the other side to stop this procedure from being banned.

Second, health. Again, same doctor, same case. Different question: Is this procedure ever necessary to protect the health of the mother? Again, the abortionist who helped develop the procedure, who uses it more than anybody else, testifying in court, under oath: Is this necessary to protect the health of the mother? Answer: No. No.

But you will see people come to the floor and talk about, oh, how this is absolutely necessary, how this is an important health issue for women. We have over 400 obstetricians, most of them board certified, many of them specialists in maternal-fetal medicine, who have written letters, who have signed documents, including the AMA—which is not a pro-life organization, I might add—who have signed letters saying this is bad medicine; it is never necessary to protect the health of the mother to do this procedure.

Yet people will come down to this floor and say: Well, I can't be for this because I need a health-of-the-mother exception and put up ''cases'' where this was done and, as a result of this, the mother was able to have more children, was able to do other things; and if this procedure were not done, then they would not have this opportunity.

I would not argue that this procedure could result in a positive outcome for the mother's health. Certainly it could. But that is not the question. The question here is, Is it necessary—the answer is, no—to protect the health of the mother or the life of the mother.

And second, is it the best method? Clearly, given what we know about this procedure and its profound implications on who we are as a society, the answer has to be emphatically—I hope from this body, which is so concerned about the consuming problem of violence in our society—I think a group of people who stand up and complain about shootings at Columbine will look at this and say: Wait a minute. If we're saying this kind of brutality is OK, if the Senate and the President of the United States say this kind of brutality of our children is OK, then how in the world can we be aghast when other violence is done to our children?

If we can stand here, with straight faces, and with passion in some cases, and argue that this kind of execution is not only legitimate but preferable, proper, constitutional, necessary, how can we be even the least surprised that young people, looking at what goes on in the world around them—obviously, they get a lot of bad messages from Hollywood and from the media, but they only need to look to the Senate and to this President to get their cue. The cue is violence is OK, as long as there is some purpose to be served. And the purpose is to make sure we don't have a chink in the armor of abortion rights. That is the purpose.

The question is, Why are they fighting this so hard? What is really the problem? Why are they fighting what is an abomination? It is uncomfortable to talk about it. I am sure for those listening it is very difficult to listen. This is not a pleasant subject. Why would you want to get up year after year and fight this issue? What is the great cause at stake that we have to draw the line in the sand?

They will argue it is the health of the mother. It is not true. That has never stopped them from arguing that. But when you have the people who perform the abortions saying under oath that it is not true, it is darn hard to come here and say this is why we want to do it, and for those of us who have to listen to it, to say: Is this really what is at stake? Is this really the issue? Or is there something else going on? Is there an agenda?

I can tell you what the agenda is on our side. The agenda is very simple. At a time when we are faced with senseless, irrational violence, with a culture that is insensitive to life and promotes death through our music, through videos, just a little beacon of hope, a little grain of sand of affirmation that life is, in fact, something to be cherished, not to be brutalized; that there are lines in our society that we can't blur, that we shouldn't cross, because when we do that, we throw in doubt, for millions of children and adults, the issue of, well, maybe this isn't so wrong. We cloud the issue, the issue of life for children that are 3 inches away from constitutional protection. Don't you think that is a good place to draw the line? Don't you think that is a reasonable place to say, OK, enough is enough?

No one is standing here arguing overturning Roe v. Wade. In fact, I will make the argument, this is legitimate under Roe v. Wade. There is nothing here that will, even if it goes to the Court, overturn Roe v. Wade. It is not our intention with this act.

This act is an attempt, and I would argue a feeble attempt—many of you listening were around 30, 40 years ago. Could you imagine walking onto the Senate floor 40 years ago, turning on the television and seeing Walter Cronkite report on the debate on the Senate floor about whether this should be legal in America? Can you imagine 40 years ago that we would even have a debate in the Senate about whether this would be allowed in America?

There isn't a person in the Senate who, 40 years ago, would have said this is OK. They would have been appalled. Well, maybe in Nazi Germany or maybe in the Soviet Union, but in America, this? No. But how far we have come. How much more civilized we have become. How culturated we have become that now 40 years hence we can have these kinds of rational debates and people can come to the floor of the Senate and say that thrusting a pair of scissors in the base of the skull of a little baby is OK. How far we have come. How humanity has grown and developed. How sophisticated we are that we can find precise legal arguments that will weave us through this web of destruction and say, but it is OK. Americans go to sleep at night knowing that thousands of children, almost born, inches from reaching toward that constitutional protection, can be executed. We are all better for it. We are better as a society for this.

They will not say that, but underneath the argument is this: This being legal is better for America. When people come and cast their votes, you will have to cast the vote saying that allowing this to occur in America is better for us. It is preferable in the United States of America that this occurs. We want this to continue. We believe this is right. We believe this is just. We believe this is humane. We believe this is in the best spirit of America, liberty, and freedom.

How twisted, how twisted we have become. How we contort ourselves to find that path through rights to allow this to be the best that we are in America. We are better than that. This country stands for higher ideals and principles than that. A majority of the Senate will agree with me. A majority of the House will agree with me, a majority of Americans. But that is not enough.

So this contorted construction of freedom will continue to be legal. Can you envision our Founding Fathers with these charts in front of them saying: This is the product of liberty? This is the product of the high ideals that we suffered through in revolutionary, civil, and major world wars to preserve? This is what it has come to? This is the personification of liberty in America today? It is no wonder we are concerned when we tuck our children into bed at night and we see what kind of world is ahead of them. How much more will we be able to twist freedom and liberty to destroy their true freedoms? I tuck five little ones in bed every night. I wonder, I wonder what is in store for them, if we continue as the Senate, the greatest deliberative body

in the world, to allow this wanton destruction of the most vulnerable in our society. Where are we headed?

Mr. President, I yield the floor.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. Mr. President, for those who have followed this debate since it opened about an hour ago, you have heard that those of us who will fight on the floor of the Senate for moms, for our daughters, for their health, for their lives, are somehow evil and bad people. You have heard in this debate, in some of the most inflammatory language, which I think is, in essence, very dangerous for this country, that those of us who stand up to fight to make sure that every child is a wanted child, that every child who comes into this world is wanted and loved, that every woman has a right to be respected—you have heard that somehow we want to bring violence to children. You have heard the word ''executioners'' relating to doctors who take an oath ''to do no harm,'' who save lives, who bring babies into the world. Executioners. I am stunned by the tenor of the debate. I am troubled by the tenor of the debate.

The majority leader was sent a letter by a number of groups asking him to please not bring this issue up this week, could he wait a week. They noted that on Saturday, we will have the 1-year anniversary of the assassination of a doctor, Dr. Barnett Slepian, who was murdered in his home, through a window, by a coward who took this man from his family. The majority leader was told there have been five sniper attacks on U.S. and Canadian physicians who performed abortions since 1994. All of those victims were shot in their homes by a hidden sniper who used a long-range rifle. Dr. Slepian was killed, and three other physicians were seriously wounded in these attacks—for making sure that women had their legal rights protected and their health protected.

I think it is sad that we would have this debate, with the most inflammatory language I have ever heard on the Senate floor to date. I know the FBI and the Attorney General are going to be ever more vigilant because of this debate. I know that and I am glad about that. It is very hard for me to imagine that we could not have put this off a week. Here we are. And instead of having a debate that should be based on the merits of the discussion, it has been inflamed.

Yesterday, I said if 100 doctors walked into the Senate and sat down in our chairs to practice being Senators, they would be arrested and dragged out of here. Yet here we are in the Senate —100 of us, and not one of us an obstetrician, not one of us a gynecologist—deciding what procedures should or should not be used, and under what circumstances, in a matter that should be left to the medical profession, left to the families of this country, left to loving moms and dads. So here we are practicing medicine in the Senate and not even doing a very good job of it, I might say, if you listen to the physicians who have written to us on this matter.

I am going to place into the RECORD several letters from organizations consisting of physicians. Here is one from the Society of Physicians for Reproductive Choice and Health—the people my colleague has called ''executioners.''

Ladies and gentlemen of the Senate and of this country, these are the people who bring our children into the world. These are the people who save their lives when they are hurt. These are the people we run to when they have to go to an emergency room.

This is the statement:

> In what it claims as a tribute to mothers, the United States Senate today will vote on a bill criminalizing a procedure . . .
>
> . . . legislators supporting this ban are not celebrating mothers—but, in fact, are dishonoring and condemning motherhood by placing pregnant women at greater risk for infertility and death.

These are the people to whom we turn when we are sick, and they are telling us not to pass the SANTORUM bill. They bring back the days before 1973:

> Prior to abortion's legalization in 1973, the leading cause of maternal death in this nation was illegal abortion. As Congress attempts to ban abortion, procedure by procedure, more and more pregnant women will die. As physicians concerned about the health and lives of our women patients, we believe this is a shameful celebration of motherhood.

I ask unanimous consent that letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STATEMENT ON SANTORUM BILL (H.R. 1122/S. 6) BANNING A PROCEDURE KNOWN MEDICALLY AS DILATATION AND EXTRACTION, MAY 20, 1997

In what it claims is a tribute to mothers, the United States Senate today will vote on a bill criminalizing a procedure known medically as dilatation and extraction. Ironically, legislators supporting this ban are not celebrating mothers—but, in fact, are dishonoring and condemning motherhood by placing pregnant women at greater risk for infertility and death.

Congressional supporters of this ban are hiding from women and their families the true consequences of this bill: it makes unavailable to physicians and their women patients a safer, less risky medical option during health- and life-threatening events that can occur during pregnancy. Women, their families and their physicians must be alarmed by Congressional plans to deny a medical option that preserves women's health and lives.

Contrary to popular belief, it already is illegal to perform a third trimester abortion on a healthy mother carrying a healthy fetus. Abortion opponents who present graphics of darling, full-developed babies being aborted are gravely misleading and misinforming the public and policymakers. Opponent admit these graphics are false, but continue to use them anyway.

Annually, 300 to 600 third trimester post-viability pregnancies are terminated legally for specific medical complications that can develop during the pregnancy's course. These conditions pose severe health and life threats to the women—including infertility and death. When maternal complications develop, these pregnancies are terminated only after attempts are made to deliver the fetus safely while preserving the health and life of the mother. Decisions to terminate pregnancy at this stage are not considered by one physician alone. In fact physicians and their patients seek second and third medical opinions.

Some severe complications that can affect pregnancy include; The development of cancer during pregnancy; severe pre-eclampsia (toxemia) accompanied by kidney or liver failure; uncontrollable health failure; long-standing insulin dependent diabetes causing declining renal kidney function; Lou Gehrig's disease and other conditions causing respiratory failure; or, severe hypertension (high blood pressure) diseases causing maternal organ failure and maternal death.

The severity of these complications may make labor or caesarean section fatal.

Approximately one percent of all legal abortions occur late in the second trimester before fetal viability. Some are performed on women facing medical complications described earlier. Other women carry fetuses with serious genetic or developmental anomalies, including abnormal fetal kidneys, heart and brains—complications not usually detected until the second trimester.

Legal late second trimester abortions also are performed on women who, lacking health insurance and access to healthcare facilities, are unaware they are pregnant or unable to terminate the pregnancy earlier. Some women with irregular menstrual cycles may be unaware of their pregnancy. For some of these women, dilatation and extraction is the safest medical option because the fetal head is disproportionately large and trapped in the dilated cervix during delivery.

Banning dilatation and extraction will force competent physicians to choose riskier medical options that increase danger to patients. For women, these options are lengthy and painful, including the placement of surgical instruments into the uterus, increasing the risk of uterine perforation and infertility. Another option uses medication to induce labor, increasing the risk of maternal death from blood clotting failure and hemorrhage.

Prior to abortion's legalization in 1973, the leading cause of maternal death in this nation was illegal abortion. As Congress attempts to ban abortion, procedure by procedure, more and more pregnant women will die. As physicians concerned about the health and lives of our women patients, we believe this is a shameful celebration of motherhood.

Physicians for Reproductive Choice and Health oppose the Santorum Bill (H.R. 1122/S.6).

Mrs. BOXER. Mr. President, we have a letter from the executive vice president of the American College of Obstetricians and Gynecologists. These are the men and women who bring life into the world. These are the men and women who deliver our babies. I find it interesting when the Senator from Pennsylvania talks about breach births—I had a breach birth; I don't think he ever did, and I know what it is. I know what the risks are. I am a mother of two beautiful children. I am a grandmother of one beautiful grandson, and I tuck him in and I read him stories and I love him. I want him to

grow up in a world where families are respected, where physicians are respected, where no one stands up on the floor of the Senate and calls a physician an executioner. I don't think that is a good country. I don't think that is respect. I don't think that brings healing to this issue.

The American College of Obstetricians and Gynecologists said:

> [This bill] is vague and broad. . . . It fails to use recognized medical terminology and fails to define explicitly the prohibited medical techniques it criminalizes.

That is an important point. Bills just like this one have been ruled unconstitutional 20 times. One of those decisions was in the State of Arkansas, and I am going to share those decisions with you because I think it is important. So many of us say: local control, let the States decide.

The States have passed these laws, and not one of them yet has been proven constitutional or declared constitutional. But they have been declared unconstitutional because of what the doctors are saying—the language in this bill is so vague. And the language in all those bills is that they would, in fact, outlaw all abortion at any particular time during the pregnancy.

So when my colleague from Pennsylvania says, well, we don't want to overturn Roe v. Wade—and perhaps we will have a chance to vote on that as well—but when he says that, that is not what the courts are saying. The courts are saying his law does, in fact, make all abortions illegal and would criminalize abortion.

I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS, WOMEN'S HEALTH CARE PHYSICIANS,

Washington, DC, October 7, 1999.

Hon. THOMAS DASCHLE,
Minority Leader, U.S. Senate,
Washington, DC.

DEAR SENATOR DASCHLE: The American College of Obstetricians and Gynecologists (ACOG), an organization representing 40,000 physicians dedicated to improving women's health, continues to oppose S. 928, the "Partial Birth Abortion Ban Act of 1999." ACOG urges the Senate to reject this legislation.

ACOG believes that S. 928, as amended, continues to represent an inappropriate, ill advised and dangerous intervention into medical decision-making. The amended bill still fails to include an exception for the protection for the health of the woman.

Further, the bill violates a fundamental principle at the very heart of the doctor-patient relationship: that the doctor, in consultation with the patient, based on that patient's individual circumstances, must choose the most appropriate method of care for the patient. This bill removes decision-making about medical appropriateness from the physician and the patient.

S. 928 is vague and broad, with the potential to restrict other techniques in obstetrics and gynecology. It fails to use recognized medical terminology and fails to define explicitly the prohibited medical techniques it criminalizes. In the most recent court action, the Eighth US Circuit Court of Appeals ruled that the "partial birth" abortion laws in three states were unconstitutionally vague.

Moreover, the ban applies to all stages of pregnancy. It would have a chilling effect on medical behavior and decision-making, with the potential to outlaw techniques that are critical to the lives and health of American women. Chief Judge Richard Arnold wrote in the Eighth Circuit decision that, "Such a prohibition places an undue burden on the right of women to choose whether to have an abortion."

Sincerely,

RALPH W. HALE, MD,
Executive Vice President.

Mrs. BOXER. Mr. President, there is a letter from the American Medical Women's Association.

Are these executioners, too? They work in the medical field. They say they are gravely concerned with governmental attempts to legislate medical decisionmaking through measures that do not protect a woman's physical and mental health, including future fertility, or fail to consider other pertinent issues such as fetal abnormality. And they strongly oppose governmental efforts to interfere with physician-patient autonomy.

I ask unanimous consent that this letter printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STATEMENT OF THE AMERICAN MEDICAL WOMEN'S ASSOCIATION ON ABORTION LEGISLATION IN THE 105TH CONGRESS

ALEXANDRIA, VA (MAY 20, 1997).—The American Medical Women's Association, "is committed to protecting the reproductive rights of American women and has opposed any legislative intervention for medical and or surgical care decisions," says current AMWA President Debra R. Judelson, MD. This week, AMWA reitrated its opposition to H.R. 1122 and S. 6, which seek to ban a particular medical procedure.

It is the opinion of AMWA's Executive Committee that legislative efforts to regulate abortion have been flawed. Concerns in the following areas have prevented AMWA from taking a position on recent legislative efforts focusing on abortion in the 105th Congress.

AMWA is gravely concerned with governmental attempts to legislate medical decisionmaking through measures that do not protect a woman's physical and mental health, including future fertility, or fail to consider other pertinent issues, such as fetal abnormalities. Physicians and their patients base their decisions on the best available information at the time, often in emergency situations. AMWA strongly opposes governmental efforts to interfere with physician-patient autonomy.

It is irresponsible to legislate a particular test of viability without recognition that viability cannot always be reliably determined. Length of gestation is not the sole measure of viability because fetal dating is an inexact science.

AMWA resolutely opposes the levying of civil and criminal penalties for care provided in the best interest of the patient. AMWA strongly supports the principle that medical care decisions be left to the judgment of a woman and her physician without fear of civil action or criminal prosecution.

Any forthcoming legislation will be carefully reviewed by AMWA based on the criteria outlined above, and AMWA will seek to ensure that there is no further erosion of the constitutionally protected rights guaranteed by *Roe v. Wade*. Says AMWA President Debra R. Judelson, MD, "AMWA firmly believes that physicians, not the President or Congress, should determine appropriate medical options. We cannot and will not support any measures that seek to undermine the ability of physicians to make medical decisions."

AMWA has long supported a woman's right to determine whether to continue or terminate her pregnancy without government restrictions placed on her physician's medical judgment and without spousal or parental interference.

Founded in 1915, the American Medical Women's Association represents more than 10,000 women physicians and medical students and is dedicated to furthering the professional and personal development of its members and promoting women's health.

Mrs. BOXER. Mr. President, the American Nurses Association—are they executioners or are they loving people who choose this field of work because they want to make people well because they have compassion in their hearts—what do they say about this?

They oppose the Santorum bill. They say it is inappropriate for Congress to mandate a course of action for a woman who is already faced with an intensely personal and difficult decision. They represent 2.2 million registered nurses. They ask us to defeat this.

I ask unanimous consent to have this letter printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICAN NURSES ASSOCIATION,

Washington, DC, May 20, 1997.

Hon. BARBARA BOXER,
United States Senate,
Washington, DC.

DEAR SENATOR BOXER: I am writing to reiterate the opposition of the American Nurses Association to H.R. 1122, the "Partial-Birth Abortion Ban Act of 1997", which is being considered by the Senate this week. This legislation would impose Federal criminal penalties and provide for civil actions against health care providers who perform certain late-term abortions.

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

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

The American Nurses Association appreciates your work in safeguarding women's

access to reproductive health care and respectfully urges members of the Senate to vote against H.R. 1122.

Sincerely,

GERI MARULLO, RN,
Executive Director.

Mrs. BOXER. Mr. President, if someone wants to stand up here on the Senate floor and attack a whole part of our America, and if they want to use cartoons on the floor of the Senate to depict a woman's body, that is up to them. But I ask the American people to be the judge both of the substance of what is happening here, the techniques that have been used, and the inflammatory level of the debate.

I want you to meet a real person. I want to picture a real face—not a cartoon, but a real face—on the floor of this Senate. I want to tell a little bit about her story.

This is Tiffany Benjamin:

My husband and I waited until we established in our careers and could provide the best possible environment for a child. In 1994, we were thrilled with the news that we were expecting a baby. My first five months were joyous months of pregnancy. During a routine checkup my physician performed a standard AFT test. The results were abnormal. So my doctor ordered another test. Unfortunately, this test was also irregular. In my 20th week of pregnancy we discovered that our child had trisomy 13.

In plain English, each cell of her body carried an additional 13th chromosome. Doctors advised that her condition was lethal.

No one could offer us hope. Sadly we determined that the most merciful decision for our child—

Our child in our family—

would be to terminate my pregnancy. Although the years have passed, for us the depth of our loss is vivid in our mind. We are astounded that anyone could believe that this type of decision is made irresponsibly and without a great deal of soul searching and anxiousness. These choices were undoubtedly the most painful decisions of our lives. Please don't compound the pain of other families like ours by taking away our ability to make the difficult choices that only we can make in consultation with our physician. Please reject S. 1692 and protect our families from this dangerous legislation.

I ask you to look at Tiffany with her child. Does she look like an executioner to you? Does she look like someone who didn't want to have this child and suddenly woke up and said: I have changed my mind? No. This is a loving woman, a loving family member. She had to have this procedure, and this legislation would stop her from having it.

I want to tell you about another woman, Cindy, a 30-year-old mother of five living in Kansas City who said very proudly that she is a Catholic.

In June of 1998, Cindy noticed a lump on her neck and called her doctor. Within weeks, she found that she had thyroid cancer and, after surgery, began iodine radiation treatment. Contrary to medical protocol, she was not given a pregnancy test prior to the radiation treatment. Cindy's body did not respond to the radiation, and blood results indicated her body still contained the deadly disease. After returning to the hospital for another treatment, her blood was drawn for a pregnancy test, but the staff did not wait for the results; they gave her another iodine radiation pill.

Due to the radioactive iodine in her body, she was placed in an isolation room. No one could enter—not her husband, or her nurses, or her physician.

Two hours later, she received a phone call from her physician telling her they had made a terrible mistake. Her pregnancy test came back positive. She immediately started drinking water because the doctors told her all she could do in an attempt to shield her baby from the radiation was to drink a lot of water.

The next day, a second pregnancy test confirmed the first and a sonogram was ordered. That is when Cindy and her husband learned that not only was she 13 weeks pregnant but she was expecting twins, the twins they had always hoped for.

Imagine the feeling of that family. Within hours, the family learned that their babies would not survive, not grow, not develop. The radiation her babies received was equivalent to the bomb dropped on Hiroshima.

Cindy says:

We decided that termination would be best for our family and our babies. Through our research, our insurance company told us, however, that we were on our own.

And she adds:

You see, as a Federal employee my insurance will not pay for elective abortions.

She says because this abortion was meant to preserve her health, because of the votes in this Congress, she could not get help. She says:

I have five little ones at home who depend on their mommy ever day. I didn't want to have an abortion but I needed one. And the abortion that I had would have clearly been banned by this bill, and I thank God that this bill didn't tie my doctor's hands.

Let me just say that again. This is a woman who is religious. This is a woman who says to us thank God that bill wasn't law, the bill that the Senator from Pennsylvania is fighting so hard to become law. She says thank God it wasn't the law. She says this is clearly an intensely private, torturous decision.

Are proponents willing to tie the hands of both parents and physicians and say to a woman: You must carry your child to term despite the fact that it has been determined the child won't live and your health will be affected?

I have to say that these women who are proud to come forward to help us in a very difficult issue deserve our thanks because here they are being called the worst names in the book, being essentially told that they don't love children, that they don't care about children, when in fact these are loving moms and, in many cases, quite religious.

This is the third time the Republican leadership has brought this bill before the Senate. Again, it is playing doctor without one obstetrician or one gynecologist among us. The obstetricians and the gynecologists say we shouldn't do this. The women who have had this procedure say we shouldn't do it.

We are going to have a lot more debate. I know my colleague from Illinois is here, and he has a very important piece of legislation to offer. But before I give up the floor this time, I want to talk about what has happened in the courts because my colleague from Pennsylvania has made a statement I think that is fairly dismissive of what has actually happened. He says some of the courts have upheld this procedure and some have not.

I will discuss what the courts have done not because I am telling my colleagues to vote against their conscience; if they want to vote for something unconstitutional, that is their right. They ought to hear the arguments made in the 20 States in which this particular procedure has been called unconstitutional.

This chart shows which States have enjoined these bans. I put ''partial-birth abortion bans'' in quotes because there is no such thing. This is the political terminology. Nearly every court to rule on the merits of an abortion ban since the Senate last voted on the issue has ruled this abortion ban is unconstitutional. These are the States that have so far enjoined this Santorum-like legislation from going into effect: Alaska, Arizona, Arkansas, Florida, Idaho, Illinois, Iowa, Kentucky, Louisiana, Michigan, Missouri, Montana, Nebraska, New Jersey, Ohio, Rhode Island, West Virginia, Wisconsin, and in Georgia and Alabama there has been limited enforcement.

We have a string of decisions. I will read quotes of judges from these States—and as so many of my colleagues have said, as our President has said, we ought to listen to the States. Let's hear what the State judges are saying when they have overturned these types of bans.

First, from a Federal judge in Arizona:

The term ''partial-birth abortion'' is not a term found in the medical literature.

Let me repeat that. The judge writes:

The term ''partial-birth abortion'' is not a term found in the medical literature. The testimony of witnesses at trial indicates that this term is ambiguous and susceptible to different interpretations.

The important point is, when my colleague from Pennsylvania says he only means it to be a handful of procedures, this particular judge, Judge Bilby in Arizona says no, the term is so vaguely worded it could apply to many other abortions, and that essentially would overturn a woman's right to choose.

In Arkansas, Judge Richard Arnold says:

As we shall explain, ''partial'' delivery occurs as part of other recognized abortion procedures, methods that are concededly constitutionally protected. Under precedents laid out by the Supreme Court, which is our

duty to follow, such a prohibition is overbroad and places an undue burden on the right of women to decide whether to have an abortion.

This is a judge in Arkansas saying the Santorum-type language is so broad and the procedure is so broadly explained it could, in fact, apply to any type of abortion. He ruled it unconstitutional.

In Illinois, U.S. District Court Judge Charles Kocoras, said:

First, the statute, as written, has the potential effect of banning the most common and safest abortion procedures.

He looked at the Santorum-like bill and said it also was unconstitutional.

U.S. District Court Judge Heyburn in Kentucky says:

By choosing words having a broader scope, the legislature moved from arguably firm constitutional ground—banning a very limited procedure use for late-term abortions—to a quagmire of constitutional infirmity.

There is a common thread among the judges—by the way, from very conservative areas of our country—who are saying the Santorum-type of ban is so broadly worded it would take away a woman's right to choose even at the early stages of pregnancy.

In Nebraska, Judge Richard Arnold says:

The law refers to ''partial-birth abortion'' but this term, though widely used by lawmakers and in the popular press, has no fixed medical or legal content.

It would also prohibit in many circumstances the most common method of second trimester abortions . . . under the controlling precedents laid down by court, such a prohibition places an undue burden on the right of women to choose whether to have an abortion.

For colleagues who say vote for Santorum; it doesn't take away a woman's right to choose, we have 20 court decisions that say it does. In certain States, they have stopped performing abortions because the doctor was afraid he would be arrested for performing an early-stage abortion.

In summing up, we were elected to be Senators. We have a lot of work to do. We weren't elected to be the American College of Obstetricians and Gynecologists. They have their own organization. We should vote down this unconstitutional bill. If we do not—because I know this is political—why else would it be before the Senate? This is politics at its worst. This is the third time the President will veto this bill. We all know we will have the votes to sustain that veto. Why go through this if not for politics?

This is a debate we should not be having right now. It has been, unfortunately, in my view, very divisive so far. I hope we can get back on solid ground. Let Members not call people executioners; let Members not call families unimportant; let Members not demean women, and say the other side says the health of the woman is important. Yes, the health of women, the health of men, the health of families, that should be our paramount concern. We are not physicians. Within the context of the law, Roe v. Wade, which was decided in 1973, let Members make the decision as to what is best for our women, our families, and our children.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I consider my service in the Senate representing the people of Illinois to be the highest honor I have ever been given. I continue to believe it is the very best job in American politics. As I go back to my home State and meet with people who have entrusted me with this responsibility, I literally thank them for giving me this opportunity.

However, this debate may be one of the most painful aspects of serving in the Congress, and specifically in the Senate, because it raises before the Senate an issue which most Senators would rather not look at again. In the course of 17 years, I have voted on this abortion issue countless times. Each time has been a struggle.

I am sure those who are listening to this debate might question what I just said. Don't you get used to it? Isn't it automatic? Don't you just vote the same way you did last time?

That has never been the case for me. I have tried in every instance to be honest about the specific debate that was involved. My views on this issue have changed over the years as I have listened to the debate of those with various positions.

I have come to a position now that I am at peace with personally. Though I know that I am at peace, the people I represent may see differently.

The best I can say in the course of this debate is what I am about to say and what I am about to offer in terms of an amendment which represents my best good-faith effort to deal with a painful issue. This is not like most issues we face in the Senate. I can go home after a week of working most times and people do not have a clue as to what we have even talked about or debated. I can go to family reunions and get-togethers and people do not ask me how did you vote on a certain bill involving grazing rights in the West. It never comes up.

But this issue, the issue of abortion, is one that most Americans have an opinion on because we have been confronted, since the Roe v. Wade decision, with a huge national debate, a very divisive debate as to whether the Supreme Court was correct or incorrect in giving a woman in the United States the right to choose whether to have an abortion procedure.

There are people dug in on both sides of this debate. What I am saying, I am sure, is no surprise to anyone who observes it. There are some who believe that Roe v. Wade was just plain wrong; that the Supreme Court never should have legalized abortion procedures under any circumstances. There are those on the opposite side of the spectrum who believe that Roe v. Wade did not go far enough with respect to a woman's right to choose and her privacy. I think you will find the majority of Americans in between those two groups; struggling, on one hand, I think, to keep abortion safe and legal but, on the other hand, to put restrictions on it which are common sense.

The Senator from Pennsylvania comes before us today with a bill which seeks to address one aspect. He has focused on one particular abortion procedure. It goes by a lot of different names. The common parlance is partial-birth abortion. There are some who say that is just a made-up name for politics; it has nothing to do with medical terminology. But for better or for worse, that is how this debate is characterized, the partial-birth abortion debate, which has been around so many times on this floor and in Congress.

It now has a further shorthand, PBA. I do not think that is fair to the Senator offering the amendment, the Senator from Pennsylvania, nor to the gravity of the issue. This is a serious issue. The Senator from Pennsylvania focuses on this procedure which I will tell you, as I view it, is a gruesome procedure. It is gruesome. I don't know if his description of it is accurate, but if it is close to accurate it is gruesome.

He believes this procedure should be banned at every stage of pregnancy. Let me address that from two perspectives. First, there has been a lot said on the floor already this morning as to whether or not this kind of procedure is ever medically necessary. I am not a doctor. I cannot reach that conclusion on my own. I have to turn to others for advice.

Let me tell you what I did last year, in July. I had just read an article published in the Chicago Tribune in my home State that quoted former Surgeon General Everett Koop. Because of that article and what I read and my respect for him, I sent a letter. My letter was addressed to Dr. Ralph Hale, the executive director of the American College of Obstetricians and Gynecologists here in Washington.

I am going to read the letter because I want you to understand I tried my very best to give an open-ended opportunity for this medical doctor in the specialty of obstetrics and gynecology to tell me his professional opinion. Let me read the letter:

DEAR DR. HALE, enclosed is a commentary that appeared in yesterday's Chicago Tribune. It quotes former Surgeon General C. Everett Koop as saying that ''Partial-birth abortion is never medically necessary to protect a mother's health or future fertility.''

I am writing to request your College's response to this statement. In the medical judgment of the experts among your members, is it true that partial-birth abortion is never medically necessary to protect a mother's health or future fertility?

As I am sure you know, this is a matter of great concern to many members of Congress including myself, and I would appreciate your timely response to this important question.

I sent that letter on July 28, 1998. I received a reply on August 13, 1998,

from Dr. Ralph Hale, executive vice president of the American College of Obstetricians and Gynecologists. When I finish reading it, I will ask it be printed in the RECORD. But I would like to read it in its entirety so there is no doubt I asked an open-ended question of experts in the field, and this is Dr. Hale's reply:

DEAR SENATOR DURBIN: I am writing in response to your July 28th letter in which you asked for the College's response to Dr. Koop's statement that ''Partial-birth abortion is never medically necessary to protect a mother's health or future fertility.''

The letter went on to say:

The College's position on this is contained in the statement of policy entitled Statement on Intact Dilation and Extraction. In that statement we say, ''Terminating a pregnancy is performed in some circumstances to save the life or preserve the health of the mother.'' It continues, ''A select panel convened by ACOG could identify no circumstances under which this procedure, as defined above, would be the only option to save the life or preserve the health of the woman.'' Our statement goes on to say, ''An intact D & X however, may be the best or most appropriate procedure in a particular circumstance to save the life or preserve the health of a woman, and only the doctor, in consultation with the patient based upon the woman's particular circumstances can make this decision.'' For this reason, we have consistently opposed ''partial-birth abortion'' legislation.

It goes to say:

Please find enclosed ACOG's statement on intact D & X. Thank you for seeking the views of the College. As always, we are pleased to work with you.

Sincerely,

RALPH W. HALE, MD,
Executive Vice President.

Mr. SANTORUM. Will the Senator yield for a question?

Mr. DURBIN. I yield for the question.

Mr. SANTORUM. I thank the Senator very much for yielding. The reason I am going to ask the question is an article written by two Northwestern health care physicians from Northwestern University in Evanston, IL, who cited the same statement out of the select panel. They went on to say, after they quoted what you quoted in your letter:

However, no specific examples of circumstances under which intact D&X will be the appropriate.

In fact, in subsequent communications with ACOG and others, we have asked, give us one set of medical—any set of medical circumstances where you believe that this ''may be—whatever.''

Never have we gotten any circumstance where that was the case. So they say it may be, but no one to date has provided any circumstance, as hypothetical as you want, where, in fact, it would be.

Just to say it may be without giving evidence of what it was, I think my question is—I think the next question to which you hopefully can get an answer, I can't—you say it may be. Give me a for instance. So far, we have not been able to get any for instance.

Mr. DURBIN. I thank the Senator from Pennsylvania. That is a reasonable question.

I would say to him, though, there is clearly, at least, a difference of opinion within the medical community as to medical necessity.

Dr. Koop, whom I respect very much and have worked with on a lot of issues, says: Never. The American College of Obstetricians and Gynecologists says it is never the only thing you can do, but it may be the most appropriate thing to do for the health of the mother. And then, of course, you go on to say give us some examples. I think that is reasonable.

I ask we continue the debate at least to find out what those examples might be. That is reasonable.

But you have to say at this moment in time there at least is a difference of opinion, based on the letters introduced by the Senator from California, among medical professionals as to whether this is ever medically necessary or the most appropriate thing.

This raises a policy question. When we get to the point where doctors differ about the use of a procedure, is it appropriate, then, for the Senate to decide that we will ban a procedure, a medical procedure? That is what the Santorum amendment does. I think the Senator from Pennsylvania would concede it.

He attempts to ban the use of this procedure. Based on this letter I received from the American College of Obstetricians and Gynecologists, to do so would say to doctors in some circumstances: You may not use the safest procedure for my wife, my daughter, my sister; Congress has banned that procedure. That is where I struggle with what the Senator from Pennsylvania is attempting to do.

I am not the doctor. I will not play one in the Senate. When I rely on doctors' opinions, they are at best divided on the question.

Let me address the second issue in relation to the Santorum legislation, and that is why we are doing this again and again. I do not question the sincerity of the Senator from Pennsylvania. I know his feelings on this subject are heartfelt, but I do question why we continue to bring this same legislation time and time again before the Senate, not because it is not important to the Senator from Pennsylvania and others, but, frankly, we have been getting readings from courts across America that this language he is proposing today is, on its face, unconstitutional.

We are spending our time in a debate over a bill which 19 States have stricken. These States have all tried to model some type of legislation based on his banning this procedure, and time after time, Federal courts have come forward and said, no, this is unconstitutional. The judges making the decisions are not so-called liberal jurists. You will find within their ranks appointees of President Reagan and President Bush, some very conservative jurists who say on its face this is not constitutional.

We took an oath as Members of the Senate to uphold that Constitution. There are times when interpretations can differ as to what that oath means. But in this case, the Santorum legislation before us has consistently been stricken by the courts, I believe, with only one exception, in the United States. Because of that, I have to ask this question, not questioning the Senator's sincerity, but why are we doing this? Why are we engaged in this debate over language which time and time again has been found unconstitutional and enjoined in my home State of Illinois and across the Nation?

This is a political exercise. It is not an attempt to pass a bill which will become a law. Forget for a moment the President's veto, if you will, and take a look at the merits of the legislation which time and time again has been found by the courts to violate the Constitution.

I would think that at this point in time, the author, whose feelings on this are heartfelt, would have changed his approach, changed his language, tried to address some of the constitutional questions, but it has not happened. We get a rerun every year. This is all about a record vote. This is all about raising this issue for public consciousness and a record vote of the Members of the Senate.

Some people want a scorecard. Some people want to use it politically. So be it. That happens around here. It is a shame that it happens on an issue of this gravity and importance because, honestly, I do believe there are things we can and should do which will address what I raised earlier. The feeling of the vast majority of Americans is that abortions should remain safe and legal and that restrictions on abortion should be in place only when necessary.

I am going to offer an amendment shortly which addresses my approach to this. As I said earlier, although I am honored to have nine cosponsors, nine other Senators who join me in this amendment—it is a bipartisan amendment—including the two Senators from the State of Maine, both Republican, I do not suggest it is the point of view of anyone other than ourselves. A vote will demonstrate whether I am right or wrong. I hope a majority sees this as a reasonable way to bring this contentious debate to a constitutional and fairminded conclusion.

If we do not, I predict we will have another vote next year on the unconstitutional Santorum legislation and perhaps in years in the future. But what will we have achieved? Contentious, painful debate with no resolution other than a political scorecard, and that for me is a troubling outcome.

I hope we can find a better way to do it because I believe there is a more sensible way. Let me tell you why I think there is.

I am going to offer an amendment which addresses not an abortion procedure but addresses a stage in pregnancy. It is a stage which is known as postviability, that moment in time where the decision is reached that the fetus can sustain survival outside the womb with or without artificial support. That is a moving target. Viability has changed because medicine has changed. Go into any neonatal intensive care unit in America and look at the size of the babies who are surviving. They are smaller than your hand, tiny little babies who are surviving.

Viability is a moving target, and it was a standard that was used in the Roe v. Wade decision. They said until that moment in time when that fetus is viable, could survive outside the womb, then there are certain legal rights in this country. But once viability is reached, those rights change, and we start acknowledging the fact that this fetus has now become a potential human being at birth. Roe v. Wade said we will define the laws of America based on viability.

The problem with the Santorum legislation, the reason why this bill and versions similar to it have been found unconstitutional time and again, is they refuse to accept this basic premise, the premise of Roe v. Wade, the premise of existing law in this country. They will not acknowledge that you should have a law banning a certain procedure only after viability. Each time it is stricken because it would, in fact, restrict the right to abortion before viability, before the fetus can survive. Court after court after court has stricken down State laws that have followed this Santorum model. Yet here we are again.

My amendment, the one which I will offer to the Santorum bill, accepts the Roe v. Wade premise that any changes which we are going to make have to be consistent with Roe v. Wade, and this is what it says: Any late-term abortion—that is, an abortion after viability—is disallowed or prohibited under law. We are talking usually 7th, 8th, 9th month of gestation. Those abortions are prohibited under law except in two specific cases: where continuing the pregnancy threatens the life of the mother or in those cases where continuing the pregnancy poses a risk of grievous physical injury to the mother. That is it. Grievous physical injury. There are those who disagree with me and say it should include emotional injury as well. I have drawn this line at physical injury.

Here is why I believe this is a reasonable standard: At this late stage in the pregnancy, the 7th, 8th, or 9th month, I believe Roe v. Wade tells us we have to look at the pregnancy in different terms. We are now postviability. We are now in a position where the fetus can survive. In those circumstances, what I have said is, the only reason legally you could terminate the pregnancy is if continuing it could literally kill the mother or continuing it could subject her to the possibility of grievous physical injury, which is defined in the amendment.

I go on. One of the objections customarily made is that if you allow a doctor to certify that a mother's life is at stake or she runs the risk of grievous physical injury if the pregnancy continues, you are playing right into the hands of the people who perform the abortions.

I have heard this argument so many times on the other side of the aisle. They argue doctors will say anything, the ones who perform these procedures, because they just want to make the money; they don't care.

I take an additional step. I require a second doctor to certify. You will have two doctors in those decisions, two doctors who come forward and say: If this pregnancy continues, this mother could die, or, if this pregnancy continues, this mother could risk grievous physical injury.

What risks do these doctors take if they are falsifying this information? Substantial fines and the suspension of their licenses to practice medicine are included in this amendment. It is very serious.

When we get to this stage in the pregnancy, I do believe the rules should be a lot stricter. That is why I am offering this as an alternative, one which I believe deals with some very fundamental questions.

S. 1692 is the bill offered by Senator SANTORUM. We have to ask ourselves several questions:

Should just one or all postviability abortion procedures be banned? Senator SANTORUM addresses one. The amendment I offer addresses all postviability abortion procedures.

No. 2: Should a mother's health be protected throughout pregnancy? Under the Santorum legislation that is before us, the mother's health is not an issue; only if her life is at stake could you engage in certain procedures. In the amendment I offer, it will protect a mother's life and a mother's health, the health in terms of the risk of grievous physical injury.

No. 3: Should a woman's constitutional right to choose before viability be preserved? There are differences of opinion on this. Perhaps the Senator from Pennsylvania has a difference of opinion. But Roe v. Wade said—and I agree—that previability, a woman, in consultation with her doctor, her husband, her family, and her conscience, has the right to make this decision. They protect that right in Roe v. Wade.

Oh, I know there are those who disagree. I respect that. I have been in lots of debates with them. That is where I come down. The reason the Santorum language has been rejected in court after court after court as unconstitutional is that, I believe, those on his side just do not accept the basic premise that, previability, this is a decision, a choice, to be made by a mother and her doctor.

As I said, I respect their position, but as long as they fly in the face of this basic principle, as long as they defy Roe v. Wade, with the language in the Santorum bill or the language in the State legislation, it will continue to fall time after time after time; we will continue to go through these political exercises; we will debate until our voices are gone. Then we will have a vote, and then we will go on to the next item of business. And, unfortunately, we will have missed an opportunity to do something that is meaningful. That is why I offer this amendment.

My amendment—I will go to the second chart—in comparison to the Santorum approach, can be spelled out with three specifics.

The Santorum approach bans only one procedure and allows others in its place. Make no mistake, if the Senator from Pennsylvania is successful someday in somehow enacting this legislation, he will not even tell you that is going to stop abortion from occurring. He deals with one procedure. My amendment bans all postviability abortions regardless of procedure.

The Santorum bill violates a woman's constitutional right to have her health protected. We preserve exceptions for life and health of the mother—narrowly defined.

The Santorum approach violates a woman's constitutional right to choose under Roe v. Wade before viability. My amendment specifically protects a woman's constitutional right to choose before viability.

Let me tell you what I am talking about when I talk about grievous injury. Grievous injury in this amendment is narrowly defined. And I quote:

> a severely debilitating disease or impairment specifically caused or exacerbated by the pregnancy; or
>
> an inability to provide necessary treatment for a life-threatening condition.

What could that be? You can all understand the first part: If continuing the pregnancy could kill the mother is clear. But what would the second one be? What if you diagnosed a mother, during the course of her pregnancy, with serious cancer? And what if you found continuing the pregnancy somehow compromised your ability to treat her for that cancer? That is what I am driving at here, to make sure it is serious and grievous, because we are literally talking about late-term, where I think the rules should be much stricter, as does the Court in Roe v. Wade.

My amendment also requires the attending physician who makes the call on these decisions to have the benefit as well—and it requires it—of an independent physician to certify, in writing, that in their medical judgment the continuation of the pregnancy would threaten the mother's life or risk grievous injury to her physical health.

I make an exception. I want to make it clear for the record. The certification requirement by the doctors can be waived in a medical emergency. But the physician would have to subsequently certify, in writing, what specific medical condition formed the

basis for determining that a medical emergency existed.

This legislation will reduce the number of late-term abortions. In contrast, the so-called partial-birth abortion ban will not stop a single abortion at any stage of gestation. The partial-birth abortion ban, by prohibiting only one particular procedure, will merely induce physicians to switch to a different procedure that is not banned by Senator SANTORUM.

Other procedures, such as induction, hysterotomy, or dilation and evacuation, can all pose a greater risk to the mother's health in certain cases. My alternative amendment will stop abortions by any method after a fetus is viable, except when medical necessity indicates otherwise.

Can we or should we try to define ''viability'' in this? I did not. And the courts have warned us: Don't even try. That is a medical judgment and, as I mentioned earlier, is a moving target. Viability today, in other words, fetal survivability today, is different from what it will be tomorrow or next month because these procedures are changing so dramatically in terms of saving the fetus and giving it an opportunity for life.

My alternative fits clearly within the constitutional parameters set forth by the Supreme Court for government restriction of abortion. In Planned Parenthood v. Casey, the Supreme Court reiterated Roe's determination that, after viability, the State may limit or ban abortion.

In contrast, the partial birth abortion ban, by prohibiting certain types of abortions before viability, breaches the Court's standard that the Government does not have a compelling interest in restricting abortions prior to viability.

Nineteen Federal courts in 19 States have enjoined, have stopped, the enforcement of the so-called partial-birth abortion bans Senator SANTORUM brings to the floor. The States include: Alaska, Arkansas, Arizona, Florida, Georgia, Idaho, Illinois, Iowa, Kentucky, Louisiana, Michigan, Missouri, Montana, Nebraska, New Jersey, Ohio, Rhode Island, Wisconsin, and West Virginia.

The Santorum bill is clearly unconstitutional. It will be struck down by the courts and have no lasting impact.

My alternative retains the abortion option for mothers facing extraordinary medical conditions, such as breast cancer discovered during the course of pregnancy, uterine rupture, or non-Hodgkins lymphoma, for which termination of the pregnancy may be recommended by the woman's physician due to the risk of grievous injury to the woman's physical health or life.

In contrast, the partial-birth abortion ban provides no such exception to protect the mother from grievous injury to her physical health.

To this point, this debate has been fairly general. To this point, with the exception of the Senator from California, in noting a few mothers who have been through experiences which they have shared publicly, we have talked in generalities.

The Senator from Pennsylvania has brought up a chart that is not a human depiction; it is an effort to put forth some drawing that depicts this procedure.

We have talked about the Constitution. But I will tell you this. My ambivalence over this issue—I was ambivalent when I first heard of this procedure—was put to rest because I sat down with real people, with mothers and fathers, husbands and wives, who faced medical emergencies. And when each of them told me their stories, I thought to myself: How can I possibly vote for the Santorum bill which would have endangered the life of the woman I am talking to? That is why I opposed his legislation in the past and will continue to do so. For the record, I will at this point tell two or three stories that have been a matter of public record and testimony before Congress and that I think demonstrate when you get beyond the theory of this debate and to the reality of it, life gets complicated, very complicated. It is easy to step back and make a moral decision involving other people, if you are not in their shoes. Listen to some of these and you will see what I mean.

This is the story of Coreen Costello from Agoura, CA. Coreen, her husband Jim and their son Chad and daughter Carlyn live in Agoura, CA. Coreen is a full-time stay-at-home wife and mom. She describes herself as a registered Republican and very conservative. She does not believe in abortion. In fact, she never thought she would be testifying before Congress supporting an abortion procedure, which is exactly what she did, on March 21, 1996, before the House Judiciary Subcommittee on the Constitution.

In March 1995, the Costellos were joyfully expecting their third child. However, when she was 7 months pregnant, Coreen began having premature contractions and had to be rushed to the hospital. After reviewing the results of the ultrasound, Coreen's doctor informed her he did not expect the baby to live. Coreen's child, a girl she had named ''Katherine Grace,'' was unable to absorb the amniotic fluid. As a result, the fluid was puddling into Coreen's uterus. Katherine Grace had a lethal neurological disorder and had been unable to move for almost 2 months. Her chest cavity was unable to rise and fall to stretch her lungs and prepare them for air. It was as if she had no lungs at all. Her vital organs were atrophying. Katherine Grace was going to die.

A perinatologist recommended terminating the pregnancy. All the doctors agreed. The Costellos' safest option was an intact D&E, the very procedure banned by this bill by the Senator from Pennsylvania. For Coreen and her husband, this was not an option. They chose to wait to go into labor naturally, which wouldn't be long. Due to the excess amniotic fluid, a condition called polyhdramnios, premature labor, was imminent. Despite the difficulty of knowing her baby was going to die, Coreen continued with the pregnancy. Over the course of the next few weeks, she saw many experts. If possible, the results were even grimmer than those she had earlier.

Her baby's body was rigid and wedged in a transverse position in her womb. Most babies are in a fetal position. Katherine Grace's position was exactly the opposite. It was as if she were doing a swan dive. The soles of her feet were touching the back of her head. Her body was in a U-shape. Due to swelling, her head was already larger than that of a full-term baby. Coreen, her mother, did daily exercises trying to change Katherine Grace's position so she could be delivered naturally.

Meanwhile, the amniotic fluid continued to puddle in Coreen's uterus. In the ensuing weeks, the condition had grown worse. Everyone started to fear for the mother's health. The mother could no longer sit or lie down for more than 10 minutes because the pressure on her lungs was so great. During one of her last ultrasounds, Coreen's doctor told her she could not deliver the baby via caesarean under the circumstances because the risk was too great. The doctor told Coreen there was a safer way for her to deliver. It was at this point Coreen realized this was not a choice anymore, that it was not up to her or her husband. There was no reason to risk leaving her children, Chad and Carlyn, motherless, if there was no hope of saving their new baby.

The Costellos drove to Los Angeles for a D&E. They expected a cold gray building. They found a doctor and a staff willing to help them. It was at this point Coreen realized she had done the right thing. This was the safest thing for her. The fact this option was open to Coreen is important in this story. This option would be closed to her by the Santorum bill.

After the procedure, she went on to say Katherine Grace was beautiful. She was not missing part of her brain. She had not been stabbed in the head with scissors. She looked peaceful and she did not suffer. Because of the safety of this procedure, Coreen became pregnant again with another baby, after losing Katherine Grace. Thanks to the skill and compassion of the doctors and the procedure she was forced to use under these extraordinary circumstances, Coreen was able to have a healthy baby.

If you outlaw the surgical procedure, which the Santorum bill seeks to do, women such as Coreen will be denied the safest and best medical procedure they need under these emergency circumstances and their ability to have more children and the happiness in life which children bring us will be compromised severely.

The next story is about a lady who I met several times. I like her a lot. Her

name is Vikki Stella. She is from my home State of Illinois, and she came to Washington, DC, to tell her story. Vikki, her husband Archer and their two daughters, Lindsay, age 11, and Natalie, age 7, live in Naperville, the western suburbs of Illinois right outside Chicago.

In 1993, Vikki discovered she was pregnant with a much-wanted son. Because she is diabetic, she had more prenatal tests than most pregnant women—amnios, ultrasounds, the works.

After the first round of tests, her doctor brought her in and said: Your pregnancy is disgustingly normal. Then at 32 weeks, she went in for another ultrasound, and everything fell apart—32 weeks into the pregnancy. Vikki's son was diagnosed, the one she was carrying, with nine major anomalies, including a fluid-filled cranium with no brain tissue at all. Vikki's much-wanted son would never survive outside her womb. The only thing keeping him alive was his mother's body.

The Stellas found the only answer they could: a surgical abortion procedure performed by a physician in Los Angeles. Because Vikki was diabetic, the controlled gentle nature of this surgery was much safer than induced labor or a C section. Vikki's son died peacefully and painlessly from the combination of steps taken in preparation for the surgery. He was brought out intact and the family was able to hold him and say their goodbyes.

That is a sad story about a couple that dearly wanted a baby and then found late in the pregnancy this terrible news that the baby would not survive and continuing the pregnancy could threaten the life of the mother. The procedure Vikki Stella used is the procedure banned by the Santorum bill, a procedure which her doctor thought was best for her.

There is an end to this story which is much happier. The ending to the story is that in 1995, Vikki gave birth to a little boy. They finally got their son. She came up to Capitol Hill with the little fellow in a stroller and a big smile on everyone's face.

It is hard for me, when I hear the intense rhetoric of this debate, to believe we are talking about the same thing. Some people refer to this as ''cruel'' and ''execution-like.'' This family didn't ask for this medical emergency. They wanted to have their little boy and be happy, as all of us. They found late in the pregnancy something terrible happened. When they went to the doctor, the doctor said, this is what you have to do, and they did it. As painful as it was, they did it. This bill says, no, this will not be a decision of the Stella family, the mother and father in a room with the doctor. This will be a decision of the Stella family in a room with the doctor and the Federal Government. If that doctor decides this procedure is the safest to save this mother's life or to give her a chance to have another baby, the Santorum law will say, no, the Government will make the decision—not a decision by a mother and father and a physician, a decision which has to be so painful and emotional.

The last story is about a lady who testified before the Senate Judiciary Committee in 1995 named Viki Wilson. She is a registered nurse, 18 years of experience, 10 in pediatrics. Her husband Bill is an emergency room physician—a nurse and a doctor.

We have three beautiful children: Jon is 10, Katie is 8, and Abigail is in heaven with God.

In the spring of 1994, I was pregnant and expecting my third child on Mother's Day. The nursery was ready and we were very excited anticipating the arrival of our baby. Bill had delivered our other two children, and he was going to deliver Abigail. Jon was going to cut the cord and Katie was going to be the first to hold her. She had already become a very important part of our family.

At 36 weeks of pregnancy all of our dreams of happy expectations came crashing down around us. My doctor ordered an ultrasound that detected what all my previous prenatal testing, including a chorionic villus sampling, an alpha fetoprotein and an earlier ultrasound had failed to detect, an encephalocele. Approximately two-thirds of my daughter's brain had formed on the outside of her skull.

Viki Wilson said:

I literally fell to my knees from the shock.

This is a woman who was a nurse. When she heard this news, she literally fell to her knees from the shock.

I immediately knew that [my baby] would not be able to survive outside my womb. My doctor sent me to a perinatologist, a pediatric radiologist, and geneticist, all desperately trying to find a way to save [the baby girl].

Her husband is a doctor.

My husband and I were praying that there would be some new surgical technique to fix her brain. But all the experts concurred. Abigail would not survive outside my womb. And she could not survive the birthing process, because of the size of her anomaly, her head would be crushed and she would suffocate. Because of the size of her anomaly, the doctors also feared that my uterus would rupture in the birthing process, most likely rendering me sterile. It was also discovered that what I thought were big, healthy, strong baby movements were, in fact, seizures. They were being caused by compression of the encephalocele that continued to increase as she continued to grow inside my womb.

Viki Wilson asked:

''What about a C-section?'' Sadly, my doctor told me, ''Viki, we do C-sections to save babies. We can't save [Abigail]. A C-section is dangerous for you and I can't justify those risks.''

The biggest question for me and my husband was not ''is [Abigail] going to die?'' A higher power had already decided that for us. The question now was: [Am I going to die? Is the mother going to die with the child?] ''How is she going to die?'' We wanted to help her leave this world as painlessly and peacefully as possible, and in a way to protect my life and health and allow us to try again to have more children.

They used the procedure that would be banned by the Santorum legislation, which is before us today.

Mr. President, I give these three examples because I think it is important for all of us, despite our values and principles and the things we hold dear, to listen to people who struggle with these tragedies. I didn't think in any of those cases, the 5 or 6 women I have met who ever used this procedure to save their lives or protect their health, that I ever detected selfishness or greed. In every single case, these were mothers and fathers who wanted their babies. They had painted nurseries, and they had given them names. They were prepared for this joyful home coming that never happened.

This was not some casual decision. This was a decision that would haunt them for a lifetime. Why had they been singled out to lose that baby? Why did they have to go through the emotion and the trauma of all the decisions that came with that? I can't answer that. All I can do is sympathize with them for what they had to live through and to say to myself as a Senator, do you really want to say that you know better in terms of that mother's life and health? That is what the Santorum legislation says. It says we know better; we want to be the doctors here; we want to decide which abortion procedure you can use and which you can't use.

As I said at the outset, I am not a doctor, and I am not going to play one in the Senate. The doctors that I have relied on and the patients I have spoken to have led me to conclude that the Santorum approach is the wrong approach. I know that it will be an issue in every campaign forever. I have already faced that. I am sure I will face it again. But I am confident in my position that I can go back not only to my home State but even to my family where this is debated and explain to them why I have done what I am doing today.

This amendment I am offering is a sensible approach. It is one consistent with Roe v. Wade. It deals with late-term abortion, and it is one that is sensitive to a mother's health. It is one that attempts to protect that mother when she runs the risk of grievous physical injury.

AMENDMENT NO. 2319

(Purpose: To provide a complete substitute.)

Mr. DURBIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN], for himself, Ms. SNOWE, Ms. COLLINS, Mr. TORRICELLI, Ms. MIKULSKI, Mr. LIEBERMAN, Ms. LANDRIEU, Mr. BINGAMAN, Mr. AKAKA, and Mr. GRAHAM, proposes an amendment numbered 2319.

Mr. DURBIN. Mr. President, I ask unanimous consent that 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 ''Late Term Abortion Limitation Act of 1999''.

SEC. 2. BAN ON CERTAIN ABORTIONS.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 73 the following:

"CHAPTER 74—BAN ON CERTAIN ABORTIONS

''Sec.
''1531. Prohibition of post-viability abortions.
''1532. Penalties.
''1533. Regulations.
''1534. State law.
''1535. Definitions

"§ 1531. Prohibition of Post-Viability Abortions.

''(a) IN GENERAL.—It shall be unlawful for a physician to intentionally abort a viable fetus unless the physician prior to performing the abortion—

''(1) certifies in writing that, in the physician's medical judgment based on the particular facts of the case before the physician, the continuation of the pregnancy would threaten the mother's life or risk grievous injury to her physical health; and

''(2) an independent physician who will not perform nor be present at the abortion and who was not previously involved in the treatment of the mother certifies in writing that, in his or her medical judgment based on the particular facts of the case, the continuation of the pregnancy would threaten the mother's life or risk grievous injury to her physical health.

''(b) NO CONSPIRACY.—No woman who has had an abortion after fetal viability may be prosecuted under this chapter for conspiring to violate this chapter or for an offense under section 2, 3, 4, or 1512 of title 18.

''(c) MEDICAL EMERGENCY EXCEPTION.—The certification requirements contained in subsection (a) shall not apply when, in the medical judgment of the physician performing the abortion based on the particular facts of the case before the physician, there exists a medical emergency. In such a case, however, after the abortion has been completed the physician who performed the abortion shall certify in writing the specific medical condition which formed the basis for determining that a medical emergency existed.

"§ 1532. Penalties.

''(a) ACTION BY THE ATTORNEY GENERAL.—The Attorney General, the Deputy Attorney General, the Associate Attorney General, or any Assistant Attorney General or United States Attorney specifically designated by the Attorney General may commence a civil action under this chapter in any appropriate United States district court to enforce the provisions of this chapter.

''(b) FIRST OFFENSE.—Upon a finding by the court that the respondent in an action commenced under subsection (a) has knowingly violated a provision of this chapter, the court shall notify the appropriate State medical licensing authority in order to effect the suspension of the respondent's medical license in accordance with the regulations and procedures developed by the State under section 1533(b), or shall assess a civil penalty against the respondent in an amount not to exceed $100,000, or both.

''(c) SECOND OFFENSE—Upon a finding by the court that the respondent in an action commenced under subsection (a) has knowingly violated a provision of this chapter and the respondent has been found to have knowingly violated a provision of this chapter on a prior occasion, the court shall notify the appropriate State medical licensing authority in order to effect the revocation of the respondent's medical license in accordance with the regulations and procedures developed by the State under section 1533(b), or shall assess a civil penalty against the respondent in an amount not to exceed $250,000, or both.

''(d) HEARING.—With respect to an action under subsection (a), the appropriate State medical licensing authority shall be given notification of and an opportunity to be heard at a hearing to determine the penalty to be imposed under this section.

''(e) CERTIFICATION REQUIREMENTS.—At the time of the commencement of an action under subsection (a), the Attorney General, the Deputy Attorney General, the Associate Attorney General, or any Assistant Attorney General or United States Attorney who has been specifically designated by the Attorney General to commence a civil action under this chapter, shall certify to the court involved that, at least 30 calendar days prior to the filing of such action, the Attorney General, the Deputy Attorney General, the Associate Attorney General, or any Assistant Attorney General or United States Attorney involved—

''(1) has provided notice of the alleged violation of this chapter, in writing, to the Governor or Chief Executive Officer and Attorney General or Chief Legal Officer of the State or political subdivision involved, as well as to the State medical licensing board or other appropriate State agency; and

''(2) believes that such an action by the United States is in the public interest and necessary to secure substantial justice.

"§ 1533. Regulations.

''(a) FEDERAL REGULATIONS.—

''(1) IN GENERAL.—Not later than 60 days after the date of enactment of this chapter, the Secretary of Health and Human Services shall publish proposed regulations for the filing of certifications by physicians under this chapter.

''(2) REQUIREMENTS.—The regulations under paragraph (1) shall require that a certification filed under this chapter contain—

''(A) a certification by the physician performing the abortion, under threat of criminal prosecution under section 1746 of title 28, that, in his or her best medical judgment, the abortion performed was medically necessary pursuant to this chapter;

''(B) a description by the physician of the medical indications supporting his or her judgment;

''(C) a certification by an independent physician pursuant to section 1531(a)(2), under threat of criminal prosecution under section 1746 of title 28, that, in his or her best medical judgment, the abortion performed was medically necessary pursuant to this chapter; and

''(D) a certification by the physician performing an abortion under a medical emergency pursuant to section 1531(c), under threat of criminal prosecution under section 1746 of title 28, that, in his or her best medical judgment, a medical emergency existed, and the specific medical condition upon which the physician based his or her decision.

''(3) CONFIDENTIALITY.—The Secretary of Health and Human Services shall promulgate regulations to ensure that the identity of a mother described in section 1531(a)(1) is kept confidential, with respect to a certification filed by a physician under this chapter.

''(b) STATE REGULATIONS.—A State, and the medical licensing authority of the State, shall develop regulations and procedures for the revocation or suspension of the medical license of a physician upon a finding under section 1532 that the physician has violated a provision of this chapter. A State that fails to implement such procedures shall be subject to loss of funding under title XIX of the Social Security Act.

"§ 1534. State Law.

''(a) IN GENERAL.—The requirements of this chapter shall not apply with respect to post-viability abortions in a State if there is a State law in effect in that State that regulates, restricts, or prohibits such abortions to the extent permitted by the Constitution of the United States.

''(b) DEFINITION.—In subsection (a), the term 'State law' means all laws, decisions, rules, or regulations of any State, or any other State action, having the effect of law.

"§ 1535. Definitions.

''In this chapter:

''(1) GRIEVOUS INJURY.—

''(A) IN GENERAL.—The term 'grievous injury' means—

''(i) a severely debilitating disease or impairment specifically caused or exacerbated by the pregnancy; or

''(ii) an inability to provide necessary treatment for a life-threatening condition.

''(B) LIMITATION.—The term 'grievous injury' does not include any condition that is not medically diagnosable or any condition for which termination of the pregnancy is not medically indicated.

''(2) PHYSICIAN.—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, except that any individual who is not a physician or not otherwise legally authorized by the State to perform abortions, but who nevertheless directly performs an abortion in violation of section 1531 shall be subject to the provisions of this chapter.''.

(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. Ban on certain abortions ..... 1531.''.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SANTORUM. Mr. President, I appreciate the remarks of the Senator, and I appreciate his good faith in offering this amendment. I am not going to discuss that amendment specifically right now, although I certainly will.

I have a couple of comments. First off, it has to be noted here that partial-birth abortions are performed—this is according to the people who perform them—well over 90 percent of the partial-birth abortions that are performed—and some have suggested much higher than 90 percent—on healthy babies and healthy mothers. Healthy babies, healthy mothers. A very small percentage are the cases that you have heard brought up here today.

The question is then posed: Well, who are we to make the decision about these tough cases? I think even the Senator from Illinois would say, if it is a healthy mother and baby and this procedure isn't necessary, I have some problems. I think a lot of Members who have voted against this bill have said, if it is that case—but there are these cases. I am happy to address those cases, but let me do it in a broader context.

The reason we inject ourselves is the same reason the Supreme Court has injected itself into the debate on second-

and third-trimester abortions. It is because we are not talking about removing a tumor. It is not where we are going to say you should not remove this cancerous tumor this way or that way or that appendix that way. What we are talking about here is killing a baby—from my perspective, particularly killing a baby in such a barbaric fashion—which is almost born and is almost protected by the Constitution. So I understand the concern that we should not be practicing medicine. No one is practicing medicine here. What we are doing here is drawing a very important line about what we will allow in our society when it comes to killing a living human being. I don't think anybody is going to question that the baby is living and it is a human being. So what we are talking about here is how can you kill a living human being?

What we are saying is you should not be able to kill a living human being that is almost born, especially in a brutal fashion. The reason is because of how horrendous this is. It creates some real slippery slopes when the Senator from California gets up and says, ''I want every child to be wanted.'' So now if you are not wanted, you are not protected by the Constitution and that is the way it works? If you are not wanted as a child, you don't get protection. What if you're not wanted as a Senator. Do you not get protection? I don't think we want to go down that road.

I am concerned, particularly as we talk about this procedure, where the baby is three inches away from protection from the Constitution, and when you get into this area and say, people have to have all the rights to do whatever they want. That is not what the Constitution says. That is not what we have said here. We have drawn a line because we think it is important for society to draw lines about what is, in fact, legal and what is not.

Mr. DURBIN. Will the Senator yield for a question?

Mr. SANTORUM. Yes.

Mr. DURBIN. I want to explore this, because I really want to understand what we are driving at here. I gave an example of a baby inside a mother's womb with its brain outside of its skull. This brain was growing in size. It was very clear that the baby was alive through the mother that continued to detect a fetal heart beat, and there is an obvious question as to whether this baby could ever survive. At the moment, they had to make a decision. They knew if they went through certain procedures, the mother could have her uterus rupture because of the size of this abnormal growth of the baby, and they decided to use the procedure that the Senator would ban.

Now, conceding everything you have said, does the Senator from Pennsylvania not acknowledge the fact that the baby's life was something that, frankly, was not going to last but a few seconds? As soon as that baby was disconnected from the mother's umbilical cord, the placenta, that baby was not going to survive at that point. The doctor had to say: This baby is not going to live and if I don't use the procedure that you are going to ban here, I can do damage to this woman where she would never have another baby. That is the kind of case. I understand the Senator says it is a living thing, but it is living because of the mother's body and it cannot live on its own.

Mr. SANTORUM. I understand that very well. I just say this. What we have been told by the overwhelming amount of medical evidence—and, again, it gets back to the discussion we had earlier about whether this procedure is the only appropriate procedure—what we have been told over and over again is that this is never medically necessary. In this circumstance, this is not the only procedure that could be used, No. 1.

Again, we have overwhelming medical evidence saying that this is, in fact, not the safest—in fact, is the most dangerous. Even the person who wrote the textbook on second- and third-trimester abortions, a guy by the name of Warren Hern, who talks about this procedure—he does more second- and third-trimester abortions than any other abortionist in the country—says, ''I have serious reservations about this procedure. You really can't defend it. I would dispute any statement that says this is the safest procedure to use.''

This is an abortionist from Colorado who does more third-trimester abortions than anybody in the country.

My point is not that we should say you can't have an abortion if that is what the person wants at that point. But there are other options other than an intact D&E. There are other abortion options, as the Senator explored in his statement. There is the caesarean section, depending on what the problem is. You have the Alan Guttmacher Institute which looked at statistics on abortion. They say that abortion is twice as risky to the life of the mother as is delivery in the second- and third-trimester.

Mr. DURBIN. Will the Senator yield so I understand the Senator's point of view?

I don't want to put words in his mouth. But what I hear him say is you can find some other abortion procedure in that instance other than the one you are banning. That is fine. The Senator may not personally like abortion at all. But from his point of view, he is saying just as long as you use a different kind of procedure, this bill is OK.

Mr. SANTORUM. That is correct.

Mr. DURBIN. This bill is going after one procedure.

Mr. SANTORUM. We are very clear. I don't think this is a problem under Roe v. Wade. I think we are very clear, and are, frankly, working on making it clearer in the definition dealing with the issue of vagueness because that has been raised, as the Senator mentioned, in the court cases across the country. Even though one case held it to be constitutional, we are looking into ways in which we can tighten that definition.

To make sure, what we are saying is, look, if an abortion is what the mother chooses, or a family chooses, it is legal under certain circumstances in the second- and third-trimester, in almost all circumstances. But we are saying this procedure, because of the very difficult slippery slope of having an almost born child being killed, should not be allowed.

Mr. DURBIN. Will the Senator yield for another question?

Let me say this: The American Council of Obstetricians and Gynecologists comes to a different conclusion. They say in some circumstances this is the safest.

Mr. SANTORUM. But they do not identify any.

Mr. DURBIN. Having said that, there are choices where these women use this procedure under extraordinary circumstances. In the cases the Senator was talking about, they were literally dealing with the birth of a fetus which was not going to survive which was so abnormally sized that it caused a danger and the possibility that the mother would never have another child. Why would we want to preclude any medical procedure that might save that mother's life or give her a chance to have another child, if the Senator from Pennsylvania concedes that he is not arguing against all abortion procedures?

Mr. SANTORUM. Because there are safer alternatives available according to all of the medical literature, and we have definitive statements from obstetricians, hundreds of them, as well as people from Northwestern—I will be happy to share the article with the Senator—from a fairly reputable medical school; I am sure the Senator would say one of the best medical schools. But we have overwhelming evidence that there are safer procedures to use, that this is a rogue practice. It is not used much. And, again, according to Warren Hern, he can't defend this procedure. It is something that should not be used. It is not safe.

I will show you arguments. I don't have it handy, but we will enter into the RECORD an analysis of the cases that you have made by obstetricians who will say under these circumstances there would have been a safer course, a better course than what was done by the physicians in this case. What we are saying is it is not the best medicine, period. It is not medically necessary, period. And it is a barbaric infringement on the rights of an almost born child.

I agree. This is a very narrow bill.

Mr. DURBIN. Let me ask this question, if I might. I ask this question in good faith because I think we should have this dialogue.

Step aside from the argument about whether we should have abortion at all, and go to the first two points; that this

procedure is never medically necessary and is especially risky.

Before I was elected to Congress, I used to practice law as a trial lawyer in medical malpractice cases.

I ask the Senator from Pennsylvania, why would any physician subject themselves to a medical malpractice case if the two points that the Senator made are so obvious; that is, this procedure is never medically necessary, and it is more dangerous than other procedures for the mother? Why in the world would they ever take the risk of a lawsuit by using this procedure unless they believe they could justify that it is medically necessary and that in effect it was the safest procedure for the mother to use?

Mr. SANTORUM. This is not commonly practiced. It is only practiced with a few thousand abortions a year. Given the fact there are 1.4 million abortions, a few thousand abortions, it is not something that is practiced in every abortion clinic. I think a lot of abortion clinics will say this is a rogue practice. That is not to say people do not practice medicine that is somewhat strange. There are a lot of people who do things in medicine that are not considered to be medically sound judgments. That doesn't mean that they aren't done. They are, in fact, done. This is a situation where we believe that is the case. This is a rogue procedure. Someone may be sued. I don't know. Maybe someone has. I am not aware of someone being sued. But, again, the person most likely to sue would be the child that is dead. I am not too sure that in the case of the mother that is necessarily a most common thing you will see. I don't think a lot of abortionists are sued, period.

I would like to address a couple of issues that the Senator from California brought up, and then the Senator from Illinois.

First, to state very clearly what the Senator from California said, talking about the murder of abortionists and snipers firing at people, I am against murder. I think everybody who supports this legislation—and, frankly, everybody in this Chamber agrees—believes that acts of violence against anybody on the issue of abortion is counterproductive to an effort that seeks to affirm life. Certainly, taking the law into their own hands is an outrage, is offensive to me, is wrong, and should be prosecuted to the fullest extent of the law. There is no room in a movement that talks about nonviolence—and violence toward babies in utero—for condoning actions of violence of any sort, whether it is murder or attempted murder or destruction of property, et cetera. I don't stand here condoning that, and I would join with the Senator from California to condemn it and condemn it in the strongest words possible. That is no service to those who are trying to get the country's ear in defense of innocent human life.

I want to correct what the Senator from California said also about no court has found our language in this bill constitutional. That is not true. The court in Wisconsin has found this language to be constitutional. It is now being appealed to the Seventh Circuit. The law is enjoined upon appeal. But, again, we have a district court that has found this to be constitutional.

I would like to go through again, quoting from the Journal of the American Medical Association, an article printed in 1998, a year ago in August, by two obstetricians from Northwestern University, and go through again why this procedure—it keeps coming back to two issues, as the Senator from Illinois talked about.

One, the term is too vague. The definition is too vague.

I will be addressing that. Hopefully, in the next couple of days we will work on that, although I think, frankly, the definition is perfectly clear. We are willing to work and to see whether we can make it a little bit more definitive.

Second, that this may be necessary to protect the health of the mother, again, that is the discussion in which the Senator from Illinois and I were just engaged.

I want to restate again how overwhelming the evidence is of people who can definitively state without question that over 400 obstetricians around the country say it is never medically necessary.

C. Everett Koop—as the Senator from Illinois said, is never medically necessary. It is a pretty strong term to say it is never medically necessary.

What do we have on the other side? We have some anecdotes about cases where it was used, but in no case do they state that was the only option or that was the best option.

On our side we have the abortionist, Dr. Haskell from Ohio, who probably does more of these abortions than any other person. He says it is never—underline never—medically necessary to protect the life of the mother and not medically necessary to protect the health of the mother. The abortionist himself says that.

On the other side, we have the statement from the American College of Obstetricians and Gynecologists. That is the argument on the other side. This whole debate on health is centered around an organization that is very pro-abortion that says they put together a select panel that:

> . . . could identify no circumstances under which this procedure would be the only option to save the life or preserve the health of the woman.

This is an organization that opposes this bill. This is an organization they rely upon to hold on to the ''health exception.'' That is the cover behind not voting for this bill.

There are two arguments: Health of the mother—we need that, otherwise we can't vote for this if we don't have that—and it is too vague, the definition is too vague.

The organization they rely upon says they can:

> . . . identify no circumstances under which this procedure would be the only option to save the life or preserve the health of the woman and that an intact D&X, however—

This is what they hold on to—

> . . . may be the best or most appropriate procedure in a particular circumstance to save the life or preserve the health of the woman, and only the doctor, in consultation with the patient, based upon the woman's particular circumstances, can make this decision.

That is their rationale. It ''may be,'' and we should ''leave it to the doctor and the patient.'' ''May be.'' OK, fine. It may be.

We have asked this organization to provide one circumstance—just one. By the way, we have asked them now for 3 years to give one circumstance where we can have peer review by obstetricians, have them look at their circumstance where this ''may be'' the best option. Give a hypothetical; give an example we can actually examine.

What is the answer from that organization? Nothing.

They say it ''may be.'' We can't say how, we can't give any evidence of it, but ''it may be.'' Because it may be—which is not substantiated—that is the health exception they need.

It is pretty lame. If they cannot come forward and give facts, we need a health exception because it ''may be,'' but if we cannot give circumstances where that is the case, where is the health exception?

They admit it is not the only way. The AMA has said it is not good medicine; it is a rogue procedure, and the AMA is a pro-choice organization. That is what their board votes.

Again, it is hard for me to argue against ''May be's,'' without specifics. That is what we have. Members are hiding behind ''we need a health exception because it may be.'' This is a debate about facts. We have hundreds and hundreds of physicians who say it may be never the best option; it will never be the best option; there are always better alternatives.

From the point of view of someone who is on the Senate floor and whose job it is to look at all the information, to be able to make a judgment, don't hide behind a health exception that doesn't exist and is not substantiated. Just because it is substantiated by anecdotes of people who used them because it happened to save them, that doesn't mean there weren't better options at the same time. Just because this worked to save the health of the mother doesn't mean there weren't better options.

Mr. President, 400 years ago we used to bleed people, and it probably helped some people, but that doesn't mean there weren't better options. We are saying, what is the best option? Why do we want the best option? This is not removing a tumor. This is killing a baby that is outside the mother. That is why we don't like this procedure.

This is not practicing medicine and telling doctors how to do their business. If this were about an ingrown toenail, we wouldn't care. This is about

killing a living human being—about killing a living human being. I don't think anybody on the floor will argue with that. We are talking about killing a living human being. That is this far away from the Constitution saying ''no.'' This far.

I will read from this article the rationale given by these physicians as to why they believe this is not the best procedure for mothers from a health perspective.

There exist no credible studies on intact D&X—

This is a rogue procedure—

. . . that evaluate or attest to its safety. The procedure is not recognized in medical textbooks nor is it taught in medical schools or in obstetrics and gynecology residencies. Intact D&X poses serious medical risks to the mother. Patients who undergo an intact D&X—

Intact D&X is a partial-birth abortion as defined in the bill—

are at risk for the potential complications with any surgical midtrimester termination, including hemorrhage, infection, and uterine perforation. However, intact D&X places these patients at increased risk of two additional complications.

So a traditional late-term abortion has certain risks associated with it, according to these doctors from Northwestern University. But this procedure has two other complications in addition to the ones already inherent in a late-term abortion:

First, the risk of uterine rupture may be increased. An integral part of the D&X procedure is an internal podalic version, during which the physician instrumentally reaches into the uterus, grasps the fetus' feet, and pulls the feet down into the cervix, thus converting the lie to a footling breach. The internal version carries risk of uterine rupture, abruption, amniotic fluid embolus, and trauma to the uterus.

The second potential complication of intact D&X is the risk of iatrogenic laceration and secondary hemorrhage. Following internal version and partial breech extraction, scissors are forced into the base of the fetal skull while it is lodged in the birth canal. This blind procedure risks maternal injury from laceration of the uterus or cervix by the scissors and could result in severe bleeding and the threat of shock or even maternal death.

These risks have not been adequately quantified.

None of these risks are medically necessary because other procedures are available to physicians who deem it necessary to perform an abortion late in pregnancy. As ACOG policy clearly states, intact D&X is never the only procedure available. Some clinicians have considered intact D&X necessary when hydrocephalus is present.

Water on the brain.

However, a hydrocephalic fetus could be aborted by first draining the excess fluid from the fetal skull through ultrasound-guided. . .[procedures.] Some physicians who perform abortions have been concerned that a ban on late term abortions would affect their ability to provide other abortion services. Because of the proposed changes in federal legislation, it is clear that only intact D&X would be banned.

I can and I will, throughout the course of the next couple of days, provide letter after letter signed by hundreds and hundreds of obstetricians, the best in their field, perinatologists, people who deal with maternal and fetal medicine, who say this procedure is dangerous, more dangerous to a woman. So the issue of health is a bogus one. It is a bogus issue.

Again I go back to Warren Hern, the author of ''Abortion Practice,'' the author who does more third-trimester abortions, I am told, than anybody else in America. He says:

I have very serious reservations about this procedure. You really can't defend it. I would dispute any statement that this is the safest procedure to use.

This is not a fan of this bill. So, again, all these comments and concerns about ''we have to protect health, we have to protect health''—if we outlawed this procedure, we would be protecting health. We would be protecting the health of women where doctors who do it do it for the convenience of the abortionist.

Do you want to know why it is done? It is done for the convenience of the abortionist, because they can do more in 1 day. That is why this procedure was developed. That is what they will tell you. That is, the doctor who invented this procedure, he will tell you that is why he did it.

On the other issue—and we will get to this a little later in the debate—the issue of vagueness, the Senator from California said every court in the country that has ruled on this has ruled it is vague or ruled it is unconstitutional.

First off, that is not true. Wisconsin ruled in fact it is constitutional. But I am willing to work with those who have genuine concerns about the issue of vagueness, to get a definition that makes people perfectly comfortable that we are not talking about any other form of abortion because it is not my intent, as has been ascribed to me, that what I am trying to do is eliminate all second- and third-trimester abortions.

What is clear about this debate and the debate that has been going on now for three Congresses is that we are not trying to do that. I think we have stood on the floor and said that is not our intent. Our intent is to get rid of a dangerous procedure. Yes, it is painful to the baby. Yes, it is dangerous to the mother. But it is also dangerous to our society, to be able to kill a baby that is this close to being born. I think it is something we have to stand up and draw the line on clearly, and that is what we are asking to do.

So to me it is pretty simple. We have no evidence this jeopardizes the health of the mother—none. We have speculation, no facts. We have the vagueness concern. Again, I am willing to work on that issue. If that is a genuine concern that people have, I am willing to work on it to make sure we can make people comfortable that what we are talking about is only this procedure.

But once you get past those two concerns, I do not know what is left. I do not know why you defend this. I do not know why you defend killing a baby this far away from being born who would otherwise be born alive. I do not know how you defend it.

So I look forward to this debate over the next couple of days. I know the Senator from California feels very passionately about this, but I think the issue of where we draw the line constitutionally is very important. I am sure the Senator from California agrees with me. I think the Senator from California would say that she and I, the Senator from Illinois, the Senators from Arkansas and Kansas, we are all protected by the Constitution with the right to life.

Would you agree with that, Senator from California? Do you answer that question?

Mrs. BOXER. I support the Roe v. Wade decision.

Mr. SANTORUM. Do you agree any child who is born has the right to life, is protected by the Constitution once that child is born?

Mrs. BOXER. I agree with the Roe v. Wade decision, and what you are doing goes against it and will harm the women of this country. And I will address that when I get the floor.

Mr. SANTORUM. But I would like to ask you this question. You agree, once the child is born, separated from the mother, that that child is protected by the Constitution and cannot be killed? Do you agree with that?

Mrs. BOXER. I would make this statement. That this Constitution as it currently is—some want to amend it to say life begins at conception. I think when you bring your baby home, when your baby is born—and there is no such thing as partial-birth—the baby belongs to your family and has the rights. But I am not willing to amend the Constitution to say that a fetus is a person, which I know you would. But we will get to that later. I know my colleague is engaging me in a colloquy on his time. I appreciate it. I will answer these questions.

I think what my friend is doing, by asking me these questions, is off point. My friend wants to tell the doctors in this country what to do. My friend from Pennsylvania says they are rogue doctors. The AMA will tell you they no longer support the bill. The American Nurses don't support the bill. The obstetricians and gynecologists don't support the bill. So my friend can ask me my philosophy all day; on my own time I will talk about it.

Mr. SANTORUM. If I may reclaim my time, first of all, the AMA still believes this is bad medicine. They do not support the criminal penalties provisions in this bill, but they still believe—I think you know that to be the case—this procedure is not medically necessary, and they stand by that statement.

I ask the Senator from California, again, you believe—you said ''once the baby comes home.'' Obviously, you don't mean they have to take the baby out of the hospital for it to be protected by the Constitution. Once the

baby is separated from the mother, you would agree—completely separated from the mother—you would agree that baby is entitled to constitutional protection?

Mrs. BOXER. I will tell you why I don't want to engage in this. You had the same conversation with a colleague of mine, and I never saw such a twisting of his remarks.

Mr. SANTORUM. Let me be clear, then. Let's try to be clear.

Mrs. BOXER. I am going to be clear when I get the floor. What you are trying to do is take away the rights of women and their families and their doctors to have a procedure. And now you are trying to turn the question into, When does life begin? I will talk about that on my own time.

Mr. SANTORUM. If I may reclaim the time?

The PRESIDING OFFICER (Mr. BUNNING). The Senator from Pennsylvania has the floor.

Mr. SANTORUM. What I am trying to do is get an answer from the Senator from California as to where you would draw the line because that really is the important part of this debate.

Mrs. BOXER. I will repeat. I will repeat, the Senator has asked me a question——

The PRESIDING OFFICER. The Senator from Pennsylvania has the floor.

Mrs. BOXER. I am answering the question I have been posed by the Senator, and the answer to the question is, I stand by Roe v. Wade. I stand by it. I hope we have a chance to vote on it. It is very clear, Roe v. Wade. That is what I stand by; my friend doesn't.

Mr. SANTORUM. Are you suggesting Roe v. Wade covered the issue of a baby in the process of being born?

Mrs. BOXER. I am saying what Roe v. Wade says is, in the early stages of a pregnancy, a woman has the right to choose; in the later stages, the States have the right—yes—to come in and restrict. I support those restrictions, as long as two things happen: They respect the life of the mother and the health of the mother.

Mr. SANTORUM. I understand that.

Mrs. BOXER. That is where I stand. No matter how you try to twist it, that is where I stand.

Mr. SANTORUM. I say to the Senator from California, I am not twisting anything. I am simply asking a very straightforward question. There is no hidden question here. The question is——

Mrs. BOXER. I will answer it again.

Mr. SANTORUM. Once the baby is born, is completely separated from the mother, you will support that that baby has, in fact, the right to life and cannot be killed? You accept that; right?

Mrs. BOXER. I don't believe in killing any human being. That is absolutely correct. Nor do you, I am sure.

Mr. SANTORUM. So you would accept the fact that once the baby is separated from the mother, that baby cannot be killed?

Mrs. BOXER. I support the right—and I will repeat this, again, because I saw you ask the same question to another Senator.

Mr. SANTORUM. All the Senator has to do is give me a straight answer.

Mrs. BOXER. Define ''separation.'' You answer that question.

Mr. SANTORUM. Let's define that. Let's say the baby is completely separated; in other words, no part of the baby is inside the mother.

Mrs. BOXER. You mean the baby has been birthed and is now in the mother's arms? It is a human being? It takes a second, it takes a minute——

Mr. SANTORUM. Say it is in the obstetrician's hands.

Mrs. BOXER. I had two babies, and within seconds of them being born——

Mr. SANTORUM. We had six.

Mrs. BOXER. You didn't have any.

Mr. SANTORUM. My wife and I did. We do things together in my family.

Mrs. BOXER. Your wife gave birth. I gave birth. I can tell you, I know when the baby was born.

Mr. SANTORUM. Good. All I am asking you is, once the baby leaves the mother's birth canal and is through the vaginal orifice and is in the hands of the obstetrician, you would agree you cannot then abort the baby?

Mrs. BOXER. I would say when the baby is born, the baby is born and would then have every right of every other human being living in this country, and I don't know why this would even be a question.

Mr. SANTORUM. Because we are talking about a situation here where the baby is almost born. So I ask the question of the Senator from California, if the baby was born except for the baby's foot, if the baby's foot was inside the mother but the rest of the baby was outside, could that baby be killed?

Mrs. BOXER. The baby is born when the baby is born.

Mr. DURBIN. Will the Senator yield?

Mrs. BOXER. That is the answer to the question.

Mr. SANTORUM. I am asking for you to define for me what that is.

Mrs. BOXER. I can't believe the Senator from Pennsylvania has a question with it. I have never been troubled by this question. You give birth to a baby. The baby is there, and it is born, and that is my answer to the question.

Mr. SANTORUM. What we are talking about here with partial birth, as the Senator from California knows, is the baby is in the process of being born——

Mrs. BOXER. In the process of being born. This is why this conversation makes no sense, because to me it is obvious when a baby is born; to you it isn't obvious.

Mr. SANTORUM. Maybe you can make it obvious to me. What you are suggesting is if the baby's foot is still inside of the mother, that baby can then still be killed.

Mrs. BOXER. I am not suggesting that.

Mr. SANTORUM. I am asking.

Mrs. BOXER. I am absolutely not suggesting that. You asked me a question, in essence, when the baby is born.

Mr. SANTORUM. I am asking you again. Can you answer that?

Mrs. BOXER. I will answer the question when the baby is born. The baby is born when the baby is outside the mother's body. The baby is born.

Mr. SANTORUM. I am not going to put words in your mouth——

Mrs. BOXER. I hope not.

Mr. SANTORUM. But, again, what you are suggesting is if the baby's toe is inside the mother, you can, in fact, kill that baby.

Mrs. BOXER. Absolutely not.

Mr. SANTORUM. OK. So if the baby's toe is in, you can't kill the baby. How about if the baby's foot is in?

Mrs. BOXER. You are the one who is making these statements.

Mr. SANTORUM. We are trying to draw a line here.

Mrs. BOXER. I am not answering these questions.

Mr. SANTORUM. If the head is inside the mother, you can kill the baby.

Mrs. BOXER. My friend is losing his temper. Let me say to my friend once again—and he is laughing——

Mr. SANTORUM. I am not laughing.

Mrs. BOXER. Let me say, this woman is not laughing right now because if this bill was the law of the land, she might either be dead or infertile. So if the Senator wants to laugh about this, he can laugh all he wants.

Mr. SANTORUM. Reclaiming my time, Mr. President. All I suggest is I was not laughing about the discussions. It is a very serious discussion.

Mrs. BOXER. Well, you were.

Mr. SANTORUM. I was smiling at your characterization of my demeanor. I have not lost my temper. I think I am, frankly, very composed at this point. What I will say—and the Senator is walking away—is the Senator said, again, the baby is born when the baby is born. I said: If the foot is still inside the mother? She said: Well, no, you can't kill the baby. If the foot is inside, you can't, but if the head is the only thing inside, you can.

Here is the line. See this is where it gets a little funny.

Mrs. BOXER. Parliamentary inquiry, Mr. President. Let the RECORD show that I did not say what the Senator from Pennsylvania said that I did. Thank you.

Mr. SANTORUM. Mr. President, I hate to do this, but could we have the clerk read back what the Senator from California said with respect to that question?

I understand it will take some time for us to do that. I will be happy—

Mrs. BOXER. I say to my friend, I know what I said. I am saying your characterization of what I said is incorrect. I didn't talk about the head or the foot. That was what my colleague talked about. And I don't appreciate it being misquoted on the floor over a subject that involves the health and

life of the women of this country and the children of this country and the families of this country.

Mr. SANTORUM. It also involves—and that is the point I think the Senator from California is missing—it also involves when in the process—that is why people on both sides of the abortion issue support this bill, because it also involves what is infanticide and what is not. A lot of people who agree with you on the issue of abortion say this is too close to infanticide. This is a baby who is outside the mother.

Again, I will not put words in the Senator's mouth, but what I heard—and again I am willing to have that corrected by the RECORD and the Senator can correct me right now—what I heard her say is if the foot is inside the mother, no, you cannot kill the baby, but when the head is, you can. That is a pretty slippery slope.

Mrs. BOXER. I say to my friend, what I said was I wasn't answering those questions. What the Senator was trying to do was to bait me on his terms of how he sees this issue.

We have a situation where this procedure is outlawed. It will hurt the women and the families of this country. My friend can disagree with that, but I never got into the issue of when is someone born. I said to you I am very clear on that, and I understand that completely, but it was my friend who kept on asking these questions, which to me do not make any sense because the issue here is an emergency procedure that my friend from Pennsylvania wants to make illegal, and it will hurt the women and it will hurt the families of this country.

Mr. SANTORUM. If I can reclaim my time, first off, the Senator from California said this was an emergency procedure. Name me an emergency procedure that takes 3 days. That is what the procedure takes. That is one of the things that was put forward early in the debate, now risen again, that this is somehow an emergency procedure. It is not an emergency procedure. It is a 3-day procedure.

No emergency do you present yourself in an emergency condition and get sent home with pills for 3 days to present yourself back.

Again, I want to finalize, and then the Senator from Arkansas has been waiting for quite sometime, and I want to allow him to speak. This is not a clean issue. This is not a removal of a tumor. We are talking about drawing the line between what is infanticide and what is abortion, and that is why many of us are disturbed about this. No one is trying to reach in and outlaw abortions.

The Senator from Illinois and I were very clear about the limited scope of this bill. What we are saying is, this is too close to infanticide. This is barbaric. This fuzzies the line that is dangerous for the future of this country. And what you saw, as the Senator from California was hesitant to get involved in that because she realizes how slippery this slope is, that you can say the foot does, the head doesn't, maybe the ankle—folks, we don't want to go there. It is not necessary for the health of the mother, it is not necessary for the life of the mother, and if you don't believe me, believe the person who developed it because they said so.

I think we need to have a full debate, not just on narrow issues, but on the broader issue of what this means to the rights of every one of us born and unborn, sick and well, wanted and unwanted. I think the line needs to be a bright one. I yield the floor.

Mr. HUTCHINSON addressed the Chair.

The PRESIDING OFFICER (Mr. VOINOVICH). The Senator from Arkansas.

Mr. HUTCHINSON. Mr. President, I am pleased to rise in support of this legislation to ban the partial-birth abortion procedure. I commend the Senator from Pennsylvania for his passionate, eloquent, and articulate explanation in defense of this legislation.

I had the privilege of presiding during Senator SANTORUM's statement. I cannot say as well, I cannot say as passionately what the Senator from Pennsylvania said so very well in explaining the need for this legislation and why we are taking the time on the floor of the Senate to debate it and to vote on it. I am here so he might not stand alone, and he does not stand alone.

There will be better than 60 percent of the Senate voting for this legislation, and better than 80 percent of the American people support a ban on this horrible procedure. But this is not a subject, it is not a topic, it is not an issue about which people like to talk. It is not something Senators feel comfortable coming down and talking about; it is not something I feel comfortable talking about, but I do think it is very important.

Once again, I commend my colleague for the leadership he has shown on this issue.

Mr. President, the Nation was shaken with a sense of disbelief over 5 years ago in 1994 when we discovered that a young mother in South Carolina, Susan Smith, had murdered her own children and then pretended they had been kidnapped.

In my home State of Arkansas, in recent days, a young woman in her ninth month of pregnancy was savagely attacked by three young men who had been hired by the woman's boyfriend and the father of her unborn child to force her to lose her baby. That was the reason he contracted with these thugs, to, in effect, murder that unborn child. They beat her with severe blows to her stomach and explicitly told her that their intent was to kill her child, a child the father did not want.

As we were dealing with the shock of this gruesome tragedy, we learned of a Memphis man who confessed to driving across the river last summer into the Arkansas Delta with his wife and throwing the couple's 18-month-old child down into a 15-foot levee, leaving the child to die a slow and painful death of exposure to the elements. After this horrific event, the same couple allegedly returned 3 days later and drowned their other child in a pond.

Last month, the Washington papers were filled with the news of a Maryland man who stands accused of killing his two small children and then reporting their deaths as the result of a carjacking.

Unfortunately, these kinds of incidents become all too frequent today. The list goes on and on.

The question I raise is, Are the tragedies I have recounted, and the scores of others that could be enumerated, related to the debate that we are having about partial-birth abortion?

I know there are people who will howl there is no connection. There will be people who would object strenuously to even the suggestion being made that the all-too-frequent violence toward children could be related to a society's permissive attitude toward a procedure that would allow a baby to be partially born and then killed.

But I would suggest that, in fact, there is a connection; that violence begets violence; that dehumanizing one part of mankind contributes to the dehumanizing of all vulnerable human beings—whether they are the disabled, whether they are the elderly, or whether they are the newborn.

Many Americans were shocked—I was shocked—to hear of the Princeton professor of bioethics, who was recently hired, assumed a seat on the faculty at Princeton University, one of our most distinguished universities—a professor of bioethics, ironically—who said:

> I do not think it is always wrong to kill an innocent human being. Simply killing an infant is never equivalent to killing a person.

A professor of bioethics, at a major American university, who can say that publicly and be defended.

The questions Senator SANTORUM posed a few moments ago to the Senator from California—well, Professor Singer would not have had difficulty in answering the questions that he posed. He simply says: It is not always wrong to kill an innocent human being. Killing an infant is not the equivalent of killing a person.

Is this where we are going?

This professor believes parents should be allowed, 28 days after the birth of a severely disabled child, to decide whether or not they want to kill the child or keep the child.

It was suggested earlier in the opening comments of the Senator from Pennsylvania that the debate we are having about this kind of procedure, 40 years ago, would have been unheard of in our society. No one can doubt that in this so-called age of enlightenment we have moved so far in what we view as acceptable in the area of taking the lives of those who are innocent.

I listened very closely to the objections to this legislation as I presided in

the chair during the opening statements of both sides earlier today. It seemed to me that every issue that was raised in opposition to this legislation was an effort to divert attention from the horror of this procedure.

There was the issue of the timing of the vote. Whether this vote occurs this week or whether this vote would have occurred last week or next week does not change the horror of what we are talking about; it does not change the terrible nature of a procedure that kills a child that is partially born.

I think every objection that has been raised is an effort to turn our attention away, divert our attention away from that chart that Senator SANTORUM had on the floor earlier today, which was far from being a cartoon but was very similar to medical charts.

Then there was the objection that we were practicing medicine; that the Senate was seeking to practice medicine; that we should not make this decision; that it is a decision that should be made within the profession.

It was Thomas Jefferson who said—and I will say it as close to his words as I can: The first and fundamental purpose of Government is the protection of innocent human life.

There is no more fundamental goal and object of Government than the protection of its citizens, the protection of human life. We could not find a subject more relevant to what Government ought to be doing than this subject.

To say we should not be involved in it because it is a medical issue is simply an effort to divert us from what really is the issue; that is, whether human life should be protected by law or not.

It is always ironic to me that those who say Government should not be involved in this issue are the first to say Government should pay for this procedure, or at least abortions in general.

Then there was the argument that the courts may rule this unconstitutional; therefore we should not even be voting on this because the courts, and the Supreme Court eventually, might rule this legislation unconstitutional.

Isn't that ironic? Because I just listened to 4 days of debate in which the constitutionality of campaign finance reform proposals were argued on the floor of this Senate. No one said, well, we shouldn't even debate this proposal because the courts—in fact, the evidence is the courts have and will rule many portions of the so-called Shays-Meehan legislation unconstitutional as a violation of the first amendment—but it did not prevent us from having a healthy, prolonged debate about the need for campaign finance reform.

I think it is an absolute red herring to say: Well, ultimately when the Supreme Court makes a definitive ruling on this subject, they may or may not rule that it is constitutional. That, in no way, abrogates our responsibility to debate it and to pass legislation that we believe is not only constitutional but in the best interests of this country.

Then it was said: Well, we have had repeated votes on this before. We have had repeated votes on a lot of issues. The fact is, we have new Senators now. We are going to have some different votes. We voted repeatedly on campaign finance reform. It is a debate, I suspect, that will go on year after year.

Because we have voted on this legislation before is no reason that we should not, once again, raise what many believe is the fundamental moral issue facing our culture today; that is, the issue of life.

Senator SANTORUM so eloquently demonstrated the folly of where this ultimately leads. If killing an unborn child, who is partially delivered, with only his or her head still within the body of the mother, is legal, where then do we draw the line? Could we have a more basic, fundamental issue of gravity before this body than that? So time and time again we will hear, during the debate, the effort to take our attention away from where the focus should be, and that is unborn child and this horrible procedure.

Every effort will be made to bring up the timing of the vote, the issue of whether or not this is in our purview, the practicing of medicine, which, of course, is very much within our purview, this issue of human life; the fact of what the courts have ruled or may yet rule on this or similar legislation—all of these are efforts to take the Nation's eyes off what this legislation is all about, and that is eliminating a barbaric, uncivilized procedure that no right-minded person can surely defend.

It is a Federal crime to harm a spotted owl or a bald eagle or even its egg, but a helpless infant, completely dependent on its mother, is not accorded the same protections we afford the spotted owl or the bald eagle.

In this body—I say to my colleagues who say we shouldn't take the time of the Senate to debate this issue—in this body, we debated an amendment to the Interior appropriations bill that would have prohibited the use of steel leg hold traps. Perhaps that was a debate we should have had, but I believe it pales in comparison to the gravity and the seriousness of the issue we are now debating. We would protect the spotted owl, the bald eagle, or the inhuman practice of steel leg hold traps, but we have trouble protecting infants who are pulled from their mother's womb by the legs and killed.

One of the finest writers in this Nation, I believe, hails from the State of Arkansas. He is a Pulitzer Prize-winning journalist whose name is Paul Greenberg. He is one of the most brilliant and, I think, articulate defenders of human life I have ever had the opportunity to read. I want to read for the record a couple of short paragraphs from the many columns this Pulitzer Prize winner has written:

> As always, verbal engineering has preceded social engineering. The least of these must be aborted in words before it becomes permissible to abort them in deed. Those whom we want out of the way must first be dehumanized or something within might hold us back.

I wonder why there was such objection to even the term ''partial-birth abortion.'' Clearly, it describes what this procedure is. I think the author, Mr. Greenberg, has said it right: We have to do the verbal engineering before we do the social engineering, because to use the term ''partial-birth abortion'' suggests the humanity of that child.

Then Greenberg wrote:

> What once would have inspired horror is now the mundane, even the scientific, the advanced, the enlightened. What once might have inspired dread is now sanctioned in the elastic name of constitutional right and individual freedom.

That is what we are hearing today. We are hearing the defense of an indefensible procedure, sanctioned in the elastic name of constitutional right and individual freedom. When a question is raised, it is simply: I support Roe v. Wade; that is our right. What an elastic right it has become, to defend under Roe v. Wade a procedure that no one, no civilized person, could suggest is either good medicine or humane practice.

I ask my colleagues to not be diverted from the issue but to think about the baby, think about the procedure, this horrible procedure, think about the pain that little baby feels, think about what kind of country we want to be.

I yield the floor.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I will make a unanimous consent request. I hope it is OK with my colleague from Pennsylvania. I would like to speak for 2 minutes. I would like to ask unanimous consent that following that, Senator WELLSTONE take 10 minutes and, following that, Senator LIEBERMAN be recognized.

The PRESIDING OFFICER. Is there objection?

Mr. SANTORUM. If I may amend that to say, following that, Senator BROWNBACK would be recognized after Senator LIEBERMAN.

Mrs. BOXER. Absolutely.

The PRESIDING OFFICER. If the Senator will repeat the understanding.

Mrs. BOXER. I will repeat it, as amended by my friend from Pennsylvania. It would be BOXER for 2 minutes, WELLSTONE for 10 minutes.

How much time would Senator LIEBERMAN like to have?

Mr. LIEBERMAN. Ten minutes is fine.

Mrs. BOXER. Ten minutes for Senator LIEBERMAN, at which time we would go to Senator BROWNBACK for 10 minutes. That is my unanimous consent request.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mrs. BOXER. I thank the Chair.

Let me say, the Senator from Arkansas said the charge of government is to protect innocent life. We all want to protect every life. But when it comes to pregnancy, we do have a law that prevails in this country, which my friend may not agree with —I have a hunch he doesn't—called Roe v. Wade. It was decided in 1973. In that decision, the Court said when it comes to abortion, in the first trimester a woman has the right to choose, without any interference by the Government; and after that time, the States can regulate and restrict, but always the life of the woman and the health of the woman must be protected. That is Roe. That is, it seems to me, a very sound decision.

What we have in the Santorum bill is an out-and-out attack on that philosophy because there is no exception for health.

My friend from Illinois, Senator DURBIN, is trying to deal with that issue. I say to him, my compliments for working on his bill.

The bottom line for this Senator: I want to make sure if my daughter or anybody else's daughter is in an emergency situation, that the doctor or doctors do not have to open up the law books and decide whether or not they can do what is necessary to save the health and life of my daughter.

When one talks about innocent life, one must look at the faces involved. Here is a face of a beautiful young woman who wanted desperately to have children. I will tell her story later. She is an innocent person. Roe protects her; the Santorum bill leaves her out in the cold.

So the Senator from Pennsylvania can engage me in debates all he wants as to when I believe life begins and when I think a baby is born. To me, it is very obvious when a baby is born. When it leaves the mother, it is born. That is pretty straightforward.

I would prefer to leave the medical emergencies to the physicians. I think they know. This isn't a Roe procedure we are talking about. This is a procedure that the American College of Gynecologists and Obstetricians supports. They say they need it in their arsenal when they work to protect a woman's life and her health. The American Nurses Association—I could go on and on.

At this time, I yield the floor and will come back to this as often as we have to until this debate concludes.

I know Senator WELLSTONE has something to offer to the debate.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I thank the Senator from California. I shall be brief. First, I ask unanimous consent that I be included as an original cosponsor of the Durbin amendment.

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

Mr. WELLSTONE. Mr. President, I will describe the amendment one more time for those who are following this debate. I think it is important what the amendment says. It would ban all postviability abortions, except in cases where both the attending physician and an independent nontreating physician both certify in writing, in their medical judgment, the continuation of the pregnancy would threaten the mother's life or risk grievous injury to her physical health, with then a very strict and very clear definition of ''grievous injury.'' That is what the amendment says.

It would actually reduce the number of late-term abortions. This legislation fits in with the constitutional parameters set forth by the Supreme Court for government restriction of abortion. This legislation retains the abortion option for mothers facing extraordinary medical conditions such as breast cancer or non-Hodgkin's lymphoma. At the same time, this amendment clearly limits the medical circumstances where postviability abortions are permitted. By doing that, this legislation protects fetal life in cases where the mother's health is not at high risk.

I came to the floor to speak about this amendment because I believe the Durbin amendment is, if you will, where I am kind of within me. This is what I believe. I think it makes sense to move in this direction. I think it makes sense to set up a strict standard. I think it is terribly important, when we look at postviability abortions, to have this test, to have this standard that has to be met. I am certainly not going to vote for an amendment or a piece of legislation which is so open-ended that where there clearly are the medical circumstances, the life of a mother is threatened, she can't go forward with this procedure.

Here is why I come to the floor. I don't understand why those who want to see some change would not support this compromise. If you are interested, I say to my colleagues, in trying to make a difference, if you are concerned about some of these late-term abortions, if you think there ought to be a more stringent standard, then that is what this Durbin amendment says. If you are interested in passing legislation, if you are interested in making a change, if you are interested in passing a bill that isn't going to be vetoed by the President, if you are interested in passing legislation, as opposed to one more time going through this political war and making this a big political issue, then you ought to support this amendment.

There are some people from the other side who think this amendment is a mistake. They don't want to see this amendment pass. I think this amendment is reasonable. I think it is a compromise that makes sense. I think it deserves our support.

I actually will make this not at all personal in terms of what other Senators have said. It is simply not true that there aren't many people in the Senate who are not concerned, that don't share some of the concerns that have been reflected by speeches given on the floor. Sheila and I have three children, and we also were confronted with two miscarriages—6 weeks and over 4 months. Anybody who goes through that knows what this debate is all about. I also know it is about a woman, a mother, a family having their right to choose. I am very nervous about a State coming in and telling a family they are going to make this decision. But I also understand the concerns, especially the concerns—again, I go to the language about postviability abortions. But here we have an amendment that says it will ban this except in the cases where the attending physician and an independent, nontreating physician certify that, in their medical judgment, if you don't do this, then you are going to see a threat to the mother's life or she is going to risk grievous injury to her physical health.

Isn't that reasonable? I am so tired of the sharp drawing of the line and the polarization and the accusations and the emotion and the bitterness. Why don't we pass this amendment? It is a reasonable compromise.

For those who want to overturn Roe v. Wade, that is never going to happen. That is the law of the land. But if we want to make a difference and we have this concern, I think we should support this Durbin amendment. I come to the floor of the Senate to thank him for his effort. I am comfortable with this amendment. I think it would make a difference. I think it would meet some of the agonizing concerns that I and other Senators have. I am not about to support legislation that is so open ended that it makes no allowance at all for the health of a mother. That is my position.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Connecticut is recognized for 10 minutes.

Mr. LIEBERMAN. Mr. President, I rise to support the amendment offered by my colleague from Illinois, Senator DURBIN. The underlying bill and this amendment bring us back to these morally perplexing questions. We heard it in the sincerity of the speech by the Senator from Minnesota and the sincerity of all of my colleagues speaking on either side, for either of these approaches.

This problem, more than any I have confronted in my public life, seems to me to join our personal value systems, our personal understanding about profound philosophical medical questions, such as ''When does life begin?'' with our role as legislators, with our role as lawmakers, with the limits of what our capacities are in making law and, ultimately, of course, also with what the reality is that the courts have stated as they have applied our Constitution, as the ultimate arbiter of our values and our rights in this country.

I support this proposal of Senator DURBIN's because, once again, I think it actually will do what I believe most everybody—I would say everybody—in this Chamber would like the law to do, and that is to reduce the number of abortions that are performed. I support it also because I think it can be upheld as constitutional, and I sincerely and respectfully doubt the underlying proposal, the so-called Partial-Birth Abortion Act, will be upheld as constitutional.

I remember I first dealt with these issues when I was a State senator in Connecticut in the 1970s, after the Roe v. Wade decision was first passed down by the Supreme Court, and the swelter of conflicting questions: What is the appropriate place for my convictions about abortion, my personal conviction that potential life begins at conception and, therefore, my personal conviction that all abortions are unacceptable? How do I relate that to my role as a lawmaker, to the limits of the law, to the right of privacy that the Supreme Court found in Roe v. Wade?

This proposal that deals with partial-birth abortion, or intact dilation and extraction, brings us back once again to all of those questions. I have received letters from constituents in support of Senator SANTORUM's proposal. I have had calls and conversations with constituents and friends—people I not only respect and trust but love—who have urged me to support Senator SANTORUM's proposal.

When you hear the description of this procedure, it is horrific; it is abominable. There is a temptation, of course, to want to respond and do what the underlying proposal asks us to do in the law by adopting this law. And then I come back to my own personal opinion, which is every abortion, no matter when performed during pregnancy—this is my personal view—is unacceptable and is, in its way, a termination of potential life.

So as I step back and reach that conclusion, I have to place the proposal Senator SANTORUM puts before us and the one Senator DURBIN puts before us now in the context, one might say, of some humility of what the appropriate role for each of us is as lawmakers, what the appropriate role for this institution is as a lawmaking body, and what does the Court tell us is appropriate under the Constitution. I cannot reach any other conclusion, personally, than that Senator SANTORUM's proposal is not constitutional, that Senator DURBIN's is, and will, in fact, reduce the number of postviability abortions and, therefore, the number of abortions that are performed in our country.

That is why I have added my name as a cosponsor to Senator DURBIN'S proposal.

The courts have created well-defined boundaries for legislative action. Under Planned Parenthood versus Casey, the Supreme Court held that "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." Partial birth legislation has been challenged 22 times in the courts resulting in 19 injunctions. The court-imposed constraints must be reflected in legislative efforts if we are going to achieve our goal of reducing late-term abortions. Enacting legislation that courts have struck down time and again is unlikely to reduce abortions.

Most recently, of course, that conclusion was reached by the Eighth Circuit Court on September 24, little less than a month ago, when the court said:

> Several states have enacted statutes seeking to ban "partial-birth abortion." The precise wording of the statutes, and how far the statutes go in their attempts to regulate pre-viability abortions, differ from state to state. The results from constitutional challenges to the statutes, however, have been almost unvarying. In most of the cases that reached the federal courts, the courts have held the statutes unconstitutional.

So the constitutional impediment to the proposal Senator SANTORUM makes is that, notwithstanding the horrific nature of the so-called partial-birth abortion, the intact dilation and extraction method of abortion, you cannot prohibit by law, according to the Supreme Court of the United States, any particular form of terminating a pregnancy at all stages of the pregnancy. You can prohibit almost all forms of terminating a pregnancy after viability. That is what the Durbin amendment will do.

Incidentally, viability as medical science has advanced, has become an earlier and earlier time in the pregnancy.

There are exceptions.

Incidentally, the language in the Durbin proposal is not full of loopholes. It is very strict and demanding. It requires a certification by a physician that the continuation of the pregnancy would threaten the mother's life or risk grievous injury to her physical health. Those are serious requirements not meant to create a series of loopholes through which people intending to violate the law can go.

As has been said, a new provision has been added to this amendment which requires that an independent physician who will not perform nor be present at the abortion, who was not previously involved in the treatment of the mother, can affirm the first physician's opinion by a certification in writing.

A physician who knowingly violates the act may be subject to suspension of license and penalties as high as $250,000.

The limitations are specific. They are narrow. And they are, if I may say so, inflexible. In that sense, they respond in the most narrow way to the health exception required by the Supreme Court.

This is such a good proposal which Senator DURBIN has offered that I hope we may come back to it at some other time when it is not seen by the proponents of Senator SANTORUM's legislation as a negation of that legislation because this amendment in that sense never gets a fair vote or a clear vote. I think if we brought it up on its own, perhaps it could allow us the common ground on this difficult moral question toward which I think so many Members of the Chamber on both sides aspire. I hope we can find the occasion to do that.

I thank the Chair. I thank my friend from Illinois for the work he has done in preparing this amendment and bringing it before us.

I yield the floor.

Mrs. BOXER. Mr. President, I know Senator BROWNBACK is going to speak.

The PRESIDING OFFICER. Senator BROWNBACK is recognized.

Mrs. BOXER. Will the Senator yield for a unanimous-consent request so that Senator MIKULSKI could follow the Senator?

Mr. BROWNBACK. I have no objection.

Mrs. BOXER. Mr. President, I ask unanimous consent that Senator MIKULSKI follow Senator BROWNBACK and be recognized for 10 minutes.

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

Mr. BROWNBACK. Thank you very much. I thank my colleague, Senator SANTORUM, for once again bringing this important issue in front of this body and to this floor.

Once again, I join Senator SANTORUM as an original cosponsor of this legislation to end partial-birth abortion in this country. Last year, the Senate failed to override the President's veto by three votes. President Clinton has twice vetoed similar measures in 1996 and 1997. We will continue, however, to raise this issue until the President signs this into law, or until this procedure is banned for forever.

I follow my colleague from Connecticut, who I rarely disagree with on matters of this nature. But this happens to be one of those which I do. I view this as an abhorrent procedure, as my colleague from Connecticut does as well. I also view it as a constitutional issue that we can raise, that we can deal with, and this body should deal with.

This goes to one of the most fundamental issues for us as a country, for us as a people, and that is when life begins and when it should be protected. These lives should be protected.

As I sat and listened to much of this discussion, I have to say I am sad as I listened to this discussion because it is so difficult, and it is such an awful thing—the birth of a child, and then it is killed by a blunt instrument.

I think some medical facts bear mentioning at this point in time.

Brain wave activity is detectable in human beings at 41 days after conception—just 41 days. A heartbeat is detectable 24 days after conception.

Consistently, State statutory or case law establishes a criteria of dead as the

irreversible cessation of brain wave activity or spontaneous cardiac arrest.

In short, these are lives of individuals that are ended by this process. It is death. These are heartbeats and brain waves. They are stopped. They are denied life by this abhorrent procedure.

I would like to share some thoughts with you from a writer, a Jewish writer, Sandi Merl, when he was asked about this procedure of partial-birth abortion. He said this:

> When I think of Partial-Birth Abortion, I hear only the first two words—''partial birth.'' To me, this procedure is not abortion. It is pre-term delivery followed by an act of destruction leading to a painful death . . . This is infanticide, clearly and simply, and must be stopped . . . This is about leaving no fingerprints when committing a murder of convenience.

That is why I will once again vote to end partial-birth abortion when it comes to the Senate floor. It is a cruel and shameless procedure which robs us of our humanity with every operation performed. It is not true that the anesthesia kills the child before removal from the womb. Instead, it is the fact that the baby is actually alive and experiences extraordinary pain when undergoing the operation.

Nor is this brutality only reserved for the most extreme circumstances. According to the executive director of the National Coalition of Abortion Providers, the ''vast majority'' of partial-birth abortions are performed in the fifth and sixth months of pregnancy on healthy babies of healthy mothers.

The facts speak for themselves. Bluntly put, this involves the death of a child in a brutal fashion, and all of it legally condoned by the current President of the United States.

Our institutionalized indifference to this extraordinary suffering makes me wonder, what has happened to our collective conscience as a nation? Are we really so callous that we knowingly condone this form of death for our very weakest, which we would never force on any adult, no matter how bad the crime? Even murderers on death row are given more consideration when executed. Yet our babies are painfully killed while conscious. This extraordinary cruelty should cause us to bow our heads in shame.

In a Wall Street Journal article, Peggy Noonan rightly labeled events such as that at Columbine High School as evidence of a much deeper problem, one she identified as the ''culture of death.'' Quoting Pope John Paul II from his recent visit to Mexico City, he urged a rejection of this increasingly influential culture of death, instead embracing the dignity and principles of life for everyone.

It is obvious, especially after the Columbine tragedy, that a culture of death is playing in our land. Lately, the volume has been turned up very loudly. The words to this song include the extremes we know now by heart: Excessively high murder rates, the repeated rampages of violence by schoolchildren against schoolchildren, the unending tawdriness of television programming and other media, to name only a few cultural malfunctions.

As Noonan went on to observe:

> No longer say, if you don't like it, change the channel. [People] now realize something they didn't realize ten years ago: There is no channel to change to.

Perhaps our increasingly violent culture has dulled our consciences and worn us down to this place where it no longer is politically expedient to protest the obscene suffering of infants. This explains why we continue to tolerate such a brutal practice as partial-birth abortion—what a dreadful name. I hope it isn't so. It is to this conscience that I appeal. I appeal to those who recognize the suffering and do not turn their heads, who take personal responsibility to correct this course of destruction, no matter the political consequences.

Please, please, open your hearts and listen. Hear that voice in there, the cries of thousands of little children, saying: Hear me, let me live.

Every once in a while, something happens which shakes us from our dullness. I want to share an event reported in the Washington Times that described an incident in April of this year in Cincinnati where a botched partial-birth abortion resulted in the birth of a little girl who lived for 3 hours. It is reported that the emergency room technician rocked and sang to her. After the inevitable death of the baby, the staff members grieved so badly that hours were spent in counseling and venting to get over the emotional trauma of the incident. One person observed that the real tragedy is that no laws were broken.

I hope we will continue to let ourselves be troubled by this event and by this practice and instead of turning a cold heart to it or saying, ''I'm tied into a certain political position I can't change.'' I hope we will prayerfully consider and at night go and search ourselves and ask: Is this something we want to continue in America? Is this something I want to be a part of allowing to continue in America?

People of great tradition serve in this body who seek to protect and to serve the poorest of the poor and the weakest of the weak in our culture and society. They serve so admirably, and they speak glowingly about the need to protect those who are weakest. Yet, is it not this child in the womb who is the weakest of all in our society and in our culture? And that child cries right now. If we will just for a moment listen, we will hear the cry of that child. Can't we just for a moment turn from our locked in, dug in positions and say, OK, just for a moment I will listen, I will see if I can hear that small voice that is crying out to me: Just let me live. Let me have that God-given life that has been promised to me. Let me have that God-given life of which we speak so eloquently in our Declaration of Independence and our Constitution.

> We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life. . . .

Let's live. Let's stop this culture of death from going forward. Let's appeal to that inner voice that says let that life live.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I rise to speak against the Santorum amendment and on behalf of the Durbin amendment of which I am a cosponsor. I wish to speak on the merits of the amendment, but I will say a few words before I debate the amendment about an issue the Senator from Kansas has raised. I have had the opportunity to get to know and so respect the position of the Senator from Kansas.

The Senator spoke about the culture of death. I believe we should have a debate on the culture of death here in the Senate. I believe it should occur among Members privately, when we are having conversations in the lunchroom. I believe one of the things we should do as we end this century, which has been such a ghoulish, grim, violent century, is think about how we can affirm a life-giving culture.

I speak to my colleague from Kansas with all due respect and a desire to work with him on those issues. The Pope, the leader of my own faith, and the Catholic bishops of America have spoken about the culture of death. They say when we choose life, it is ending all forms of violence—the violence of poverty, hunger, armed conflict, weapons of war, the violence of drug trafficking, the violence of racism, and the violence of mindless damage to our environment.

In other statements from both the Pope and the bishops, they speak out on famine, starvation, the spread of drugs, domestic violence, and the denial of health care.

I say to my colleagues in the Senate, when we think about a defense against the culture of death, we need a broader view. We are need to talk not only about one amendment or one procedure—which I say is quite grim—but also to talk about what we are going to do to address these other critical issues.

We rejected a judicial nomination last week because of the nominee's position on the death penalty. I don't know how we can be against the culture of death and yet vote against a distinguished man who makes serious, prudent, judicial decisions on certain death penalty cases.

We defeated an arms control treaty, with no real serious opportunity for full debate and development of side agreements. There were legitimate ''yellow flashing lights'' about the agreement that deserved thorough debate. But we rushed to a vote with only hasty, last minute hearings and no opportunity for complete investigation of the treaty.

I say to my colleagues, let's look at what we are going to do to protect our own families and how we can look at promoting a culture of life. I say that with sincerity. I say it with the utmost respect for people whose position I will disagree with on this amendment. We need to reach out to each other, think these issues through, and put aside message amendments, put aside tactical advantages, put aside partisan lines.

I say to my colleague from Kansas, I know he is deeply concerned about the issues of culture in our own country. Many of those issues I do share. I reach out and say to my colleagues, let's think through what we are doing.

Having said that, I rise to support the Durbin amendment. In this debate, I say to my colleagues, the first question is: Who really should decide whether someone should have an abortion or not? I believe that decision should not be made by government. I believe when government interferes in decisionmaking, we have ghoulish, grim policies.

Look at China, with their one child/one family official practice. The government of China mandated abortions.

Look at Romania under the vile leadership of Ceausescu, who said any woman of childbearing age had to prove she was not on any form of birth control or natural method. They were mandated to have as many children as they could.

I don't want government interfering. I think government should be silent. We have a Supreme Court decision in Roe v. Wade. We should respect that decision. I think it is in the interests of our country that government now be silent on this. We should move forward. Medical practitioners should make decisions on medical matters. It should not be left up to politicians with very little scientific or theological training.

There is a substantial difference on when life begins. Science and theologians disagree on this. Some say at the moment of conception. St. Thomas Aquinas, in my own faith, said the soul comes into a male in 6 weeks, but it takes 10 weeks for the soul to enter the body of a woman. We would take issue with Thomas Aquinas on that. Our Supreme Court said that given conflicting scientific viewpoints, fetal viability should determine to what extent a state may limit access to abortion.

The Durbin amendment is consistent with the Court's framework. It would ban all post-viability abortions except when the life or health of the woman is at risk. The Durbin amendment provides clear guidelines, which are narrowly but compassionately drawn, to allow doctors to use a variety of procedures, based on medical necessity in a particular woman's situation. It must be medically necessary in the opinion of not one but two doctors. Both the doctor who recommends this as a procedure and then an independent physician must certify that this is the medically necessary and appropriate course for a particular woman facing a health crisis.

This is why I think the Durbin amendment is a superior amendment. It acknowledges the grave seriousness of the possibility of a medical crisis in a late-term pregnancy that can only be resolved with the family and the physician. To single out only one procedure means other procedures could be used, equally as grim. What we want to do is preserve the integrity of the doctor-patient relationship, and make sure there is no loophole, by requiring two physicians to independently evaluate the woman's medical needs.

So I believe the Durbin amendment is a superior way to address this most serious issue, and I intend to support the Durbin amendment. I recommend to my colleagues that they, too, give the Durbin amendment serious consideration.

Let me say again what I think this debate is about. I believe it is about the right of women facing the most tragic and rare set of complications affecting her pregnancy to make medically appropriate or necessary choices.

This is not a debate that should take place in the U.S. Senate. This is a discussion that should remain for women, their health care providers, their families and their clergy. The Senate has no standing, no competency and no business interfering in this most private and anguishing of decisions a woman and her family can possibly face.

That is why I so strongly oppose the Santorum bill. It would violate to an alarming degree the right of women and their physicians to make major medical decisions.

And that is why I rise in strong support of the Durbin amendment. I support the Durbin alternative for four reasons.

First, it respects the constitutional underpinnings of Roe v. Wade.

Second, it prohibits all post-viability abortions.

Third, it provides an exception for the life and health of a woman which is both intellectually rigorous and compassionate.

Finally, it leaves medical decisions in the hands of physicians—not politicians.

The Durbin alternative addresses this difficult issue with the intellectual rigor and seriousness of purpose it deserves. We are not being casual. We are not angling for political advantage. We are not looking for cover.

We are offering the Senate a sensible alternative—one that will stop post-viability abortions, while respecting the Constitution. We believe that it is an alternative that reflects the views of the American people.

The Durbin amendment respects the Supreme Court's ruling in the Roe v. Wade decision. When the Court decided Roe, it was faced with the task of defining ''When does life begin?'' Theologians and scientists differ on this. People of good will and good conscience differ on this.

So the Supreme Court used viability as its standard. Once a fetus is viable, it is presumed to have not only a body, but a mind and spirit. Therefore it has standing under the law as a person.

The Roe decision is quite clear. States can prohibit abortion after viability, so long as they permit exceptions in cases involving the woman's life or health. Let me be clear. Under Roe, states can prohibit most late term abortions. And many states have done so.

In my own state of Maryland, we have a law that does just that. It was adopted by the Maryland General Assembly and approved by the people of Maryland by referendum. It prohibits post viability abortions. As the Constitution requires, it provides an exception to protect the life or health of the woman.

Like the Maryland law, the Durbin alternative respects that key holding of Roe. It says that after the point of viability, no woman should be able to abort a viable fetus. The only exception can be when the woman faces a threat to her life or serious and debilitating risk to her health.

The bill before us—the Santorum bill—only bans one particular abortion procedure at any point in a pregnancy. By violating the Supreme Court's standard on viability, this language would in all probability be struck down by the courts.

In fact, this language has already been struck down in many states because of this very reason. The proponents of the legislation know this.

The Durbin alternative, though, bans all post viability abortions. It doesn't create loopholes by allowing other procedures to be used.

I believe there is no Senator who thinks a woman should abort a viable fetus for a frivolous, non-medical reason. It does not matter what procedure is used. It is wrong, and we know it.

The Durbin alternative bans those abortions. It is a real solution.

On the other hand, S. 1692, proposed by Senator Santorum and others, does not stop a single abortion. For those who think they support this approach, know that it is both hollow and ineffective.

S. 1692 attempts to ban one particular abortion procedure. All it does, though, is divert doctors to other procedures. Those procedures may pose greater risks to the woman's health. But let me be clear—late term abortions would still be allowed to happen. And for that reason, the Santorum approach is ineffective.

The Durbin amendment provides a tough and narrow health exception that is intellectually rigorous, but it is compassionate as well. It will ensure that women who confront a grave health crisis late in a pregnancy can receive the treatment they need.

The Amendment defines such a crisis as a ''severely debilitating disease or

impairment caused or exacerbated by pregnancy.'' And we don't leave it up to her doctor alone. We require that a second, independent physician also certify that the procedure is the most appropriate for the unique circumstances of the woman's life.

But I want to be very clear in this. The Durbin amendment does not create a loophole with its health exception. We are not loophole shopping when we insist that an exception be made in the case of serious and debilitating threats to a woman's physical health. This is what the Constitution requires and the reality of women's lives demands.

Let's face it, women do sometimes face profound medical crises during pregnancy. Some of these traumas are caused or aggravated by the pregnancy itself. I'm referring to conditions like severe hypertension or heart conditions.

I'm referring to pre-existing conditions—like diabetes or breast cancer—that require treatments which are incompatible with continuing pregnancy. Would anyone argue that these are not profound health crises?

The Durbin amendment recognizes that to deny these women access to the abortion that could save their lives and physical health would be unconscionable. When the continuation of the pregnancy is causing profound health problems, a woman's doctor must have every tool available to respond.

I readily acknowledge that the procedure described by my colleagues on the other side is a grim one. I do not deny that. But there are times when the realities of women's lives and health dictates that this medical tool be available.

I support the Durbin alternative because it is leaves medical decisions up to doctors—not legislators. It relies on medical judgement—not political judgement—about what is best for a patient.

Not only does the Santorum bill not let doctors be doctors, it criminalizes them for making the best choice for their patients. Under this bill a doctor could be sent to prison for up to two years for doing what he or she thinks is necessary to save a woman's life or health. I say that's wrong.

In fact, those who oppose the Durbin amendment say it is flawed precisely because it leaves medical judgements up to physicians.

Well, who else should decide? Would the other side prefer to have the government make medical decisions? I disagree with that. I believe we should not substitute political judgement for medical judgement.

We need to let doctors be doctors. This is my principle whether we are talking about reproductive choice or any health care matter.

Physicians have the training and expertise to make medical decisions. They are in the best position to recommend what is necessary or appropriate for their patients. Not bureaucrats. Not managed care accountants. And certainly not legislators.

The Durbin alternative provides sound public policy, not a political soundbite. It is our best chance to address the concerns many of us have about late term abortions. The President has already vetoed the Santorum bill and other similar legislation in earlier Congresses. I believe he will veto it again.

But today we have a chance to do something real. We have an opportunity to let logic and common sense win the day. We can do something which I know reflects the views of the American people.

Today we can pass the Durbin amendment. We can say that we value life and that we value our Constitution. We can make clear that a viable fetus should not be aborted. We can say that we want to save women's lives and women's health. The only way to do all this, Mr. President, is to vote for the Durbin amendment.

I urge my colleagues to support the Durbin amendment.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

AMENDMENT NO. 2320 TO THE TEXT INTENDED TO BE STRICKEN BY AMENDMENT 2319

Mrs. BOXER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from California [Mrs. BOXER] proposes an amendment numbered 2320 to the text intended to be stricken by amendment 2319.

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

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

The amendment is as follows:

At the end of the bill, add the following:

SEC. . SENSE OF CONGRESS.

It is the Sense of the Congress that, consistent with the rulings of the Supreme Court, a woman's life and health must always be protected in any reproductive health legislation passed by Congress.

AMENDMENT NO. 2321 TO AMENDMENT NO. 2320

(Purpose: To express the sense of the Congress in support of the Supreme Court's decision in Roe v. Wade)

Mr. HARKIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN] proposes amendment numbered 2321 to amendment No. 2320.

At the appropriate place, insert the following:

SEC. ___. SENSE OF CONGRESS CONCERNING ROE V. WADE.

(a) FINDINGS.—Congress finds that—

(1) reproductive rights are central to the ability of women to exercise their full rights under Federal and State law;

(2) abortion has been a legal and constitutionally protected medical procedure throughout the United States since the Supreme Court decision in *Roe v. Wade* (410 U.S. 113 (1973));

(3) the 1973 Supreme Court decision in *Roe v. Wade* established constitutionally based limits on the power of States to restrict the right of a woman to choose to terminate a pregnancy; and

(4) women should not be forced into illegal and dangerous abortions as they often were prior to the *Roe v. Wade* decision.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) *Roe v. Wade* was an appropriate decision and secures an important constitutional right; and

(2) such decision should not be overturned.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. HARKIN. I will ask it again, Mr. President.

Mr. SANTORUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. HARKIN. Mr. President, I believe I had the floor. I had the floor.

The PRESIDING OFFICER. The Chair will note the Senator lost the floor when he asked for the yeas and nays.

The legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

Mr. HARKIN. Mr. President, I withdraw my request for the yeas and nays.

The PRESIDING OFFICER. The question is on the amendment.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, the amendment I have offered will basically express the sense of the Congress in support of the Supreme Court's decision in Roe v. Wade. With all of the amendments that keep coming up and trying to chip away at Roe v. Wade, Senator BOXER and I decided that it was important for us to see if there was support in the Congress for Roe v. Wade.

I know there are some groups around the United States that believe Roe v. Wade should be overturned. I do not believe that. I think it was an eminently wise decision. As time goes on, and as we reflect back, the decision enunciated by Justice Blackmun becomes more and more profound and more elegant in its simplicity and its straightforwardness.

However, it seems as we get wrapped up in these emotionally charged debates on partial birth abortion, we lose sight of what it is that gave women their full rights under the laws of our Nation and our States.

I was interested a couple of minutes ago in what Senator MIKULSKI pointed out; that the eminent theologian, St. Thomas Aquinas, had basically stipulated that in soul man—that is the putting of the soul in the human body—occurred 6 weeks after conception for a

man but 10 weeks after conception for a woman. That was a theology that held for a long time.

I studied Saint Thomas Aquinas when I was in Catholic school. He was an eminent theologian, as I said. We look back and we say: That is ridiculous. The very division of 6 weeks for a man and 10 weeks for a woman is kind of ridiculous. Medical science has progressed. We know a lot of things they did not know at that time. What will we know 50 years from now that we do not know today?

Women, through the centuries, as we have developed more and more the concept of the rights of man—and I use man in the terms of mankind, all humans, the human race—that as we enlarge the concept of human rights—those rights we have that cannot legitimately be interfered with or trespassed upon by the power of any government—as we progressed in our thinking about those human rights, all too often women were left out of the equation.

It was not until recent times, even in our own country, that women had the right to own property. It was not until recent times that women even had the right to vote in this country, not to say what rights are still denied women in other countries around the globe.

As we progressed in our thinking of human rights, we have come a long way from Thomas Aquinas who said that for some reason a man gets a soul a lot earlier than a woman gets a soul. Yes, we've come a long way.

I believe our concept of human rights now is basically that human rights applies to all of us, regardless of gender, regardless of position at birth, regardless of nationality or station in life, race, religion, nationality; that human rights inure to the person.

One of the expansions of those human rights was for women to have the right to choose. After all, it is the female who bears children. That particular right inures to a woman. It was the particular genius of Roe v. Wade that Justice Blackmun laid out an approach to reproductive rights that basically guarantees to the woman in the first trimester a total restriction on the State's power to interfere with that decision. In the second trimester, the State may, under certain inscriptions, interfere. And in the third trimester, after the further decision of the Casey case, the States may interfere to save the life or health of the mother.

We have a situation now where women in our country are given—I should not use the word ''given''—but have attained their equal rights and their full human rights under law.

That was Roe v. Wade. Since that time, many in the legislatures of our States and many in this legislature, the Congress of the United States—the House and the Senate—have sought repeatedly to overturn Roe v. Wade; if not totally to overturn it, but to chip away at it—a little bit here, a little bit there, with the final goal to overturn Roe v. Wade.

According to CRS, only 10 pieces of legislation were introduced in either the House or Senate before the Roe decision. Since 1973, more than 1,000 separate legislative proposals have been introduced. The majority of these bills have sought to restrict abortions.

Unfortunately, what is often lost in the rhetoric and in some of this legislation—is the real significance of the Roe decision.

The Roe decision recognized the right of women to make their own decisions about their reproductive health. The decision whether to bear a child is profoundly private and life altering. As the Roe Court understood, without the right to make autonomous decisions about pregnancy, a woman could not participate freely and equally in society.

I do not believe that any abortion is desirable—nobody does. As Catholic and a father, I've struggled with it myself. However, I do not believe that it is appropriate to insist that my personal views be the law of the land.

I think there are some things that Congress can do to prevent unintended pregnancy and reduce abortion by increasing funding for family planning, mandating insurance coverage for contraception and supporting contraception research.

Mr. President, I strongly urge my colleagues to support this resolution. I believe it would establish the one important principle that we can agree on—that despite the difference in our views, we will not strip away a woman's fundamental right to choose.

So I think we need to make it clear, we need to make it clear that we have no business—especially we in the Congress of the United States—have no business interfering with a woman's fundamental right to choose.

Mrs. BOXER. Would my friend yield for a question?

Mr. HARKIN. Without losing my right to the floor, I would be delighted to yield for a question.

Mrs. BOXER. I am very grateful to the Senator from Iowa for this amendment. It is interesting to me; in all the years I have been in the Senate, we have never had a straight up-or-down vote on whether this Senate agrees with the Supreme Court decision that gave women the right to choose.

Mr. HARKIN. Yes.

Mrs. BOXER. So I am very grateful to my friend for giving us a chance to talk about that because I wonder if my friend was aware that prior to the legalization of abortion, which is what Roe did in 1973, the leading cause of maternal death in this Nation was illegal abortion. Was my friend aware of that?

Mr. HARKIN. Yes, I was. I didn't know the exact figure, but I knew many women died or were permanently injured and disabled because of illegal abortions performed in this country—because they had no other option.

Mrs. BOXER. Exactly.

Mr. HARKIN. I say to my colleague from California, I want to thank her for her stalwart support and defense of Roe v. Wade through all these years. I follow in her footsteps, I can assure you. But I remember as a kid growing up in a small town in rural Iowa, that it was commonplace knowledge, if you had the money, and you were a young woman who became pregnant, you could go out of State; you could go someplace and have an abortion. But if you were poor and had nowhere else to go, you went down to sought out someone who would do an illegal abortion. Those are the women who suffered and died and were permanently disfigured.

Mrs. BOXER. I say to my friend, I remember those days. Further, even when women who did have the wherewithal, sometimes they resorted to a back-alley abortion and paid the money——

Mr. HARKIN. Sure.

Mrs. BOXER. Under the table and risked their lives and their ability to have children later and were scarred for life.

Mr. HARKIN. Sure

Mrs. BOXER. So the Roe v. Wade decision, as my friend has pointed out, in his words, was an ''elegant decision.'' And why does he say that? Because it did balance the mother's rights with the rights of the fetus. Because it said, previability, the woman had the unfettered right to choose and in the late-term the State could regulate.

Roe v. Wade was a ''Solomon-like'' decision in that sense. I again want to say to my friend, I greatly appreciate him offering this second-degree amendment to my amendment. I think it is important for us to support Roe v. Wade in this Congress. I think if we do, it will be a relief to many women and families in this country who are concerned that that basic right might be taken away because there are many people running for the highest office in the land who do not support Roe, who want to see it overturned, who might well appoint Judges to the Court who would take away this right to choose, which is hanging by a thread in Court as it is. So I, most of all, thank my friend for offering this amendment.

Mr. HARKIN. I thank the Senator from California. I thank her for the question. I will elaborate on that in just a minute.

Again, I say to the Senator from California, we do need to send a strong message that the freedom to choose is no more negotiable than the freedom to speak or the freedom to worship. It is nonnegotiable.

This ruling of Roe v. Wade has touched all of us in very different ways. As the Senator from California just pointed out, it is estimated that as many as 5,000 women died yearly from illegal abortions before Roe.

In the 25 years since Roe, the variety and level of women's achievements have reached unprecedented levels. The Supreme Court recently observed:

> The ability of women to participate equally in the economic and social life of the Nation has been facilitated by their ability to control their reproductive lives.

I will also quote Justices O'Connor, Kennedy, and Souter in the Casey case:

> At the heart of liberty is the right to define one's own concept of existence, of meaning, of the universe, and of the mystery of human life. Beliefs about these matters could not define the attributes of personhood were they formed under compulsion of the State.

I think that is what this is all about—whether we will use the heavy hand of the State to enforce certain individuals' concepts of when life begins, how life begins, when can a person have an abortion, when can a person not. People are divided on this issue. Some people are uncertain about it. I quarrel with myself all the time about it because it is as multifaceted as there are individual humans on the face of the Earth.

I would not sit in judgment on any person who would choose to have an abortion, especially a woman who went through the terrifying, agonizing, soul-wrenching procedure of having a late-term abortion because her health and her life was in danger. That must be one of the most soul-wrenching experiences a person can go through.

And you want me to sit in judgment on that? The Senator from Pennsylvania wants to be able to say: Here it is. You can't deviate from that. I am sorry; that is not our role; that is not the role of the Government or the State.

That is why, again, I believe it is particularly important that we cut through the fog that surrounds this issue and get to the heart of it, which is Roe v. Wade.

I used the word ''elegant.'' It means simplistic, simplicity. Elegant: Not convoluted, not hard to understand, not shrouded and complex, but elegant, straightforward, simple in its definition. That is Roe v. Wade.

There are now those who want to come along and change it and make it complex, indecipherable, benefiting maybe one person one way, adding to the detriment of another person another way, so that we are right back where we were before Roe v. Wade.

So I believe very strongly that we need to express ourselves on this sense-of-the-Senate resolution. That is why I will be asking for a rollcall vote at the appropriate time because it is going to be important for us to send a message on how important it is to preserve a woman's fundamental right to choose under Roe v. Wade.

Mr. DURBIN. Will the Senator yield for a question?

Mr. HARKIN. I am delighted to yield for a question.

Mr. DURBIN. I want to make sure it is clear, for those who may be following this debate, that the underlying bill is the Santorum bill, which would ban a particular procedure at any point in the stage of pregnancy.

Mr. HARKIN. Right.

Mr. DURBIN. This type of approach has been stricken, I believe, in 19 different States as unconstitutional.

I offered a substitute which related strictly to late-term abortions, those occurring after viability, after a fetus could survive, and said that we would only allow an abortion in an emergency circumstance where the life of the mother was at stake or the situation where continuing the pregnancy ran the risk of grievous physical injury to the mother. I believe, of course, the Court will, if it comes to that, ultimately decide what I have offered, being postviability, is consistent with Roe v. Wade which drew that line. Before that fetus is viable and can survive outside the womb, the woman has certain rights. When the viability occurs, then those rights change, according to Roe v. Wade.

To make sure I understand, the Senator from Iowa is offering an amendment that is not antagonistic to my amendment but, rather, wants to put the Senate on record on the most basic question about Roe v. Wade as to whether or not the Senate supports it.

My question to the Senator is this: Is the Senator saying in his amendment, in the conclusion of the amendment, Roe v. Wade was an appropriate decision and secures an important constitutional right, and such decision should not be overturned—that is the conclusion of his amendment—is he saying that if we are to keep abortion legal in this country and safe under Roe v. Wade, we vote for his amendment and those who believe abortion should be outlawed or prohibited or illegal would vote against his amendment? Is that the choice?

Mr. HARKIN. The Senator from Illinois has stated it elegantly, very simply and straightforward. That is the essence of the amendment, and the Senator is correct. Voting on the amendment, which I offered, a vote in favor of my amendment would be a vote to uphold Roe v. Wade and a woman's right to choose. A vote against it would be a vote to overturn Roe v. Wade and to take away a woman's right to choose.

The amendment I have offered would be consistent with the amendment offered by the Senator from Illinois.

Mr. DURBIN. I thank the Senator from Iowa.

A further question to the Senator from Iowa, if he will yield. The Senator is from a neighboring State. There are many parts of Iowa that look similar to my State, particularly in downstate Illinois. On this controversial issue—there are those who have heartfelt strong feelings against abortion, Roe v. Wade; those who have heartfelt strong feelings on the other side in support of a woman's right to choose and Roe v. Wade—I have found the vast majority of people I meet somewhere in between. It is my impression most people in America have concluded abortion should be safe and legal, but it should have some restrictions. I ask the Senator from Iowa, has the Senator from Iowa had that same experience in his State of Iowa?

Mr. HARKIN. I answer the Senator affirmatively. I have had that same experience, yes.

Mr. DURBIN. If I might further ask the Senator from Iowa a question, what he is saying is this vote on the Harkin amendment tries to answer the first and most basic question: Should abortion procedures in America remain safe and legal, consistent with Roe v. Wade, should we acknowledge a woman's right of privacy and her right to choose with her physician and her family and her conscience as to the future of her pregnancy within the confines of Roe v. Wade? That is the bottom line, is it not, of his amendment?

Mr. HARKIN. The Senator is absolutely correct.

Mr. DURBIN. I say to the Senator, in closing, I think this is an important vote. I think we have walked around this issue in 15 different directions in the time I have served on Capitol Hill. I commend the Senator from Iowa for offering this amendment. I think it gets to the heart of the question as to those who would basically outlaw abortion in America and those who believe Roe v. Wade should be continued.

Mr. HARKIN. I thank my colleague and friend from Illinois for enlightening this issue and for clearly drawing what this amendment is all about.

Again, a vote in favor of the amendment which I have offered states we will support Roe v. Wade, that Roe v. Wade should be the law, that a woman's right to choose should be kept under the provisions of Roe v. Wade, as further elaborated in the Casey case. A vote against my amendment would say you would be in favor of overturning Roe v. Wade and taking away a woman's fundamental right to choose.

I agree with the Senator from Illinois.

In closing my remarks, knowing others want to speak, the Roe decision recognized the right of women to make their own decisions about their reproductive health. The decision is a profoundly private, life-altering decision. As the Roe Court understood, without the right to make autonomous decisions about pregnancy, a woman could not participate freely and equally in our society.

I think there are some things we ought to be doing to prevent unintended pregnancies and reduce abortions. We could, for example, increase funding for family planning. Every time we try to do that, there are those who are opposed to increasing funding for family planning. We could mandate insurance coverage for contraception. That could help. But, no, there are those who say we shouldn't do that either. We could have more support for contraception research. There are those who say, no, we shouldn't do that either. And those who are opposed, by and large, to increasing funding for family planning and insurance coverage for contraception and contraception research are the same ones who want to overturn Roe v. Wade or take

away a woman's right to have a late-term abortion in the case of grievous health or life-threatening situations.

A little bit off the subject of Roe v. Wade, but which I think is particularly important to point out, is that Saturday, October 23, 3 days from today, will mark the 1-year anniversary of the assassination of Dr. Barnett Slepian, who was murdered in his home in Amherst, NY, 1 year ago this Saturday. As most are aware, there have been five sniper attacks on U.S. and Canadian physicians who perform abortions since 1994. Each of these attacks has occurred on or close to Canada's Remembrance Day, November 11.

All of the victims in these attacks were shot in their homes by a hidden sniper who used a long-range rifle. Dr. Slepian tragically was killed. Three other physicians were seriously wounded in these attacks.

I am reading a letter sent to the majority leader, Senator LOTT, dated October 18, signed by the executive director of the National Abortion Federation, the president of Planned Parenthood Federation of America, the executive director of the American Medical Women's Association, the executive director of Medical Students for Choice, the president and CEO of the Association of Reproductive Health Professionals, and the executive director of Physicians for Reproductive Choice and Health. All of these signed the letter to Senator LOTT spelling out what I said. The letter goes on:

Federal law enforcement officials are urging all women's health care providers, regardless of their geographic location, to be on a high state of alert and to take appropriate protective precautions during the next several weeks. Security directives have been issued to all physicians who perform abortions for clinics or in their private practices, and to all individuals who have been prominent on the abortion issue.

Senator Lott, on behalf of our physician members, and in the interest of the public safety of the citizens of the US and Canada, we urge you to reconsider the scheduling of a floor debate on S–1692 at this time. As you are aware, each time this legislation has been considered, extremely explicit, emotional and impassioned debate has been aroused.

We have grave fears that the movement of this bill during this particularly dangerous period has the potential to inflame anti-abortion violence that might result in tragic consequences.

We sincerely hope that you will take the threats of this October-November period as seriously as we do, and that you will use your considerable influence to ensure that the Senate does not inadvertently play into the hands of extremists who might well be inspired to violence during this time. We urge you to halt the movement of S. 1692. Please work with us to ensure that the senseless acts of violence against U.S. citizens are not repeated in 1999.

I ask unanimous consent that the full text of this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OCTOBER 18, 1999.

Hon. TRENT LOTT,
United States Senate,
Washington, DC.

DEAR SENATOR LOTT: Saturday, October 23, will mark the one-year anniversary of the assassination of Dr. Barnett Slepian, who was murdered in his home in Amherst, New York. As you are undoubtedly aware, there have been five sniper attacks on U.S. and Canadian physicians who perform abortions since 1994. Each of these attacks has occurred on or close to Canada's Remembrance Day, November 11. All of the victims in these attacks were shot in their homes by a hidden sniper who used a long-range rifle. Dr. Slepian was killed. Three other physicians were seriously wounded in these attacks.

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VICKI SAPORTA,
Executive Director, National Abortion Federation.

EILEEN MCGRATH, JD, CAE,
Executive Director, American Medical Women's Association.

WAYNE SHIELDS,
President and CEO, Association of Reproductive Health Professionals.

GLORIA FELDT,
President, Planned Parenthood Federation of America.

PATRICIA ANDERSON,
Executive Director, Medical Students for Choice.

JODI MAGEE,
Execuvite Director, Physicians for Reproductive Choice and Health.

Mr. HARKIN. Mr. President, there is one other thing I want to mention. I am going to read a letter because this person is a personal friend of mine, someone I have gotten to know over the years. I believe the Senator from California has a picture of Kim Koster. I ask a page to bring me the picture back here, if I may have that.

This photo is Kim Koster and her husband, Dr. Barrett Koster. They are both friends of mine, whom I have known for I guess about 3 or 4 years. I am going to read her letter in its entirety:

My name is Kim Koster. My husband, Dr. Barrett Koster, and I have been married for more than seven years. We have known since before we were married that we wanted very much to have children.

To our joy, in November of 1996 we discovered that we were expecting. The news was a thrill, to us and to our family and friends. We were showered with gifts and hand-me-downs, new toys, books and love. Barry's family gave us a 19th-century cradle which had rocked his family to sleep since before his grandmother Sophie was born more than 100 years ago.

Our first ultrasound was scheduled a little more than four months into the pregnancy. On Thursday, February 20, we saw our baby and spent five short minutes rejoicing in the new life, and then the blow fell. The radiologist informed us that he had ''significant concerns'' about the size of the baby's head. His diagnosis was the fatal neural tube defect known as anencephaly, or the lack of a brain. After four months of excitement and joy, our world came crashing down around us.

Once the diagnosis was made, there was no further medical treatment available for me in our hometown, and we were referred to the University of Iowa Hospitals and Clinics in Iowa City. Our first OB appointment there was set for Monday morning. My husband and I spent that long weekend, the longest of our lives, doing research on anencephaly, talking with family and friends, and hearing personal stories about the fate of anencephalic babies.

In Iowa City, a genetics OB specialist examined a new ultrasound and immediately confirmed the diagnosis. An alpha-feto-protein blood test and amniotic fluid sample only drove the truth harder home. Our fetus had only a rudimentary brain. There were blood vessels, which enabled the heart to beat, and ganglion, which enabled basic motor function. There was no cerebellum and no cerebral cortext. There was no skull above the eyes.

I had been preparing for pregnancy for more than a year with diet, exercise and prenatal vitamins, including the dose of folic recommended to prevent neural tube defects. Yet we still lost our child to one of the most severe and lethal birth defects known. Our baby had no brain—would never hear the Mozart and Bach I played for it every day on our great-grandmother's piano, would never look up into our eyes or snuggle close to our hearts, would never even have an awareness of its own life.

On Tuesday, February 25, 1997, my husband and I chose to end my pregnancy with a common abortion procedure known as ''D and E.'' As difficult as it was, I literally thank God that I had that option. As long as there are families who face the devastating diagnosis we received, abortions must remain a safe and legal alternative.

In 1998, Barry and I discovered to our delight that I was pregnant again. Although we were overjoyed, our happiness was tempered by the knowledge that we had a 1-in-25 chance of a second anencephalic pregnancy. This time, we asked our loved ones to hold off on the baby gifts, we played no Bach, and every week was a mix of excitement and unavoidable worry. And on July 17, 1998, an ultrasound revealed the worst. We had a second anencephalic pregnancy—a second daughter lost to this lethal birth defect.

Fortunately for my medical care, the so-called ''partial birth abortion'' bans have been vetoed by President Clinton, and my doctors were able to provide me with a safe, compassionate procedure that brought this second tragic pregnancy to an end. And thanks to those doctors and their ability to give me that care, my recovery has been rapid—enabling Barry and I to plan to try again.

But if this bill becomes law, we would not be able to do so. For the chances of our having a third anencephalic pregnancy are all the way up to 1 in 4, and this bill would ban any procedures that would help us. It would force me to carry another doomed child through all nine months. That idea is far more horrifying than all the unreal anti-choice rhetoric that can be manufactured, for the reality is that this is a terrible law, a grievous interference between doctor and patient, and would only compound the tragedy and heartache faced by families like us.

Please protect the health of women and families like mine, and reject S. 1692.

There is nothing one can add to that. S. 1692 would say that the Kim Kosters in families across the country that we legislators—I am not a doctor, I am not a theologian, I am not a psychiatrist or a psychologist; but the bill proposed by the Senator from Pennsylvania would say that we know more than all of them, that we stand in the judgment seat of the Mrs. Kosters: We are going to decide for you.

Attorneys? I am an attorney. Maybe some of us are teachers, I don't know. Maybe some are social workers or business people. There are a variety of different people here on the floor of the Senate. But somehow we get to tell you: Mrs. Koster, you and your husband have no right to decide. We are going to do it for you. Our decision is, no matter what—even under these terrible circumstances—you are going to have to carry that to term and bear the consequences of that. Maybe there are some in this body who want to sit in that kind of judgment seat. Count me out. Count me out. I leave these decisions to Kim and her husband, to her doctor, to her own faith, to her own religion to make those very profound, anxiety-producing, soul-wrenching decisions. That is why I have fought for this amendment—to state loudly and clearly that Roe v. Wade gave women that right and we don't want it overturned.

I yield the floor.

Mrs. BOXER. Mr. President, will my friend hold the floor for a moment so I may ask him a question?

The PRESIDING OFFICER. Does the Senator from Iowa yield the floor?

Mr. HARKIN. I yield for a question. I didn't realize. I apologize.

Mrs. BOXER. Thank you very much.

I say to my friend that I thank him for sharing the story on the floor of the Senate. He has the photo of Kim and her husband up there. He read the story into the RECORD. I think it is very appropriate that the Senator from Iowa do so because this is a couple whom he knows.

I am, in a way, happy that my friend was not on the floor when the Senator from Pennsylvania used some very tough words in talking about this procedure and calling doctors who perform it executioners.

I say to my friend, in light of the poignant story he read to us, when he thinks of the doctor who helped this couple through a traumatic, horrific experience twice, what are his feelings about the doctor who performed that particular procedure?

Mr. HARKIN. I am sorry if someone referred to them as executioners. That, I think, is totally inappropriate and inflammatory and could lead to tragic consequences in our country.

I don't know the doctors who helped Kim Koster. But from talking to her, they were sensitive. They are doctors who wanted Kim and her husband to know every facet of what was happening and wanted them to make their own decision. They are doctors who have a lot of compassion and professionalism and, under the legal framework, were able to help this couple get through a very bad time and enabled them to move on with their lives and to plan on another child.

If that had not been there—if we had taken Roe v. Wade away or if we had adopted S. 1692—I don't know what would have happened to Kim Koster and her husband or whether they would be here today planning to try again to raise a family.

I say to my colleague from California that I believe Kim Koster is an extremely brave individual. In fact, I would say to anyone who wants to talk to her about what happened to her, she is out in the reception room right now. She would be glad to tell them why it is important to not only adhere to Roe v. Wade but to defeat S. 1692 that would have taken away her reproductive rights and under very tragic circumstances.

Mrs. BOXER. Mr. President, I ask my friend a final question. Will my friend be willing to read one more time, if he can find it, the statement that was made by Justices O'Connor, Kennedy, and Souter, all Justices appointed under a Republican President, when they made their statement on Casey because I really hope colleagues will listen to this. I think if they listen to it, they will vote for my friend's amendment to reaffirm Roe v. Wade and will also be against the Santorum underlying bill.

If my friend would repeat that, I would greatly appreciate it.

Mr. HARKIN. I thank my friend from California because I believe this statement by Justices O'Connor, Kennedy, and Souter is really aimed at us. They are aiming it at legislators who somehow sit in judgment—legislators who would put themselves in the position of defining for women what their reproductive rights are. Here is the quote:

At the heart of liberty—

At the heart of liberty—

is the right to define one's own concept of existence, of meaning, of the universe, and of the mystery of human life. Beliefs about these matters could not define the attributes of personhood were they formed under the compulsion of the state.

That is the quote. I believe it is directed at us.

Mr. President, I don't know how long people want to talk on this. I know the day is getting late. I ask unanimous consent that we have 30 minutes equally divided before we have an up-or-down vote on this amendment.

The PRESIDING OFFICER. Is there objection?

Mr. SANTORUM. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HARKIN. Mr. President, I ask unanimous consent that we have 60 minutes equally divided before a vote.

Mr. SANTORUM. I will be happy to work out—reserving the right to object—a time arrangement once people on our side want to proceed. But at this point I have to object. We would be happy to work something out. Right now, I just can't do that.

Mr. HARKIN. I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Thank you, Mr. President.

I am not going to debate the Harkin amendment. The Harkin amendment has nothing to do with the bill that is before us. The bill that is before us, as I have said over and over again, and I will say it again, is not about Roe v. Wade. One of the reasons we believe this bill is getting bipartisan support, as well as supporters on both sides of the abortion issue, is that it is outside the realm of Roe v. Wade.

I remind everyone that this is a baby in the process of being born. This is a baby who is almost outside of the mother except for 3 inches.

Again, I repeat that in Roe v. Wade, the original decision, which the Senator from Iowa was referring to, the Court let stand a Texas law that said you cannot kill a baby in the process of being born.

Again, we can have a vote on this. But we might as well be having a vote or another vote on the chemical weapons treaty. It is as related. This is not the subject. It is a completely different subject. If they want to have a vote on it, obviously the Senator has the right to offer an amendment. That is within the rights here in the Senate, and I certainly will stand by his right to offer that.

But to suggest somehow that the underlying bill is an assault on Roe v. Wade is again proof positive that when it comes to the real factual debate on what this procedure does, the response is: Well, let's change the subject.

I don't want to change the subject. Let's focus in on the facts. The facts are not anecdotes from people who aren't physicians about what happened to them. What happened in these cases you see and the pictures you see—I always believe, if you argue the facts, argue the facts; if you can't argue the facts, argue the law; if you can't argue the law, then appeal to the sentimentality or emotion of the situation.

That is what this is. These are horrible situations, tragic situations, of pregnancies that have gone awry late in pregnancy. I sympathize with these people more than you know, to have something such as this happen for a child that you want desperately. I know the difficult decisions they have to make. I know what doctors tell you and how they influence your decision.

But the fact of the matter is, we can't in a legislative forum dealing with such an important issue deal with emotional stories as powerful as they are unless we look at the facts underlying those stories. The facts underlying those stories are very clear.

I ask unanimous consent to have printed in the RECORD letters from the Physicians' Ad Hoc Coalition for Truth—fact—about two cases discussed by the Senator from Illinois where they talk about how this was the only option available, or this saved our life, or our future fertility, et cetera. Again, letters from this Physicians' Ad Hoc Coalition for Truth. One is from Pamela Smith, a director of medical education of the Department of Obstetrics and Gynecology at Mount Sinai Medical Center in Chicago, about the case of Vicki Stella and the case of Coreen Costello, another letter from the Physicians' Ad Hoc Coalition for Truth.

I ask unanimous consent to have those printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PHYSICIANS' AD HOC
COALITION FOR TRUTH,
Alexandria, VA, September 23, 1996.

DEAR MEMBER OF CONGRESS: My name is Dr. Pamela E. Smith. I am a founding member of PHACT (Physicians' Ad-hoc Coalition for Truth). This coalition of over three hundred medical providers nationwide (which is open to everyone, irrespective of their political stance on abortion) was specifically formed to educate the public, as well as those involved in government, in regards to disseminating medical facts as they relate to the Partial-Birth Abortion procedure.

In this regard, it has come to my attention that an individual (Ms. Vicki Stella, a diabetic) who underwent this procedure, who is not medically trained, has appeared on television and in Roll Call proclaiming that it was necessary for her to have this particular form of abortion to enable her to bear children in the future. In response to these claims I would invite you to note the following:

1. Although Ms. Stella proclaims this procedure was the only thing that could be done to preserve her fertility,the fact of the matter is that the standard of care that is used by medical personnel to terminate a pregnancy in its later stages does not include partial-birth abortion. Cesarean section, inducing labor with pitocin or protoglandins, or (if the baby has excess fluid in the head as I believe was the case with Ms. Stella) draining the fluid from the baby's head to allow a normal delivery are all techniques taught and used by obstetrical providers throughout this country. These are techniques for which we have safety statistics in regards to their impact on the health of both the woman and the child. In contrast, there are no safety statistics on partial-birth abortion, no reference of this technique on the national library of medicine database, and no long term studies published that prove it does not negatively affect a woman's capability of successfully carrying a pregnancy to term in the future. Ms. Stella may have been told this procedure was necessary and safe, but she was sorely misinformed.

2. Diabetes is a chronic medical condition that tends to get worse over time and that predisposes individuals to infections that can be harder to treat. If Ms. Stella was advised to have an abortion most likely this was secondary to the fact that her child was diagnosed with conditions that were incompatible with life. The fact that Ms. Stella is a diabetic, coupled with the fact that diabetics are prone to infection and the partial-birth abortion procedure requires manipulating a normally contaminated vagina over a course of three days (a technique that invites infection) medically I would contend of all the abortion techniques currently available to her this was the worse one that could have been recommended for her. The others are quicker, cheaper and do not place a diabetic at such extreme risks for life-threatening infections.

3. Partial-birth abortion is, in fact, a public health hazard in regards to women's health in that one employs techniques that have been demonstrated in the scientific literature to place women at increased risks for uterine rupture, infection, hemorrhage, inability to carry pregnancies to term in the future and material death. Such risks have even been acknowledged by abortion providers such as Dr. Warren Hern.

4. Dr. C. Everett Koop, the former Surgeon General, recently stated in the AMA News that he believes that people, including the President, have been misled as to ''fact and fiction'' in regards to third trimester pregnancy terminations. He said, and I quote, ''in no way can I twist my mind to see that the late term abortion described . . . is a medical necessity for the mother . . . I am opposed to partial-birth abortions.'' He later went on to describe a baby that he operated on who had some of the anomalies that babies of women who have partial-birth abortions had. His particular patient, however, went on to become the head nurse in his intensive care unit years later!

I realize that abortion continues to be an extremely divisive issue in our society. However, when considering public policy on such a matter that indeed has medical dimensions, it is of the utmost importance that decisions are based on facts as well as emotions and feelings. Banning this dangerous technique will not infringe on a woman's ability to obtain an abortion in the early stage of pregnancy or if a pregnancy truly needs to be ended to preserve the life or health of the mother. What a ban will do is insure that women will not have their lives jeopardized when they seek an abortion procedure.

Thank you for your time and consideration.

Sincerely,

PAMELA SMITH, M.D.,
Director of Medical Education, Department of Obstetrics and Gynecology, Mt. Sinai Medical Center, Chicago, IL, Member, Association of Professors of Obstetrics and Gynecology.

THE CASE OF COREEN COSTELLO—PARTIAL-BIRTH ABORTION WAS NOT A MEDICAL NECESSITY FOR THE MOST VISIBLE ''PERSONAL CASE'' PROPONENT OF PROCEDURE

Coreen Costello is one of five women who appeared with President Clinton when he vetoed the Partial-Birth Abortion Ban Act (4/10/96). She has probably been the most active and the most visible of those women who have chosen to share with the public the very tragic circumstances of their pregnancies which, they say, made the partial-birth abortion procedure their only medical option to protect their health and future fertility.

But based on what Ms. Costello has publicly said so far, her abortion was not, in fact, medically necessary.

In addition to appearing with the President at the veto ceremony, Ms. Costello has twice recounted her story in testimony before both the House and Senate; the New York Times published an op-ed by Ms. Costello based on this testimony; she was featured in a full page ad in the Washington Post sponsored by several abortion advocacy groups; and, most recently (7/9/96) she has recounted her story for a ''Dear Colleague'' letter being circulated to House members by Rep. Peter Deutsch (FL).

Unless she were to decide otherwise, Ms. Costello's full medical records remain, of course, unavailable to the public, being a matter between her and her doctors. However, Ms. Costello has voluntarily chosen to share significant parts of her very tragic story with the general public and in very highly visible venues. Based on what Ms. Costello has revealed of the medical history—of her own record and for the stated purpose of defeating the Partial-Birth Abortion Ban Act—doctors with PHACT can only conclude that Ms. Costello and others who have publicly acknowledged undergoing this procedure ''are honest women who were sadly misinformed and whose decision to have a partial-birth abortion was based on a great deal of misinformation'' (Dr. Joseph DeCook, Ob/Gyn, PHACT Congressional Briefing, 7/4/96). Ms. Costello's experience does not change the reality that a partial birth abortion is never medically indicated—in fact, there are available several alternative, standard medical procedures to treat women confronting unfortunate situations like Ms. Costello had to face.

The following analysis is based on Ms. Costello's public statements regarding events leading up to her abortion performed by the late Dr. James McMahon. This analysis was done by Dr. Curtis Cook, a perinatologist with the Michigan State College of Human Medicine and member of PHACT.

''Ms. Costello's child suffered from at least two conditions: 'polyhydramnios secondary to abnormal fetal swallowing,' and 'hydrocephalus'. In the first, the child could not swallow the amniotic fluid, and an excess of the fluid therefore collected in the mother's uterus. The second condition, hydrocephalus, is one that causes an excessive amount of fluid to accumulate in the fetal head. Because of the swallowing defect, the child's lungs were not properly stimulated, and an underdevelopment of the lungs would likely be the cause of death if abortion had not intervened. The child had no significant chance of survival, but also would not likely die as soon as the umbilical cord was cut.

The usual treatment for removing the large amount of fluid in the uterus is a procedure called amniocentesis. The usual treatment for draining excess fluid from the fetal head is a procedure called cephalocentesis. In both cases the excess fluid is drained by using a thin needle that can be placed inside the womb through the abdomen (''transabdominally''—the preferred route) or through the vagina (''transvaginally.'') The transvaginal approach however, as performed by Dr. McMahon on Ms. Costello, puts the woman at an increased risk of infection because of the non-sterile environment of the vagina. Dr. McMahon used this approach most likely because he had no significant expertise in obstetrics and gynecology. In other words, he may not have been able to do it well

transabdominally—the standard method used by ob/gyns—because that takes a degree of expertise he did not possess. After the fluid has been drained, and the head decreased in size, labor would be induced and attempts made to deliver the child vaginally.

Ms. Costello's statement that she was unable to have a vaginal delivery, or, as she called it, 'natural birth or an induced labor,' is contradicted by the fact that she did indeed have a vaginal delivery, conducted by Dr. McMahon. What Ms. Costello had was a breech vaginal delivery for purposes of aborting the child, however, as opposed to a vaginal delivery intended to result in a live birth. A cesarean section in this case would not be medically indicated—not because of any inherent danger—but because the baby could be safely delivered vaginally.''

Given these medical realities, the partial-birth abortion procedure can in no way be considered the standard, medically necessary or appropriate procedure appropriate to address the medical complications described by Ms. Costello or any of the other women who were tragically misled into believing they had no other options.''

Mr. SANTORUM. They clearly state this was not medically necessary; this, in fact, was not in the best interests of the patient in this case; and this was, in fact, not good medicine.

Did it have a good result? Yes, it did in the sense the health of the women was not jeopardized. That does not mean there is a good result. It was the best practice. A lot of things are done that turn out OK that may not have been the best thing to do. I think that is what we are saying. More importantly, it is not medically necessary. In fact, it is medically more dangerous.

A group that said it ''may be'' necessary, the American College of Obstetricians and Gynecologists, 3 years ago said: Clearly, it is not the only option. The proponents of partial-birth abortion are saying it is medically necessary. They want to keep this option open. If they don't, it is a violation of Roe v. Wade.

They stand behind anecdotes. In some cases, including the Viki Wilson case that Senator DURBIN brought up, it is clear from her testimony she did not have a partial-birth abortion. She says in her testimony the baby was dead inside of her womb and then the baby was delivered. If the baby dies inside the womb, it is outside the definition of the bill. The definition of the bill says a living baby is born. The baby was not living.

I don't want to pick apart the very tragic stories and make a very difficult situation even more difficult for these people because I understand the pain they have gone through. Our job is to not be clouded by personal anguish and tragic circumstances. Ours is to look at the underlying facts of what happened and what can happen in the future.

Again, we have over 600 obstetricians and gynecologists, specialists in perinatology, who say this is never medically necessary. The AMA says it is never medically necessary and is bad medicine. It is not a peer review procedure. It is not in the medical textbook. It is not taught in medical schools. It is not performed in hospitals. It is only performed at abortion clinics. Again, this is a rogue procedure.

They present case after case, as if this is some wonderful creation of medical science by some genius in obstetrics. I remind Members the person who created this procedure is not an obstetrician, much less a specialist in perinatology or difficult pregnancies. It is a family practitioner who only does abortions.

Again, I stress over and over again what seems to be the compassionate argument is a smokescreen. It is a smokescreen. It is not true. There is no compassion in allowing a procedure that is dangerous to the health of the woman to be continued any more than it is compassionate to prescribe any kind of medical treatment that is inappropriate. We have an overwhelming body of evidence saying it is bad medicine; it is inappropriate.

On the other side we have two things: One, stories, stories that turned out OK. In other words, the procedure was used—not in all cases; sometimes some of the people brought up in stories actually didn't have the procedure, and even those who did may have resulted in a good outcome—but it wasn't the proper course according to the overwhelming body of evidence.

The only thing counter, as far as factual comments by physicians, is the American College of Obstetricians and Gynecologists. The pillar upon which they rest the health-of-the-mother exception, the select panel they put together says they:

. . . could identify no circumstances under which this procedure would be the only option to save the life or preserve the health of the woman.

It is not the only option. It is not the only option.

From the Wisconsin case that upheld the Wisconsin statute, quoting the judges:

Haskell, who invented the procedure, admitted that the D&X procedure is never medically necessary to save the life or preserve the health of the woman.

We have the person who invented it saying it is not medically necessary.

ACOG goes further and talks about whether it is preferable in some cases. Here is what they say:

An intact D&X [partial-birth abortion] however, may be the best or most appropriate procedure in a particular circumstance to save the life or preserve the health of a woman, and only the doctor, in consultation with the patient, based upon the woman's particular circumstances, can make this decision.

We have asked them to identify one of these circumstances. Give an example. They cannot say this may be the best thing for the health and life of the mother, may be preferable, and yet give no situation which can be reviewed by the medical community. That is what we have to base the judgment on. The medical community is saying it is necessary to protect the health of the mother. Yet they give no example, give no example as to when this, in fact, would be preferable.

We have a thorough smokescreen, anecdotes with many of the cases having nothing to do with partial-birth abortions; those that did, argued by hundreds of physicians as being bad practice of medicine, were an improper course of conduct. Then we have the only scientific group that says it is never medically necessary, never the only option, only that it ''may be'' the best thing. Yet they give no example and after repeated inquiry are still giving no examples.

Again, we come back to the health question. There is a dearth of evidence to support the position.

I am hopeful the Senator from Iowa can debate his amendment, saying somehow this is important vis-a-vis Roe v. Wade. I argue the opposite. This legislation has nothing to do with Roe v. Wade. I think when we are looking at specific amendments to deal with that issue, the constitutional issue of vagueness—again, that is not necessarily a Roe v. Wade issue, although it gets into the issue of undue burden. From my point of view, if we can tailor that definition narrowly to make sure we are talking about partial-birth abortion, it leaves open other methods of abortion to be used. It gets to the counterargument some have suggested, that all we are doing is trying to outlaw abortion, trying to restrict a woman's right.

No. All we are doing is, for gosh sakes, drawing a line about who is protected. When a baby is 3 inches from being completely born, that is too close. That is too close. We are going to get into a whole lot of issues when we start drawing lines. In fact, we have gotten into a lot of issues with respect to drawing the line. Now we are talking about assisted suicide. We talk about quality of life instead of life itself.

As the Senator from California said, we want everyone to be wanted. What if everyone isn't wanted? Is that license to get rid of them? It certainly is if you are in the womb. Now we are suggesting it certainly is if you are just outside the womb; it certainly is if you are within 3 inches of being born. If you are not wanted, too bad. If we draw the line that close, it is not a very long way to go to get where our new theologian at Princeton University, Dr. Singer, is coming from. He suggested that it is, in fact, the moral thing to do; that once the baby is born, if we don't like it, to kill it.

One might suggest this is outrageous; this could never happen in America. This is a professor at Princeton, whose works, unfortunately, have been published in the popular press and hundreds of thousands of copies of this radical—I would consider it radical but on this floor maybe it is not radical. Maybe killing a baby after it is born, if it is not a healthy baby, is not a radical thing anymore. Certainly killing a

baby who is 3 inches from being born is not a radical thing anymore, so I don't know where 3 inches—maybe that does not make any difference. If you do not like what you have, then you can sort of exchange it.

But that is where we are. Someone suggests: Senator, this is outrageous. How can you make the comment that once a baby is born you can kill it?

I am not making that argument. But Dr. Singer is, and there are those who follow him. There will be judges who follow him. There will be judges who say the mother was distraught and she killed her baby, but it is sort of normal. If the baby was not perfect, it is probably better—we are probably all better off.

But what is the rationale given for partial-birth abortion, as extreme as that sounds, that Dr. Singer is proposing? What is the rationale for partial-birth abortion? Why do we need to keep it legal? Because we have pregnancies that have gone awry and these babies, they are not perfect. They might not live long. They may have cleft palate—in fact, yes, many partial-birth abortions were performed because the babies had cleft palate and mom and dad just didn't want the baby because it was not perfect.

So we have gotten to the point where the defenders of partial-birth abortion are defending it on the basis that things go bad in pregnancy and these children just do not deserve our protection because they are not normal like you and me. They should be given less rights. Because of their imperfections, they should be allowed—why would you bring a baby into this world who is going to die? Kill it first before it has a chance to die. That is the argument. It sounds rough. Let's cut to the chase. That is exactly what they are saying.

All we are suggesting is, first off, we do not stop you from doing that. This bill does not stop anyone who wants to have a late-term abortion from having it. If you want to have a late-term abortion, you can have a late-term abortion if this bill we propose passes. All we say is, don't have the baby outside the mother, don't have the baby 3 inches away from the protection of the Constitution, and then brutally execute the baby. That is just too close. That creates this nebulous area that the Dr. Singers of this world will gladly fill in. Because if we say 3 inches, then why not 3 inches later? What is the big deal? If the baby is not wanted, the baby is not wanted.

Many listening to this will say that is a ridiculous argument. There is no such slippery slope. Although, by the way, the people who oppose these often themselves provide a slippery slope argument. Certainly they do here. They say, if you restrict this right in abortion, it is a slippery slope; we are going to get rid of Roe v. Wade completely. That is why we have this amendment, to get at the Roe v. Wade amendment, to make sure we are not providing the slippery slope. Fine. Let's have a Roe v. Wade amendment to show we don't have a slippery slope. No problem. Let's have a vote.

But allowing a baby who is almost born to be killed, that is not a slippery slope? The Senator from California—we were talking about what if the foot or the leg were the part not born, would it be OK to kill the baby? I have the transcript, by the way. I asked that question. I will read it:

What you are suggesting—

This is me talking.

What you are suggesting is if the baby's toe is inside the mother you can, in fact, kill that baby.

Mrs. Boxer. Absolutely not.

So she said if the toe or foot is inside the baby, you can't kill the baby. But if the head is, you can. No slippery slope there, is there? No problems with a bright line there, is there?

We are headed down a very dangerous path if we start differentiating between what body part is outside the mother and what is inside the mother, as to whether an abortion is legal or not. The reason we have trouble differentiating is because this is not about abortion. This is about killing a baby. It is in the process of being born that under Roe v. Wade was protected. The Texas law was not stricken under Roe v. Wade that said you couldn't kill a baby in the process of being born.

Under Roe v. Wade, the seminal decision of the right of privacy, even that Court understood that once the baby is in the process of being born you should not be able to kill it. That is what we are saying. We are not restricting the right of Roe v. Wade. Roe v. Wade ruled on this by not striking that law down.

So fine, we are going to have a vote on Roe v. Wade. Fine, have a vote on Roe v. Wade. But this is not about Roe v. Wade. This is about infanticide. A lot of folks want to try to change the subject. They want to talk about these difficult cases.

Again, there is no one in this Chamber who sympathizes as much with these men and women, mothers and fathers, who dealt with a pregnancy gone awry. It is incredibly painful to have that hit your family. I hesitate to talk about it because I know how painful it is to revisit them. But they have brought their situation into the public square to prove a point. The problem is, it does not prove the point.

Again and again there is no medical reason. It is never medically necessary to do this procedure. So I hope we can get to the facts, that we can stay away from anecdotes that are inapplicable or not relevant; and we can get to, hopefully, from the other side, a factual discussion as to when this is medically necessary. Once I would like to see a peer-reviewed document where everyone examined the case and someone will say: You know what, there is a situation where this is medically necessary, where no other option is as safe or safer.

To date, that has not occurred. Let me underline that. To date, no such evidence has ever been put before the Senate.

Yet there are people who will stand here and say, ''We need it, we need it to protect the health of the mother,'' when there is not a shred of evidence, not a shred of evidence before the Senate, these stories aside. There is not a shred of evidence that suggests these stories, or all the other instances that have been brought up, were the most safe or there were not things as safe that could be used in place of a procedure that is infanticide. What we are hoping is we can get to that discussion.

I understand the process now; we want to play some games on Roe v. Wade. But that is not the issue before us. I cannot reiterate that enough. The issue before us is should this procedure remain legal. And it should be overturned. It should not remain legal.

It does not surprise me we are seeing smokescreens. This is the Roe v. Wade smokescreen. We have the anecdote smokescreen. We can get the charts up about the previous attempts by supporters of this procedure. They have tried case after case to misinform the Senate. The advocates of this legislation, the abortion rights groups, have deliberately—and this is according to their own people now who have come clean—deliberately misled the Congress, deliberately lied, as Ron Fitzsimmons, who is a lobbyist for a great number, if not all, of the abortion clinics in America, said that he lied through his teeth and that the industry lied through their teeth.

Now after lie after lie—and I will go through all the lies—after lie after lie, they now are going to come up with new stories and say: Well, no, believe us now; OK, yes, we may have lied to you before, but believe us, health is really an issue.

There is not one shred of substantive evidence to support that claim—not one shred of substantive evidence. And yet, a group of people that has come to the Congress in opposition to this bill, they have lied in at least six cases, and, after those, we are now supposed to believe them when they have no evidence to support what they are asserting.

What are they? The National Abortion Federation called illustrations of the partial-birth abortion procedure ''highly imaginative and artistically designed, but with little relationship to the truth or to medicine.''

You heard the Senator from California talk about the cartoons that showed how a partial-birth abortion is done, and proponents of the procedure argued early on: These are cartoons; they are not factual; they have nothing to do with how the procedure actually works, until Dr. Haskell publicly described this procedure at the National Abortion Federation meeting on September 1992. Dr. Haskell told the AMA News the drawings depicting partial-birth abortion were accurate ''from a technical point of view.'' Strike 1.

Argument 1: This does not occur; this thing is not factually correct; this is

not how partial-birth abortions are done; you are wrong. Strike 1.

By the way, they went even farther than that. Many of them argued this did not exist. First they said this is just a cartoon, these things do not happen at all, much less the drawings, but Dr. Haskell straightened them out.

Believe it or not, people actually came to committee meetings in the Capitol and suggested the anesthesia that is given to the woman during this procedure ensures the fetus feels no pain; in other words, it passes through and assures us the fetus does not feel any pain during this procedure.

Again, this is Dr. James McMahon, who is one of the originators of this procedure:

> The fetus feels no pain through the entire series of the procedures. This is because the mother is given narcotic analgesia at a dose based upon her weight. The narcotic is passed, via the placenta, directly into the fetal bloodstream. Due to the enormous weight difference, a medical coma is induced in the fetus. There is a neurological fetal demise. There is never a live birth.

That was testimony before Congress under oath. When this happened, the American Society of Anesthesiologists went bananas. Why? Again, having gone through six births, one of the options available to women during childbirth is to receive a narcotic to help with the pain. Women were justifiably very nervous about receiving a narcotic for pain that would kill their baby. One of the pain management procedures during childbirth is, in fact, the giving of a pain killer, a narcotic.

Immediately we got response from them and this letter later on:

> 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.

The community of experts responded saying this is not true; you would have to give so much in the way of narcotics, you could jeopardize the life of the mother, which is certainly something I am sure no one on either side would like to do.

Lie No. 2: The baby does not feel any pain. The fact is that after 20 weeks, babies have developed nervous systems; they feel pain. In fact, some have suggested because their nervous system is, in fact, not in a full developmental state, they feel increased pain as a result of this procedure. As described by Nurse Brenda Shafer when she witnessed a partial-birth abortion, when that scissor was plunged into the base of the skull, when those scissors were rammed into the base of that skull, the baby's arms and legs shot out, similar to if you held a little baby and the baby thought it was going to fall; it would spasm out, and then the baby's arms fell limp and legs fell limp.

Again, in October of 1995, during this period of time after McMahon's testimony, ''the fetus dies of an overdose of anesthesia given to the mother intravenously.''

Again we have Dr. Haskell, who is another one of these abortion providers—Dr. McMahon is one and Dr. Haskell; they are the two who do the most in the country—who says: Let's talk about whether or not the fetus is dead beforehand.

Haskell says: No, it's not. No, it's really not.

That is pretty clear. Again, people fighting this bill are putting information out that is not true. Why? To try to get support for this position.

Fourth: Partial-birth abortion is a rare procedure.

We had this debate the first time. We are in a very difficult situation because we have to rely upon the information of the abortion industry. When Senator SMITH, who is here, argued this debate 4 years ago, he had to deal with a deck that was stacked against him. He did not have the information we have today.

The organizations out there were saying—there were just a couple hundred of these—it was very rare, only done on babies who were sick and mothers whose health was in jeopardy or life was in jeopardy, but this was a very rare procedure.

This is the Alan Guttmacher Institute, Planned Parenthood, National Organization of Women, Zero Population Growth, Population Action International, National Abortion Federation, and a whole list of other organizations that wrote to Congress saying:

> This surgical procedure is used only in rare cases, fewer than 500 per year. It is most often performed in the cases of wanted pregnancies gone tragically wrong, when a family learns late in the pregnancy of severe fetal anomalies or a medical condition that threatens the pregnant woman's life or health.

Lie. What is the truth? We have two sources outside of the industry. By the way, we still do not know the truth. We do not know the truth because the folks who provide us with the statistics on partial-birth abortions are the very organizations that oppose the bill. How would you like to go into a courtroom and argue with a set of facts that is given to you by your opponents? That is what we have to do here right now.

Most of what we have to deal with certainly on this issue—the numbers—we have to take from people who vehemently oppose this bill.

We have one source of independent judgment. Our crack news staff on the Hill of which—let me look up in the news gallery: Gee, nobody is up there. Our crack news staff on the Hill, whom we have challenged time and time again to get the facts, why don't you ask a few abortion clinics how many of these they do. A couple of people have. I know a reporter for the Baltimore Sun did. Do you know what the abortion clinics said in Baltimore? ''None of your business; none of your business. We don't have to tell you.''

Maybe some other crack staff, who really, I am sure, in their heart of hearts, want to get down to the bottom of this because I know they care deeply about this issue, will call around some of their communities and find out what the Bergen County Record did in New Jersey.

What did they find out? That at least 1,500 partial-birth abortions are performed each year, three times the national rate at one clinic in northern New Jersey.

Mr. SMITH of New Hampshire. Would the Senator yield for a question?

Mr. SANTORUM. I am happy to yield to the Senator from New Hampshire.

Mr. SMITH of New Hampshire. I ask the Senator if he is aware, during the time a few years ago when I stood on the floor and debated this issue, as well, that there were a number of people who said this was only happening a few times a year; some said as few as 15 or 20 times a year; some said, well, maybe it happened a couple hundred times a year, that it was the exception rather than the rule; it was usually when there was an anomaly?

Is the Senator also aware, we began to receive testimony from inside the abortion industry itself, which indicated—from those who had performed them—that this, indeed, was not the case, that we found that in about 80 percent of the cases, if not more, the child was perfectly healthy? So the idea that these were performed in only a few cases, when the child was in a so-called anomaly, if you will, is clearly untrue.

I would also ask the Senator from Pennsylvania, is he aware that there is numerous medical testimony, much medical testimony to the effect of how one partially delivers a child, and then restrains the child from exiting the birth canal? And how does that, in fact, help the safety, the health, or even to promote the life of the mother? Is the Senator also aware that on numerous occasions doctors have said, it doesn't?

As a matter of fact, I wondered if the Senator was aware that when President Clinton had several women down at the White House a short time ago after one of these override votes that he is so good at, he also indicated that these were people who had ''needed'' these for their own health. Then we found one particular case of a woman by the name of Claudia Ades, who appeared by telephone on a radio show in which she said during the course of the show: ''This procedure was not performed in order to save my life. This procedure was totally elective. This is considered an elective procedure, as were the procedures of all the other women who were at the White House veto ceremony.''

So I think the Senator would probably agree with me that this was orchestrated and used to promote this terrible procedure which, as the Senator has so eloquently described, is infanticide, is the killing of children.

And to think that somehow you are basically coming to the conclusion that this is OK, based on the part of the child that is outside of the birth

canal. I did not hear whether the Senator pointed this out, but is the Senator aware that if you were to turn the child around, and the head would exit first, that would be illegal under the law? That child could not be killed in this way. Yet 90 percent of the child is still inside the mother's body.

So it is an outrageous procedure. I want to compliment him for his leadership and look forward to joining him a little later on in the debate.

Mr. SANTORUM. I thank the Senator from New Hampshire. The Senator from New Hampshire is someone who deserves a tremendous amount of credit for his courage in coming to the floor 4 years ago, offering this bill, fighting for this, and beginning the battle in the Senate. And he continues to be a stalwart supporter and someone who deserves a lot of credit for the movement that has occurred already.

I will finish my charts, and that is, again, getting back to where this abortion procedure is ''rare.'' Ron Fitzsimmons on ''Nightline,'' in 1997, said that between 3,000 and 5,000 partial-birth abortions could be performed annually. They say they didn't even know because, again, they do not get reports—at least we are told they do not get reports as to how many of these late-term abortions are done in this manner.

The Centers for Disease Control does not track the method of abortion. So we know 1,500 are done in one clinic. And the people at that clinic said they have trained others to do it in New York City. So I hesitate to guess of the thousands upon thousands of living human beings—living human beings—who are brutalized in this fashion, 3 inches away.

As the Senator from New Hampshire just said, if that baby was born head first, even though a smaller portion of the baby's body is out, I think most people in this body would say: Well, you couldn't kill the baby then.

Isn't that funny? Isn't that funny in the sense that we draw these artificial lines that don't exist? We would say, it depends on which way the baby exited the mother as to whether you could kill the baby or not. Think about that. This is the bright line. This is the bright line that we will never cross in our society as to who deserves the protection of our Constitution or not. That is the issue, folks. That is the issue.

Who in this Senate Chamber, who within the sound of my voice is safe if that is the bright line? Who is safe from a group of Senators who think they are being compassionate, who decide that maybe we are better off drawing the line somewhere else, maybe drawing the line that after the baby is born, if the baby isn't what we want. As, again, Dr. Singer, a noted professor at Princeton University, now suggests, why don't we draw the line afterwards?

There is not much difference, folks, is there? There really isn't. Let's get honest about this. What is the difference? It is just a couple of inches. We will be back someday. If we keep this procedure legal, we will be back someday. We will be back someday arguing whether that 3 inches really means anything. It is an artificial line. That will be the argument. Come on. ''What is the difference because it is 3 inches if the baby is really deformed? Let it die. Kill it. Put it out of its misery. This baby is going to die anyway.''

The arguments you are hearing this very day about children who are not wanted because they are not perfect, in our eyes—I know whose eyes they are very perfect in. In the eyes that matter most in this; they are perfect little children. But to those on the Senate floor who argue that because of their imperfection we have to keep this legal, so we can dispose of unwanted, imperfect children—3 inches from legal protection—folks, when the issue is 3 inches, it might as well be 1 inch or half an inch and eventually it is no inches because the 3-inch line is the Maginot Line. It will be blown through at some point when it suits the majority of Americans that they do not want to be bothered with this burden—with this burden. ''It would be better off for this child,'' I am sure the argument will be, ''that we let this baby die or we kill this baby. Why let it suffer?'' That is the argument now—3 inches from protection.

Oh, how those 3 inches will shrink; mark my word. This is not a far-out debate. It is the mainstream of political debate right now that we can kill children 3 inches from birth because they are not perfect. That is the argument. That is the mainstream of thought in America right now.

On the horizon, the Dr. Singers of this world will say: Why quibble over 3 inches? I remind you, step back in your mind, those of you who were here on this Earth 40 years ago, and imagine—close your eyes and imagine—the Senate Chamber without television cameras, without the bright lights, without the microphones, and people on the Senate floor debating whether it is OK to kill a child who is almost born. It would be beyond anyone's possible comprehension that that could have occurred in Manhattan, much less Washington, DC, here in the Senate Chamber. But here we are. Where will we go from here? The Senate can take a stand on that. So far it hasn't in the numbers necessary, but we are working on it.

Lie No. 5: Partial birth abortion is used only to save the woman's life and health and when the fetus is deformed.

Again, Ron Fitzsimmons said:

> The procedure was used rarely and only on women whose lives were in danger or whose fetuses were damaged.

That was 1995. Fast forward to 2 years later. Ron Fitzsimmons admitted he lied through his teeth when he said the procedure was used rarely and only on women whose lives were in danger or whose fetuses were damaged. Yet that is the debate you continue to hear on the floor of the Senate, case after case after case after case of this.

But what did Ron Fitzsimmons say:

> What the abortion rights supporters failed to acknowledge [the people on this floor] 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.

Would you please inform the rest of the Senate, Mr. Fitzsimmons, so they can begin to discuss the facts of this case, not the smoke and the mirrors of this legislation. I guarantee my colleagues, we will have clouds and clouds of smoke hovering over this Chamber over the next 2 days in an attempt to obfuscate what really is going on.

Lie No. 6: Partial-birth abortion protects a woman's health.

> I understand the desire to eliminate the use of a procedure that appears inhumane but to eliminate it without taking into consideration the rare and tragic circumstances in which its use may be necessary would be even more inhumane.

The argument that this protects a woman's health.

President Clinton, again, veto message of 1997:

> H.R. 1122 does not contain an exception to the measure's ban that will adequately protect the lives and health of a small group of women in tragic circumstances who need an abortion performed at a late stage of pregnancy to avert death or serious injury.

A, there is a provision in the bill that says life of the mother is an exception to the ban. Factually incorrect. There is a life of the mother exception. I think it is agreed on all sides that that is not necessary because it would never be used, but we have a prohibition there anyway.

Going to the truth:

> The American Medical Association endorsed the Partial-Birth Abortion Ban Act. The AMA stated that partial-birth abortion is not medically indicated.

I have talked about hundreds of physicians, over 600 obstetricians, not medically necessary.

> The partial-birth abortion procedure, as described by Martin Haskell [the nation's leading practitioner of the procedure] and defined in the Partial-Birth Abortion Ban Act, is never medically indicated and can itself pose serious risks to the health and future fertility of women.

Over 600 obstetricians signed this, over 600, pro-life, pro-choice, signed this.

Those are the facts. This attempt by those who oppose this bill to change the subject to get to Roe v. Wade doesn't obscure those facts.

I will get back to that.

MOTION TO COMMIT

Mr. SANTORUM. Mr. President, I move to commit the bill, and I send a motion to the desk.

The PRESIDING OFFICER (Mr. SESSIONS). The clerk will report.

The legislative clerk read as follows:

> The Senator from Pennsylvania [Mr. SANTORUM] moves to commit the bill to the HELP Committee with instructions to report back forthwith.

Mr. SANTORUM. I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second?

There is not.

Mr. SANTORUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Mr. SANTORUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 2322 TO THE INSTRUCTIONS OF THE MOTION TO COMMIT

Mr. SANTORUM. Mr. President, I send an amendment to the desk to the motion to commit with instructions.

The PRESIDING OFFICER. Until the Senator has the yeas and nays on the motion, the amendment is not in order.

Mr. SANTORUM. I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SANTORUM] proposes an amendment numbered 2322.

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

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

The amendment is as follows:

At the end of the instructions, insert the following:

SEC. . SENSE OF CONGRESS CONCERNING ROE V. WADE AND PARTIAL-BIRTH ABORTION BANS.

FINDINGS.—Congress finds that—

(1) abortion has been a legal and constitutionally protected medical procedure throughout the United States since the Supreme Court decision in *Roe* v. *Wae* (410 U.S. 113 (1973));

(2) no partial birth abortion ban shall apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, illness, or injury.

SENSE OF CONGRESS.—It is the sense of the Congress that—

Partial birth abortions are horrific and gruesome procedures that should be banned.

Mr. SANTORUM. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. SANTORUM. Mr. President, I ask unanimous consent that a vote occur on or in relation to the SANTORUM amendment No. 2322 and the DURBIN amendment No. 2319 in 10 minutes, with the time between now and then to be equally divided, and if the amendment is agreed to, it be considered as an amendment to the bill and the motion to commit be immediately withdrawn.

I further ask consent that there be 2 hours total for debate equally divided prior to a motion to table amendment No. 2321, with the minority time under the control of Senator BOXER, and the vote to occur on or in relation to the amendment no later than 11 a.m. on Thursday, and the Boxer amendment, as amended, if amended, be agreed to without any intervening action.

Mr. DURBIN. Reserving the right to object, may I inquire of the Senator from Pennsylvania on my amendment whether or not it is a straight up-or-down vote on the amendment or a motion to table.

Mr. SANTORUM. I will move to table the amendment.

Mr. DURBIN. Is that the same situation in terms of the amendment offered by the Senator from Pennsylvania and the Senator from Iowa?

Mr. SANTORUM. They could be tabled under this unanimous consent agreement.

Mrs. BOXER. If I may ask my friend to yield for a question, it appears to me that everyone is going to wind up tabling someone else's amendment. So if he can make that clear, it would be helpful.

Mr. SANTORUM. It does say ''on or in relation to'' the amendment, so that means on the amendment or in relation, which is a tabling motion. It is clear under the UC.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

AMENDMENT NO. 2319

Mr. DURBIN. Mr. President, I ask unanimous consent to add two additional cosponsors to my amendment No. 2319: Senator BLANCHE LAMBERT LINCOLN and Senator CHRIS DODD.

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

Ms. COLLINS addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I rise in support of the amendment offered by my friend and colleague from Illinois, Senator DURBIN, and the senior Senator from Maine to ban all late-term abortions, including partial-birth abortions that are not necessary to save the mother's life or to protect her health from grievous physical harm.

Let me be clear from the outset. I am strongly opposed to all late-term abortions, including partial-birth abortions. I agree they should be banned. However, I also believe that an exception must be made for those rare cases when it is necessary to save the life of the mother or to protect her physical health from grievous harm. Fortunately, late-term abortions are extremely rare in my State where, according to the Maine Department of Human Services, just two late-term abortions have been performed in the last 16 years.

This debate should not be about one particular method of abortion but, rather, about the larger question of under what circumstances should late-term or postviability abortions be legally available. The sponsors of this amendment—and I am pleased to be a cosponsor—believe that all late-term abortions, regardless of the procedure used, should be banned except in those rare cases where the life or the physical health of the mother is at serious risk.

In my view, Congress is ill equipped to make judgments on specific medical procedures. As the American College of Obstetricians and Gynecologists, which represents over 90 percent of OB/GYNs and which opposes the legislation introduced by the Senator from Pennsylvania, has said:

The intervention of legislative bodies into medical decisionmaking is inappropriate, ill advised, and dangerous.

Most of us have neither the training nor the experience to decide which procedure is most appropriate in a given case. These medically difficult and highly personal decisions should be left for families to make in consultation with their physicians and their clergy. The Maine Medical Association agrees with this assessment. I ask unanimous consent that an April 1999 statement from the Maine Medical Association be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. ROBERTS). Without objection, it is so ordered.

(See Exhibit 1.)

Ms. COLLINS. Mr. President, in its statement, the Maine Medical Association states that ''such a ban would deny a patient and her physician the right to make medically appropriate decisions about the best course for that patient's care. . . . The intervention of legislative bodies into medical decisionmaking is inappropriate, ill advised and dangerous.''

The MMA statement goes on to say:

. . . when serious fetal anomalies are discovered or a pregnant woman develops a life or health-threatening medical condition that makes continuation of the pregnancy dangerous, abortion—

Unfortunately, I add—

may be medically necessary. In these cases, intact dilation and evacuation procedures may provide substantial medical benefits or, in fact, may be the only option. This procedure may be safer than the alternatives . . . [may] reduce blood loss, and reduce the potential for other complications.

That is what the experts are telling us. That is what the doctors are telling us.

Our amendment goes far beyond, in many ways, what the Senator from Pennsylvania is attempting to accomplish. His legislation would only prohibit one specific medical procedure. It will not prevent a single late-term abortion. Let me emphasize that point. The partial-birth legislation before us would not prevent a single late-term abortion. A physician could simply use

another, perhaps more dangerous, method to end the pregnancy.

By contrast, the Durbin-Snowe proposal would prohibit the abortion of any viable fetus by any method unless the abortion is necessary to preserve the life of the mother or to prevent grievous injury to her physical health.

We have taken great care to tightly limit the health exception in our bill to grievous injury to the mother's physical health. It would not allow late-term abortions to be performed simply because a woman is depressed or feeling stressed or has some minor physical health problem because of pregnancy.

Moreover, we have included a very important second safeguard. The initial opinion of the treating physician that the continuation of pregnancy would threaten the mother's life or risk grievous injury to her physical health must be confirmed by a second opinion from an independent physician.

This second opinion must come from an independent physician who will not be involved in the abortion procedure and who has not been involved in the treatment of the mother. This second physician must also certify—in writing—that, in his or her medical judgment, the continuation of the pregnancy would threaten the mother's life or risk grievous injury to her physical health.

What we are talking about are the severe, medically diagnosable threats to a woman's physical health that are sometimes brought on or aggravated by pregnancy.

Let me give you a few examples: Primary pulmonary hypertension, which can cause sudden death or intractable congestive heart failure; severe pregnancy-aggravated hypertension with accompanying kidney or liver failure; complications from aggravated diabetes such as amputation or blindness; or an inability to treat aggressive cancers such as leukemia, breast cancer, or non-Hodgkins lymphoma.

These are all obstetric conditions that are cited in the medical literature as possible indications for pregnancy terminations. In these extremely rare cases—where the mother has been certified by two physicians to be at risk of losing her life or suffering grievous physical harm—I believe that we should leave the very difficult decisions about what should be done to the best judgment of the women, families, and physicians involved.

The Durbin-Snowe-Collins amendment is a fair and compassionate compromise on this extremely difficult issue. It would ensure that all late-term abortions—including partial-birth abortions—are strictly limited to those rare and tragic cases where the life or the physical health of the mother is in serious jeopardy. This amendment presents an unusual opportunity for both ''pro-choice'' and ''pro-life'' advocates to work together on a reasonable approach, and I urge our colleagues to join us in supporting it.

EXHIBIT 1

The Maine Medical Association takes no position on the moral or ethical issue of abortion. Our membership includes individuals who are ''pro-choice'' and ''pro-life.''

Still, abortion currently is a legal medical procedure in the United States. Accordingly, the Maine Medical Association opposes any legislation proposed to ban any legal medical procedure whether that be abortion, ''intact dilation and extraction'' (partial birth abortion), or another medical procedure. Such a ban would deny a patient and her physician the right to make medical-appropriate decisions about the best course for that patient's care. The determination of the medical need for and effectiveness of a particular medical procedure must be left to the patient and her physician acting in conformity with standards of good medical care.

In addition, imposing civil or criminal sanctions on physicians who perform abortions would have a chilling effect on physicians' willingness to perform legal abortions. Doing so would limit patients' access to safe abortions. The Maine Medical Association opposes such efforts to ''criminialize'' the practice of medicine.

An abortion performed in the second or third trimester or after viability is extremely difficult for everyone involved. The Maine Medical Association does not support elective abortions in the last stage of pregnancy. However, when serious fetal anomalies are discovered or the pregnant woman develops a life or health-threatening medical condition that makes continuation of the pregnancy dangerous, abortion may be medically necessary. In these cases, intact dilation and evacuation procedures may provide substantial medical benefits or, in fact, may be the only option. This procedure may be safer than the alternatives, maintain uterine integrity, reduce blood loss, and reduce the potential for other complications. Also, this procedure permits the performance of a careful autopsy and, therefore, a more accurate diagnosis of a fetal anomaly. This would permit women who wish to have additional children to receive appropriate genetic counseling and better prenatal care and testing in future pregnancies. The intact dilation and extraction procedure may be the most medically appropriate procedure for a woman in a particular case.

The intervention of legislative bodies into medical decision-making is inappropriate, ill-advised, and dangerous. The Maine Medical Association urges the Maine Legislature and the People of Maine to allow the patient and her doctor to determine the most appropriate method of care based upon accepted standards of care in the medical profession and upon the patient's individual circumstances.

The PRESIDING OFFICER. The 5 minutes on the majority side has expired. The Senator from Illinois has 5 minutes.

Mr. DURBIN. May I inquire of the Chair, pursuant to the unanimous consent request, I understood 10 minutes would be allotted for discussion on my pending amendment, and if the Presiding Officer can please clarify what is the current status of that time request.

The PRESIDING OFFICER. The 10 minutes allotted to Senators was for two amendments.

Mr. SANTORUM. I ask unanimous consent that I be given 5 minutes against the Durbin amendment and the Senator from Illinois be given 5 minutes for the Durbin amendment. It will be 5 minutes. I was not aware the Senator was using our time.

The PRESIDING OFFICER. Is there objection?

Mrs. BOXER. Reserving the right to object, since we are adding some time here—and I think we should—I want to have about 2 minutes to speak before we vote on the Santorum amendment.

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

Mr. DURBIN. Mr. President, one last inquiry, so I understand it. As it presently stands, there will be 12 minutes of debate before two votes: First on the Santorum amendment, then the Durbin amendment; then in that 12-minute period, 5 minutes allotted to me, 5 minutes to the Senator from Pennsylvania, and 2 minutes to the Senator from California?

The PRESIDING OFFICER. The Senator is correct.

Mr. DURBIN. I thank the Chair.

I want to say something to my colleagues who are following this debate in their offices. There are not that many on the floor, but many do watch these debates in their offices.

We are coming perilously close to reaching a consensus opinion on one of the most divisive topics that this Congress has ever faced. The Senator from Maine, Ms. COLLINS, and my colleague, Senator SNOWE, on the Republican side of the aisle, and about 10 Members on the Democratic side, finally have said: Let us try to get down to the bottom line and see if we can come out with some commonsense answer to such a divisive issue as late-term abortions.

I respect the Senator from Pennsylvania and his heartfelt views on this. I have said it repeatedly on the floor. But I think if we are going to finally be able to say to the American people, we have followed what we think are your feelings; first, keep abortion safe and legal for women across America; but second, restrict abortions so that they are in situations which are necessary, postviability in particular, that is what the Durbin amendment strives to do. And I thank the Senator from Maine for her kind words.

Here is what it says, very basically: All late-term abortions, regardless of the type of procedure, are prohibited after the fetus is viable; that is, after the moment when it can survive outside the womb, except for two specific exceptions: One, if continuing the pregnancy threatens the life of the mother, or if continuing the pregnancy means the mother runs the risk of grievous physical injury.

We then go on to say—we are serious about this—not only the treating doctor but an independent physician has to certify, in writing, that one of those two conditions are met for any late-term abortion postviability. If the doctor misleads or states something that is not truthful in that certification, he is subject to a civil fine, and with repeated offenses the fine grows and his license to practice medicine can be suspended.

The reason I think we should take care—and I hope my colleagues will

look carefully at this amendment—is that we would finally emerge from this tangled debate with something that many of us can agree on.

I am characterized as a pro-choice Senator. I am offering an amendment which some pro-choice groups do not support. I would hope that some on the pro-life side would look at this as a reasonable way to restrict late-term abortions.

If Senator SANTORUM's amendment passes, and restricts one rare procedure, it will reduce the number of abortions that are involved in that procedure, and they are very small relative to the total number. In all honesty, if my amendment passes, the bipartisan amendment, even more abortions will be restricted after viability. So for those on the pro-life side, it is a situation they should accept, too.

I urge my colleagues to seize this opportunity. It has come along so seldom in the time that I have been up here on this contentious issue. I hope they will understand that ours is an attempt to strike a good-faith compromise, consistent with Roe v. Wade, consistent with the Constitution, that protects a woman's health, as well as her life, in medical emergency circumstances.

I think if we pass this amendment that I have offered, with the help of so many of my colleagues on both sides of the aisle, we will finally say to the American people: Yes, we did come together on the issue of late-term abortion, and we think this is a reasonable way to deal with it.

I will readily concede there are differences of opinion and those on both sides of the aisle who see it differently. But I think I can go before my voters in Illinois, and my family because we talk about this, and explain to them the case histories that I presented on the Senate floor—where mothers, anxious for the birth of their babies, having painted the nursery and named the baby, found, at the last minute in the pregnancy that some terrible complication had occurred, and the doctor said: If you continue the pregnancy, you could die. And if you don't die, you might lose your chance to ever have another baby. Think about that, what the families face; and the doctors said, in that circumstance: We have to go forward with an abortion procedure.

Some of the women involved said: I've been conservative, antiabortion my whole life, and it struck me that it was going to hit me right in the face. I had to deal with it. And they did.

Frankly, any of our families faced with that would want to have every available medical option to save the life of the mother or to protect her from grievous physical injury.

I urge my colleagues to please look carefully at this amendment. We are perilously close to doing something by way of consensus that is a commonsense answer to a very contentious issue.

The PRESIDING OFFICER. The time of the distinguished Senator has expired.

Mr. DURBIN. I yield back my time.

Mr. SANTORUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

PRIVILEGE OF THE FLOOR

Mr. SANTORUM. Mr. President, first, I ask unanimous consent that Heather MacLean and Adam Pallotto from my staff have access to the floor during the consideration of this bill.

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

Mr. SANTORUM. I thank the Chair.

Mr. President, the Durbin amendment purports to ban certain kinds of abortion, and I wish that were true because I think that would be constructive. But it does not.

I do not question the motives of Senator DURBIN, Senator COLLINS, and many others, who, I think, are trying to find some ground where we might be able to meet. But the problem with this amendment is the problem with all these amendments that deal with the issue of health of the mother.

The courts have defined ''health'' so broadly that it includes everything. This definition in the amendment talks about serious, grievous physical injury, and it requires a second opinion.

Here is the second opinion. If I put the phone number on here, and if this bill were to become law, you could call Dr. Warren Hern, who performs many second- and third-trimester abortions, and he will say this: ''I will certify that any pregnancy is a threat to a woman's life and could cause grievous injury to her physical health.''

See, the problem is there are lots of people in this country who would argue that pregnancy itself, following through with a pregnancy, can cause grievous physical injury. And in fact, it could.

So signing a document that says if we did not do this abortion, grievous physical injury would occur, is, by definition, something any doctor—or at least any doctor, Dr. Hern would say—could sign in good faith.

So what you have is a loophole, a loophole that would make this prohibition void. So as good as it sounds—and I do not question the intentions. Senator DASCHLE had offered this amendment in the past, and I certainly did not question his intention. I think there is an honest attempt to say, and I take the speakers at their word, that they do not want to see these kinds of abortions performed. However, when you provide a health exception, in reality the health exception becomes the operation of the bill, which is: There is no limitation.

So as much as I would like to see what the Senator from Illinois purports to have happen with his amendment, his language does not accomplish what he purports to accomplish. So voting for something that, frankly, is hollow, is not effective.

Our bill would, in fact, ban a particular procedure, period, and that is with the life of the mother exception.

If the Durbin amendment was amended to just provide for the life-of-the-mother exception, it would be a different story. But it does not do that.

So as much as I, again, commend those who have signed on to this as an attempt on their part to try to search for some sort of middle ground, I do not think they have found it yet. I am hopeful that good faith and open-mindedness will continue and that they will understand where I am coming from.

This is not a limitation at all, and to put forward such as a limitation would be misleading and I think not particularly constructive to getting at the real problem.

Again, I say—and my amendment that we will be voting on, which is a sense of the Senate, alludes to this—this is a debate about a procedure. And the reason we are debating this procedure is because it is the line in our society that we have drawn about who is covered by our Constitution and who isn't.

I think everyone will agree, once the baby is born, you have constitutional protections. When the baby is inside the womb, the Court has been very clear: you don't. The point is, when the baby is in the process of being born, it is almost completely outside of the mother. How can one suggest that that baby does not have some additional protection or full protection?

We heard the Senator from California say, if the foot was in the mother, they wouldn't be entitled to protection. What is the difference between the foot being inside the mother and the head being inside the mother? Why does one give protection and the other one doesn't? We are going to get into that very kind of fuzzy line. I am not too sure that is a line we want to say is our line of demarcation as to when rights begin or not.

I think we want to be very clear: Once the baby is in the process of being born, that is where the right to abortion ends and that is where infanticide begins. I am hopeful the Senate will make that choice today.

The PRESIDING OFFICER. The time requested by the distinguished Senator has expired.

The Senator from California is recognized for 2 minutes.

Mrs. BOXER. Mr. President, I urge Senators to read the text. It was the Senator from Pennsylvania who talked about the feet. I talked about a baby and when a baby is born.

The Santorum amendment, just as his bill, is a direct overturning of Roe v. Wade, which gave women the right to choose in 1973. Before Roe, 5,000 women a year died because of illegal abortion. Now abortion is safe, and it is legal. Why don't we keep it that way? It is working. It is working for women and their families. It balances the rights of the woman with the rights of the fetus. That is why it says in Roe, in the beginning of a pregnancy, a woman has an unfettered right to choose, and later there can be restrictions. But this is where the Santorum bill steps over

the line. It makes no exception for the health of the woman. Senator DURBIN reaches to that issue. I commend him for his effort.

The fact is, if you make no exception for the health of the woman, you are overturning Roe; there is no question about it. And by using the term ''partial-birth abortion,'' which has never been in any medical directory in the history of medicine—it is a political term—it is so ill-defined that the courts have ruled it would in fact make most abortion illegal.

Listen to what some of the judges have said. In the State of Alaska: It would restrict abortion in general; in the State of Florida: This statute may endanger the health of women who might seek abortion; in Idaho: The act bans the safest and most common method of abortion used in Idaho and, therefore, imposes an undue burden on a woman. It goes on and on.

Nineteen States have said this Santorum language goes against Roe, endangers the life, the health—in particular, the health—of a woman.

I hope we will table the Santorum amendment.

The PRESIDING OFFICER. All time has expired.

Mrs. LINCOLN. Mr. President, I ask unanimous consent to speak for 2 minutes on the Durbin amendment.

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

The Senator from Arkansas is recognized.

Mrs. LINCOLN. Mr. President, I rise today to support the Late Term Abortion Limitation Act of 1999.

I would like to thank Senator DURBIN for working with me and others who oppose later term abortions like the procedure being discussed today, which some have called partial-birth abortion.

Let me start by saying that this is a difficult issue for anyone to discuss. And it is an emotional issue. It is not easy for any of us in this Chamber to discuss terminating a pregnancy.

As a mother who has gotten infinite joy from twin 3-year-old boys and was blessed with a safe and healthy natural delivery, it is an especially sensitive topic for me.

Like many of the people that I represent in Arkansas, I do not believe the so-called partial-birth abortion should be an elective procedure.

We should put an end to all forms of abortion after viability except in cases where a late term abortion is medically necessary to save the life of the mother or when ''grievous injury'' could harm the mother.

Congress has attempted to eliminate what some people call partial-birth abortions in the past. And 30 states have enacted similar legislation. But most efforts to end this horrific procedure have been unsuccessful thus far because the courts have overturned them.

As I have shown during debate on HMO reform and tax reform, I am result-oriented. I believe we're here to get things done, to effect change, instead of scoring political points.

For that reason, I have chosen to support Senator DURBIN's approach to eliminating late term abortions because Senator DURBIN has taken care of the concerns raised by courts and because this legislation will actually reduce the number of late term abortions.

I should point out that, while serving in the House of Representatives, I twice voted in favor of a ban on partial-birth abortions, expressing my concern that the life and serious health of the mother be considered.

Much has happened since then. Nineteen courts have overturned laws very similar to the one I supported. Some rule that the term ''partial-birth abortion'' is too vague.

While I am not a lawyer, I understand the courts' point because all of the doctors I have discussed this issue with tell me that there is no such procedure as partial birth abortion.

In addition, the courts have noted that states cannot regulate or prohibit abortion prior to viability. So it is very important, if we want results from this debate, to specify that we are talking about post-viability.

Senator DURBIN has corrected these prior legislative flaws by referring to abortions after viability rather than partial-birth abortions.

In addition, the Durbin late term abortion ban would eliminate elective late term abortions by requiring not one but two doctors to certify the need for a late term abortion to save the life or serious health of the mother.

I support the Durbin amendment because if Senators really want to ensure that we stop late term abortions, then we should pass legislation that can stand the test of the courts.

The Durbin amendment could stand the test and become law. It has the best chance of producing results.

So if results are what we're looking, if stopping late term abortions—including the so-called partial-birth abortions—is our goal, then this is the right option.

If we vote for other vague measures, we will be right back here next year, and the next year, still debating this issue—without results.

Let's do the right thing and ban unnecessary late term abortions by voting for the Durbin amendment which can stand up to federal court tests.

Mrs. BOXER. Mr. President, I move to table the Santorum amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment No. 2322. The yeas and nays have been ordered. The clerk will call the roll.

The legislative assistant called the roll.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN) is necessarily absent.

The result was announced—yeas 36, nays 63, as follows:

[Rollcall Vote No. 334 Leg.]

YEAS—36

Akaka	Feinstein	Lincoln
Baucus	Graham	Mikulski
Bingaman	Harkin	Murray
Boxer	Inouye	Reed
Bryan	Jeffords	Robb
Chafee	Kennedy	Rockefeller
Cleland	Kerrey	Sarbanes
Collins	Kerry	Schumer
Dodd	Kohl	Snowe
Durbin	Lautenberg	Torricelli
Edwards	Levin	Wellstone
Feingold	Lieberman	Wyden

NAYS—63

Abraham	Dorgan	Lugar
Allard	Enzi	Mack
Ashcroft	Fitzgerald	McConnell
Bayh	Frist	Moynihan
Bennett	Gorton	Murkowski
Biden	Gramm	Nickles
Bond	Grams	Reid
Breaux	Grassley	Roberts
Brownback	Gregg	Roth
Bunning	Hagel	Santorum
Burns	Hatch	Sessions
Byrd	Helms	Shelby
Campbell	Hollings	Smith (NH)
Cochran	Hutchinson	Smith (OR)
Conrad	Hutchison	Specter
Coverdell	Inhofe	Stevens
Craig	Johnson	Thomas
Crapo	Kyl	Thompson
Daschle	Landrieu	Thurmond
DeWine	Leahy	Voinovich
Domenici	Lott	Warner

NOT VOTING—1

McCain

The motion was rejected.

The PRESIDING OFFICER. Without objection, the yeas and nays are vitiated.

The question now is on agreeing to the Santorum amendment, as modified.

The amendment (No. 2322) was agreed to, as follows:

At the appropriate place in the bill, insert the following:

SEC. . SENSE OF CONGRESS CONCERNING ROE V. WADE, AND PARTIAL BIRTH ABORTION BANS.

FINDINGS.—Congress finds that—

(1) abortion has been a legal and constitutionally protected medical procedure throughout the United States since the Supreme Court decision in *Roe* v. *Wade* (410 U.S. 113 (1973)):

(2) No partial birth abortion ban shall apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, illness, or injury.

SENSE OF CONGRESS.—It is the sense of the Congress that—partial birth abortions are horrific and gruesome procedures that should be banned.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 2000—CONFERENCE REPORT

Mr. LOTT. I ask consent that the Senate proceed to the conference report on the bill (H.R. 2670) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2000,

and for other purposes, and ask for its immediate consideration.

The report will be stated.

The clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill, H.R. 2670, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 19, 1999.)

Mr. HOLLINGS. Mr. President, I am pleased to join my subcommittee chairman, Senator GREGG, in presenting to the Senate the fiscal year 2000, Commerce, Justice, State, the Judiciary, and related agencies appropriations conference report. I would like to thank Senator GREGG for his efforts in resolving many of the difficult issues that were encompassed in this bill. As a result of over four weeks of negotiations, the conference report before the Senator today—for the most past—is good and balanced.

As Senator GREGG stated, this agreement includes $39 billion and exceeds last year's appropriation by almost $3 billion. While this sounds like a tremendous increase in funding, for all intent and purpose, this increase is for the 2000 decennial census. Consequently, the funding decisions encompassed in this bill were difficult. Senator GREGG has already covered many of the major issues in this bill so I will not go into great detail. But, I would like to point out to my colleagues some of the highlights of this bill:

The Justice Department accounts for the largest portion of this bill and contains $18.5 billion for many important law enforcement agencies including the FBI, DEA, INS, and Marshals Service. This level of funding is only an increase of $287 million above last year's appropriated level. Within DOJ, the conferees agreed to recede to the Senate's position the Office of Community Oriented Policing Services (COPS) program, and funded the program at the Senate level of $325 million. In addition, $250 million in carryover is available bringing the total budget authority for this program for fiscal year 2000 to $575 million. While many of us would like to see a higher level of funding for this program, I believe that we have provided a responsible level given the austere funding constraints this year.

Mr. President, the conferees also agreed to continue the Safe Schools Initiative that Senator GREGG and I began funding last year. To further efforts in combating violence in and around our schools, we have included $225 million in funding. Included in that funding is $180 million for school resource officers and $30 million for prevention programs.

Regarding the Commerce Department, $8.7 billion is provided for the numerous missions undertaken by the various agencies of the Commerce Department, including stewardship of our nation's oceans and waterways, satellite coverage and weather forecasting, regulation of trade and telecommunications, assistance to rural areas, high risk technology research, and assistance to small manufacturers. Also within this level of funding for the Commerce Department is the $4.47 billion necessary for conducting the constitutionally mandated decennial census. I would like to thank Chairman GREGG for working to resolve the issues around census funding without lengthy and counter-productive debate.

I am pleased that the conference report reflects a level of funding for the National Oceanic and Atmospheric Administration (NOAA) that is closer to the Senate position that the House. NOAA is the premier agency for addressing catastrophic weather conditions as well as daily forecasts. This year has been one filled with natural disasters—everything from droughts, floods, tornadoes, and hurricanes. During this past month while our staff was negotiating on this bill, about 10 million people were evacuated from the coast during Hurricane Floyd. Thanks to NOAA's hurricane research, their flights into the storm their satellite coverage and weather forecasts, the loss of life, while still very tragic, was significantly less than what it otherwise would have been. Mr. President, when we went into conference 6 weeks ago, there was a $600 million difference in funding for NOAA between the House and Senate. The Senate worked diligently to restore NOAA's funding and the conference report reflects those efforts with NOAA funded at an increase of $137 million above last year's appropriated level. Given this agency's missions that include everything from weather forecasting and atmospheric research to ocean and fisheries research and ocean and coastal management, this level of funding in still insufficient, but given the fiscal constraints, it is enough to allow the agency to continue forward with its critical missions.

This conference report provides $5.9 billion for the Department of State and related agencies. This will fund security upgrades for State Department facilities, construction and maintenance of U.S. missions, payment of international organization and peacekeeping funds, and educational and cultural exchanges. This year we are providing $313.6 million in funding for much needed security upgrades at State Department facilities around the world. Incidents such as the bombings in Kenya and Tanzania have reminded us that we cannot dismiss the safety and security of our citizens abroad.

Now I would like to take a moment to thank the staff for all their hard work in bringing this agreement to the floor. Specifically I would like to thank Jim Morhard, Paddy Link, Kevin Linskey, Eric Harnischfeger, Clayton Heil, and Dana Quam of Senator GREGG's staff and Lila Helms, Emelie East, and Tim Harding of my staff. I know that they have all worked long hours during the past 4 weeks, including weekends and late evenings to reach a compromise and I appreciate their efforts. This a large bill that funds the Federal law enforcement, oceans and fisheries, our nations courts and everything in between. Reaching compromise on these myriad accounts is no small task and I thank them for their diligence.

Mr. President, I take this opportunity to give a few words of thanks to someone who has been a tremendous help to me and the Commerce, Justice, State Subcommittee over this last year. That person is Tim Harding, an extremely bright young man who was detailed to me by the Department of Justice COPS on the Beat program.

Tim worked with me and my staff since last winter. He has seen this process through—from receipt of the President's budget, to our congressional hearings, to markup, through our whirlwind day on the Senate floor, and through this month and a half of conference. At every point, Tim was willing and ready to give 100 percent. While we all know the Senate is like no other place, Tim took the time to learn what makes this process work, and he was able to easily adapt. He provided me with memos, helped me with my constituent relations, and drafted good-quality statements for my use during hearings, markup, and floor consideration of our bill. His work will be sorely missed by me and my staff, and I wish him all the best in what promises to be a bright future.

Mr. GREGG. Mr. President, I bring to the floor the conference agreement for the Commerce, Justice, State, and judiciary appropriations for fiscal year 2000.

This conference agreement includes $39 billion for these and other related agencies. This is $2.8 billion above last year's level and $7.9 billion below the President's request. Also, it is $3.6 billion above the Senate level, which includes the additional funding requested for the census.

To start out with, I want to address the department that comprises almost half of the funding in this bill, the Department of Justice. We provide it with $18.5 billion.

Within Justice, we continue counterterrorism measures. A total of $152 million is directed to the counterterrorism program to bolster current counterterrorism initiatives. The conference agreement provides $14 million to the National Domestic Preparedness Consortium for their cooperative efforts. We put emphasis this year on equipment for first responders so that they have what is needed when they arrive first-on-the-scene of any terrorist attack.

We also remain concerned about attacks on computer systems, these being a primary target to sabotage.

The conferees agreed to $18.6 million for the National Infrastructure and Protection Center, through the FBI account, which serves as the central clearinghouse for threats and warnings or actual cyber-attacks on critical infrastructures. The FBI has field computer crime-intrusion squads and computer analysis and response teams to combat cyber crime and sabotage.

However, I remain concerned by the release of the FALN members by the President, and its effect on our overall counterterrorism policy. In the past few years, the Appropriations Committee has worked closely with all aspects of the law enforcement community to hammer out a united, comprehensive counterterrorism strategy. There has been marked improvement in understanding where we need to go to prevent and to be ready for terrorist incidents. The President's clemency agreement takes that understanding and drives a stake in it. The President chose to release members of a known terrorist organization, against the recommendation of the pardon attorney and the Federal Bureau of Investigations.

The FBI is one of the lead agencies on terrorism policy, and the President disregarded their opposition to the clemency agreement. The President's actions went against his own administration and congressional efforts to craft and implement a strong counterterrorism policy.

Ironically, his argument was that none of these individuals had been charged with murder. Terry Nicholas was not charged with murder, but 168 died in the Oklahoma City bombing.

Unfortunately, the President's actions have created a schism in our terrorist policy that may take years to overcome.

Moving to an area that is as horrifying as a terrorist attack, the conference agreement provides funding to address child abductions and missing children. We were able to retain the Senate's Missing Children program, which provides $19.9 million to help law enforcers find and care for missing children. We also fund the FBI's programs to prevent child sexual exploitation on the Internet. These efforts help solve investigations involving missing children by creating specialized cyber units whose purpose is to monitor and react to Internet pedophiles. The FBI works closely with the National Center for Missing and Exploited Children to find the victims of these attacks and return them to their families.

To protect children in schools, the conference agreement recommends $225 million through the Safe Schools Initiative. The availability of these funds for schools, groups, and law enforcement should encourage communities to work together to address the escalation of violence in schools throughout the Nation.

The conferees believe it is also important to encourage out-of-school prevention methods as well. One way to stop juvenile violence is to get young people involved in programs outside of school. The conference agreement includes the Senate number, $50 million, for the Boys and Girls Clubs of America. It retains the Senate language regarding the use of the Internet in the clubs. Additionally, $13.5 is provided for Juvenile Mentoring Programs (JUMP), such as Big Brothers and Big Sisters and similar community programs that bring responsible adults together with children in a mentoring capacity. I believe prevention is preferable to punishment, and these programs can redirect the energies of high risk youth into positive activities.

The conference agreement provides over $537 million for juvenile programs through the juvenile justice budget and accountability incentive grants.

In an effort to combat another problem our society faces daily, the conference agreement supports counter drug efforts by the Justice Department. We provide DEA with $53.9 million for mobile enforcement teams and $17.4 million for regional drug enforcement teams. These teams have the flexibility to go to the hot spots in small cities and towns and provide an immediate, effective response to drug trafficking. They come in at the request of State and local law enforcement and work together to stop drug trafficking.

The agreement also includes $27.1 million for the DEA and $35.6 million for State and local enforcement efforts to end methamphetamine production and distribution.

Under my tenure as chairman, this committee has been supportive of the Violence Against Women Act Programs. The conference agreement includes the Senate level of $284 million. Within this level, $207 million is available for general formula grants to the States. Within those grants, $10 million will be available for programs on college campuses and $10 million for Safe Start programs. In addition, we retained the increase for court appointed special advocates and provide $10 million.

The Senate will be glad to hear we were able to bolster some accounts in conference that had been reduced this year in the Senate bill. The local law enforcement block grant was raised to last year's level of $523 million.

The conferees provide $30 million for police corps; $25 million for grants for bullet proof vests; and $40 million for the Indian country law enforcement initiative.

The State prison grants were increased above the Senate proposed level to $686.5 million, and $420 million was designated for SCAAP.

The last issue I want to address within the Justice Department is funding for law enforcement technology grants. As we approach the new millennium and provide funding for fiscal year 2000, it is important that we ensure that law enforcement is not behind in technology. The conference agreement includes funding of $250 million for law enforcement technology grants. These grants will be available for State and local law enforcement to acquire equipment and training to address criminal activities in our communities.

Moving to Commerce, the conferees recommend a level of $25.6 million for the United States Trade Representative. The International Trade Commission is funded at $44.5 million, and the International Trade Administration is funded at a level of $313.5 million. The funding level for the Bureau of Export Administration is $54 million.

The conferees provide full funding for the Bureau of the Census at a level of $4.8 billion. The decennial census is funded at the Administration's requested level. The Administration sent a budget amendment to Congress as the Senate's Commerce, Justice, State Appropriations measure was being reported to the Senate. Therefore, the committee was unable to incorporate this amendment in the original bill. A hearing was held on the administration's budget amendment in late July, and the conference report before us today contains all of the funds requested by the administration.

The funding for the National Telecommunications and Information Administration includes $26.5 million for the public broadcasting grant program and $15.5 million for information infrastructure grants.

The agreement funds the programs of the National Institute for Standards and Technology (NIST) at a total of $639 million for fiscal year 2000. Of this amount, $283.1 million is for NIST's scientific and technical research and services programs.

NIST's external activities, the Advanced Technology Program (ATP) and Manufacturing Extension Program (MEP) are funded at the levels of $211 million, including carryover balances, and $104.8 million, respectively.

The agreement fund the National Oceanic and Atmospheric Administration programs at a level of $2.3 billion. This funding level will continue vital funding for oceanic and atmospheric research programs which have such strong support in the Senate.

The five major line offices of the agency are funded as follows: the National Ocean Service at a level of $267.3 million; the National Marine Fisheries Service at $403.7 million; the Office of Oceanic and Atmospheric Research at $300 million; the National Weather Service at $603.8 million; and, the National Environmental Satellite, Data and Information Service at a level of $111.4 million.

The agreement also provides funding for the first new fishery research vessel approved for the agency in several years.

The conference agreement contains $10 million to capitalize two funds created under the Pacific Salmon Treaty, and $50 million for a Pacific Salmon Restoration Fund requested by the administration.

A small part of our bill—$3.7 billion—is the judiciary. The conference agreement provides the judiciary with $122 million more than the Senate level. We fully fund defender services, and increase the hourly rate for court appointed public defenders. In addition, the Senate COLA provision was retained.

Now, for the last department in this bill, we provide $5.8 billion to the State Department.

The conferees recommend $254 million for worldwide security under Diplomatic and Consular Programs. We also provided $313.6 million in security-related construction under the Security and Maintenance of U.S. Missions account. These levels will address infrastructure concerns raised by the Dar Es Salaam and Nairobio bombings last year.

Cultural and Educational Exchange Programs are funded at $205 million. These programs give U.S. and foreign citizens the chance to interact on an educational level where cultural diversity can be explored.

The conference agreement includes adequate funding for the agencies related to the State Department, including the Asia Foundation and the National Endowment for Democracy.

Lastly in State, we provide $351 million to cover U.N. arrears, subject to authorization. This represents the final payment associated with the Helm-Biden agreement on UN reforms.

This bill contains a handful of related agencies that act independently of the departments within this bill, and comprise $2 billion of the total of this conference agreement.

For the Maritime Administration, the conference agreement recommends $178.1 million. Within the level, the Maritime Academy receives $34.1 million. The Maritime Security Program is funded at $98.7 million, including carryover balances.

The conference agreement funds the Federal Communications Commission at a level of $210 million. This funding level permits the agency to pay rent in its new location, but does not provide funding for some of the new technology initiatives the agency had hoped to implement in FY 2000.

As requested in the FCC budget, the Senate bill contained a provision permitting the FCC to protect our national spectrum assets. The provision in the Senate bill, Section 618, would have permitted the FCC to re-auction licenses currently entangled in bankruptcy court proceedings. This provision was dropped in conference at the insistence of the House. I regret that it was dropped.

The FCC began auctioning licenses for spectrum in late 1994, and some of the companies who were successful bidders subsequently filed for bankruptcy. The bankruptcy courts have permitted some of these companies to avoid paying their debt to the Federal Government for obtaining these licenses. Billions of dollars are being lost to the treasury because of these rulings. These companies should not be permitted to use these licenses, for which they have not paid in full, as assets in a bankruptcy proceeding. Spectrum licenses are national assets, and the proceeds from the sale of these licenses are the taxpayers' assets. I hope we will be able to revisit this provision at a later date.

The Small Businesses Administration (SBA) is one of the larger agencies in this bill. The conference agreement provides $803.5 million for their SBA. Within the amount, $84.5 million goes to the Small Business Development Centers.

We also provide the Senate level of funding for the Women's Business Centers and National Women's Business Council.

The SBA disaster loan assistance program is funded at a level of $255.4 million.

And, as a last mention on this bill, the agreement before us recommends $125 million for the Federal Trade Commission. Of particular importance is the Senate language regarding the Internet.

The conference agreement contains modified language regarding efforts to police the Internet and U.S. electronic financial markets within the Federal Trade Commission and the Securities and Exchange Commission. The conferees are aware that the explosion of Internet commerce also increases the opportunities for fraud and abuse. We want to ensure that those agencies that monitor the Internet are able to adapt to the increasing activity and match their consumer protection efforts in equal measure.

I think this agreement addresses the issue, yet believe there is still much more to do in the areas of Internet policy.

Overall, I believe this conference agreement of the House and Senate bills provides funding required to execute the needed services and programs under our purview. We have not reduced these accounts like we had to to meet the low Senate allocation. We were able to provide additional funding to these accounts that Senators and the administration thought were not given their due in the Senate bill. The ranking member and his staff participated fully in bringing this agreement to you. I want to extent my thanks for their collegian efforts. They worked with us side-by-side to construct what we believe is a respectable bill.

I urge my colleagues to pass this conference agreement as being a sound compromise.

I would like to take a moment to thank the staff for all their efforts on this conference agreement. Every year they do their best to get this particular bill completed quickly, and, every year we find ourselves jockeying for last position. I know they work hard to avoid this situation. The diverse jurisdiction of this bill tends to lead to controversy somewhere within its's realms even in the best of years. I appreciate the staff giving up weekends and countless nights to bring to Congress a passable CJS appropriations bill. Thanks to my staff, Jim Morhard, Paddy Link, Kevin Linskey, Eric Harnischfeger, Clayton Heil, Vas Alexopoulos, Dane Quam, Brian McLaughlin, and Jackie Cooney.

HATE CRIMES

Mr. KENNEDY. Mr. President, civil rights is still the unfinished business of America. It is unconscionable that Congress would signal that the Federal Government has no role in combating hate crimes in this country. Yet, that is exactly the signal the Republican leadership has sent by eliminating the Senate-passed provisions on hate crimes from the final report of the Commerce-Justice-State Appropriations Act.

Since just after the Civil War, Congress has repeatedly recognized the special Federal role in protecting civil rights and preventing discrimination. This Federal responsibility, based on the 14th amendment to the Constitution, is reflected in a large body of Federal civil rights laws, including many criminal law provisions. These laws are aimed at conduct that deprives persons of their rights because of their membership in certain disadvantaged groups. The Federal criminal law, among other prohibitions, bars depriving individuals of housing rights, destroying religious property because of religious bias, and committing violent acts because of racial hatred.

The point of these laws is not to protect only certain people from violence—we all deserve to be protected. The point is to recognize this special Federal responsibility to stop especially vicious forms of discrimination, and penalize it with the full force of Federal law.

Hate crimes legislation recognizes that violence based on deep-seated prejudice, like all forms of discrimination, inflicts an especially serious injury on society. These crimes can divide whole nations along racial, religious and other lines, as are seen too often in countries throughout the world. These crimes send a poisonous message that the majority in society feels free to oppress the minority. The strongest antidote to that unacceptable poison is for the majority to speak out strongly, and insist that these flagrant acts of violent bigotry will not be tolerated. That is why it is essential for hate crimes legislation to be endorsed by our nation and our communities at every level—Federal, State, and local.

The Hate Crimes Prevention Act of 1999, that so many of us support, is bipartisan. It is endorsed by a broad range of religious, civil rights and law enforcement organizations. It takes two needed steps. It strengthens current laws against crimes based on race, religion, or national origin. And it adds gender, sexual orientation, and disability to the protections in current law.

Earlier this year, the Senate added these important provisions to the Commerce-Justice-State Appropriations Act. But last Monday evening, the Senate-House conferees approved a conference report that does not contain the hate crimes provision. Behind closed doors, the conferees dropped the provisions. As a result, Congress is now MIA—missing in action on this basic issue of tolerance and justice and civil rights in our society.

Clearly, we must find a way to act on this important issue before the session ends. The Federal Government should be doing all it can to halt these vicious crimes that shock the conscience of the nation. State and local governments are doing their part to prevent hate crimes, and so must Congress.

Mr. LEAHY. Mr. President, one of the most significant amendments that the Senate adopted this summer as part of the Commerce-Justice-State appropriations bill was the Hate Crimes Prevention Act. This legislation strengthens current law by making it easier for federal authorities to investigate and prosecute crimes based on race, color, religion, and national origin. It also focuses the attention and resources of the federal government on the problem of hate crimes committed against people because of their sexual orientation, gender, or disability.

I commend Senator KENNEDY for his leadership on this bill, and I am proud to have been an original cosponsor. Now is the time to pass this important legislation

Recent incidents of violent crimes motivated by hate and bigotry have shocked the American conscience and made it painfully clear that we as a nation still have serious work to do in protecting all Americans from these crimes and in ensuring equal rights for all our citizens. The answer to hate and bigotry must ultimately be found in increased respect and tolerance. But strengthening our Federal hate crimes legislation is a step in the right direction.

All Americans have the right to live, travel and gather where they choose. In the past we have responded as a nation to deter and to punish violent denials of civil rights. We have enacted federal laws to protect the civil rights of all of our citizens for more than 100 years. The Hate Crimes Prevention Act continues that great and honorable tradition.

Five months ago, Judy Shepard, the mother of hate crimes victim Matthew Shepard, called upon Congress to pass the Hate Crimes Prevention Act without delay. Let me close by quoting her eloquent words:

> Today, we have it within our power to send a very different message than the one received by the people who killed my son. It is time to stop living in denial and to address a real problem that is destroying families like mine, James Byrd Jr.'s, Billy Jack Gaither's and many others across America. . . . We need to decide what kind of nation we want to be. One that treats all people with dignity and respect, or one that allows some people and their family members to be marginalized.

There are still a few weeks left in this session; we should pass the Hate Crimes Prevention Act this year.

Mrs. MURRAY. Mr. President, I feel compelled to express my concerns with the Commerce, Justice, State, and the judiciary appropriations bill for fiscal year 2000. I am disappointed by the inadequate funding for coastal salmon recovery and the Pacific Salmon Treaty. While I cannot complain about the funding for Washington State in relation to Alaska, California, and Oregon, I do believe the overall funding is woefully inadequate to address the tremendous crisis facing threatened and endangered salmon runs. Each state and their counties and cities are prepared to face the challenge of salmon recovery, but they must be given the tools to do so. The funds for Pacific coastal salmon recovery should be at the President's request level of $100 million.

In relation to the Pacific Salmon Treaty, I must again bemoan the lack of adequate funding. The treaty agreement was signed late in the appropriation process and thus it is understandable that large scale funding would be difficult. However, the funding provided under this conference report does not approach our obligations under the treaty. We need to be signaling the intention of the U.S. to meet its treaty obligations and this bill does not do this. I believe the funding for the Northern and Southern Funds called for under the treaty should be more than the $10 million provided. Furthermore, the elimination of the buy-back money for fishers is not only cruel to the families affected by the fishing reductions, but again does not send the right message to Canada.

In a related matter, the conference report contains legislative language that exempts Alaska from the provisions and requirements of the Endangered Species Act in relation to salmon. While I appreciate the State of Alaska's desire to have the Pacific Salmon Treaty protect its salmon fishery from any jeopardy findings, the provision is not in the spirit of the treaty. The states of Oregon and Washington, as well as the Pacific Northwest tribes, negotiated in good-faith to conclude the treaty. I must support Governor Kitzhaber and Governor Locke and the tribes in their opposition to this provision. This legislative provision is in effect an addendum to the treaty that the treaty negotiators did not agree to. It should be removed.

I am very disappointed the conference did not adopt the language of the Hate Crimes Prevention Act. Hate crime is real. Despite great gains in equality and civil rights over the latter part of the century, hate crimes are still being committed and offenders must be punished. Including this provision would have given us more tools to fight hate. The proposal would have expanded the definition of a hate crime and improved prosecution of those who act our their hate with violence. If someone harms another because of race, gender, color, religion, disability or sexual orientation, they would be punished.

I am very disappointed that the conference failed to include the Senate language of the Hate Crime Prevention Act. Along with many of my colleagues, I will continue to push this legislation. It is about basic human rights for those who all too often persecuted while the majority looks the other way.

I am also unhappy the Community Oriented Policing Services Program (COPS) was so underfunded. The Subcommittee mark in the Senate included no funding for COPS. Some of us on the full Appropriations Committee restored a modest amount of money to the program. The President requested $1.2 billion, but the conference funded COPS at only $325 million. That is wrong.

COPS is one of the most successful programs of this decade. The initiative to get an additional 100,000 new police officers on the streets was widely criticized by many from the other side of the aisle. They said that the federal government could never successfully assist local law enforcement. They were wrong. The program is now praised by former opponents, the states are happy with it, and it has proven to be very effective.

Another problem is that once again behind closed doors, we continue to assault reproductive health care for women. Section 625 of this conference report includes a major authorizing change that was not part of the House or Senate passed bills. We did not debate or discuss this major expansion of the conscience clause included in Public Law 106–58, FY00 Treasury Postal Appropriations.

For those members who were not in this closed door meeting, let me explain. Section 625 would allow a pharmacist to object to providing a woman with a prescribed contraceptive if he or she felt the use of this contraceptive was contrary to their own individual religious beliefs or moral convictions. Pharmacists can make a moral judgment and deny women access to emergency contraceptives or any form of contraceptive.

We already allow plans participating in the FEHBP to object on religious grounds to providing reproductive health services; we now will allow pharmacists to deny women access. A small town pharmacist could simply object to filling a prescription because she morally objects to the use of contraceptives. A woman is now subjected to the moral judgment of her pharmacists. Is she free to simply go to another pharmacy? In many rural communities there really aren't nearby other options. In addition, many plans require use of a preferred provider for pharmacy benefits. What happens if your preferred provider is morally opposed to providing contraceptives?

I do not oppose conscience clauses, but I do oppose denying women access to legally prescribed contraceptives simply based on moral objections. This is simply outrageous and once again the threat to women's health is ignored.

Let me end on a positive note. I am appreciative of the subcommittee's work to provide $5 million in State Department monies for costs related to the World Trade Organization Ministerial meeting which will be held in Seattle, WA. The President requested $2 million and I am pleased Senator GREGG and Senator HOLLINGS agreed to my request for a significant increase for WTO expenses. I had hoped for some additional language to ensure that the State Department reimbursed localities in Washington State for legitimate WTO police and fire expenses. The WTO Ministerial will be the largest trade meeting ever held in the United States, both the Federal Government and Washington State are bearing significant costs to host the world's trade negotiators. I expect and I will push the State Department to be responsive to the needs of local governments in Washington State in the expenditure of these additional monies.

Mr. JEFFORDS. Mr. President, I thank Senator GREGG for recognizing the need of three Vermont towns to upgrade, modernize and acquire technology for their police departments in this Conference Report. Allowing these police departments to improve their technology will permit them to increase the efficiency and effectiveness of the services they provide.

Reflecting the needs of the police departments, the $1 million in technology funds for these three towns should be divided on the following basis: one-half ($500,000) to the Burlington Police Department, one-third ($333,000) to the Rutland Police Department, and one-sixth ($167,000) to the St. Johnsbury Police Department. Again, I appreciate his help in addressing the technology problems these towns' police departments are facing. I look forward to working with him to get this important appropriations bill signed into law.

Mr. LOTT. I ask unanimous consent the conference report be agreed to and the motion to consider be immediately laid upon the table.

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

The conference report was agreed to.

PARTIAL-BIRTH ABORTION BAN ACT OF 1999—Continued

Mr. LOTT. The upcoming vote will be the last vote this evening. Senators who wish to debate the partial-birth abortion issue should remain this evening for statements. The next vote will be at 11 a.m. tomorrow morning relative to amendment No. 2321.

I thank my colleagues on both sides of the aisle and both sides of this issue for their cooperation.

I yield the floor.

VOTE ON AMENDMENT NO. 2319

The PRESIDING OFFICER. The question is on agreeing to the Durbin amendment No. 2319.

Mrs. BOXER. I ask for the yeas and nays.

Mr. SANTORUM. I move to table the Durbin amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment No. 2319. The yeas and nays have been ordered. The clerk will call the roll.

The legislative assistant called the roll.

Mr. NICKLES. I annnounce that the Senator from Arizona (Mr. MCCAIN) is necessarily absent.

The result was announced—yeas 61, nays 38, as follows:

[Rollcall Vote No. 335 Leg.]

YEAS—61

Abraham	Fitzgerald	McConnell
Allard	Frist	Murkowski
Ashcroft	Gorton	Murray
Bennett	Gramm	Nickles
Bond	Grams	Reed
Boxer	Grassley	Roberts
Brownback	Gregg	Roth
Bunning	Hagel	Santorum
Burns	Hatch	Schumer
Campbell	Helms	Sessions
Chafee	Hollings	Shelby
Cochran	Hutchinson	Smith (NH)
Conrad	Hutchison	Smith (OR)
Coverdell	Inhofe	Stevens
Craig	Inouye	Thomas
Crapo	Jeffords	Thompson
DeWine	Kyl	Thurmond
Domenici	Lautenberg	Voinovich
Dorgan	Lott	Warner
Enzi	Lugar	
Feinstein	Mack	

NAYS—38

Akaka	Edwards	Lincoln
Baucus	Feingold	Mikulski
Bayh	Graham	Moynihan
Biden	Harkin	Reid
Bingaman	Johnson	Robb
Breaux	Kennedy	Rockefeller
Bryan	Kerrey	Sarbanes
Byrd	Kerry	Snowe
Cleland	Kohl	Specter
Collins	Landrieu	Torricelli
Daschle	Leahy	Wellstone
Dodd	Levin	Wyden
Durbin	Lieberman	

NOT VOTING—1

McCain

The motion was agreed to.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER (Mr. HAGEL). The Senator from Ohio.

PRIVILEGE OF THE FLOOR

Mr. DEWINE. Mr. President, I ask unanimous consent that Brittany Feiner be granted the privilege of the floor for the duration of Senate consideration of S. 1692.

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

Mr. DEWINE. Mr. President, I rise this evening to, once again, strongly urge my colleagues to vote to ban partial-birth abortion. Three times Congress has voted to pass legislation to ban the barbaric practice of partial-birth abortion—but tragically, at every opportunity, the President of the United States has vetoed the act of Congress to ban this needless and horrific procedure.

The words of Frederick Douglass uttered more than 100 years ago I believe are very applicable to this discussion. This is what Frederick Douglass said:

> Find out just what any people will quietly submit to and you have found out the exact measure of injustice and wrong which will be imposed upon them, and these will continue till they are resisted. . . .

We must continue our struggle to ban partial-birth abortion in this country. We are debating a national question that in my ways, is not unlike the issue of slavery, in part, because opponents of this legislation are truly using artificial arguments to justify why certain people, in their opinion, have no legal status and no civil, social, or political rights. Those opposing the partial-birth abortion ban imply that the almost-born child has no right to live. Clearly, the vast majority of the American people, and a majority of Congress disagree.

Every year the tragic effect of this extreme indifference to human life becomes more and more apparent. We must ban this procedure. We must simply say that enough is enough.

In my home State of Ohio, two tragic cases of partial-birth abortions did not go ''according to plan.'' Each reveals, in its own way, the unpleasant facts of this horrible tragedy of partial-birth abortion.

On April 6, in Dayton, OH, a woman went into the Dayton Medical Center to undergo a partial-birth abortion. This facility is operated by Dr. Martin Haskell, a pioneer of the partial-birth abortion procedure. Usually this procedure takes place behind closed doors, where it can be ignored—its morality left outside.

But, this particular procedure was different. Here is what happened.

The Dayton abortionist inserted instruments known as laminaria into the woman, to dilate her cervix, so the child could eventually be removed and killed. This procedure usually takes 3 days.

This woman went home to Cincinnati, expecting to return to Dayton for completion of the procedure in 2 or 3 days. But, her cervix dilated too quickly and so shortly after midnight, she was admitted to Bethesda North Hospital in Cincinnati.

The child was born. A medical technician pointed out that the child was alive. But apparently her chances of survival were slim. After 3 hours and 8 minutes, this baby died. The baby was named Hope.

On the death certificate is a space for ''Method of Death.'' And it said, in the case of Baby Hope, ''Method of Death: Natural.'' That, of course, is not true. There was nothing natural about the events that led to the death of this poor innocent child.

Baby Hope did not die of natural causes. Baby Hope was the victim of

this barbaric procedure—a procedure that is opposed by the vast majority of the American people. It is a procedure that has been banned three times by an act of Congress—only to see the ban overturned by a veto by the President of the United States.

The death of Baby Hope did not take place behind the closed doors of an abortion clinic. The death of this baby took place in public—in a hospital dedicated to saving lives, not taking them. This episode reminds us of the brutal reality and tragedy of what partial-birth abortion really is, the killing of a baby—plain and simple.

And, almost to underscore the inhumanity of this procedure—4 months later, in my home State of Ohio it happened again. This time, though, something quite different occurred.

Once again, the scene is Dayton, OH. This time on August 18, a woman who was 25-weeks pregnant, went into Dr. Haskell's office for a partial-birth abortion. As usual, the abortionist performed the preparatory steps for the barbaric procedure by dilating the mother's cervix. The next day, August 19, the mother went into labor, and was rushed to Good Samaritan Hospital. This time, however, despite the massive trauma to this baby's environment, a miracle occurred. By grace, this little baby survived, and so she now is called ''Baby Grace.''

I am appalled by the fact that both of these heinous partial-birth abortion attempts occurred anywhere, but particularly because in my home State. When I think about the brutal death of Baby Hope and then ponder the miracle of Baby Grace, I am confronted with the question—a haunting question that we all face—Why can't we just allow these babies to live?

Opponents of the ban on this ''procedure'' say that this procedure is necessary to protect the health of women. We know from testimony that we heard in our Judiciary Committee that that simply is not true. The American Medical Association says that this procedure is never—never—medically necessary. In fact, many physicians have found that the procedure itself can pose immediate and significant risks to a woman's health and future fertility. Clearly, the babies did not have to be killed in the Ohio cases I just cited. No. The babies were both born alive. One survived; one did not.

Why does the baby have to be killed?

Opponents of this legislation say that this procedure is only used in emergency situations, when women's lives are in danger. Again, from the testimony that we heard in the Judiciary Committee, we know this is absolutely not true. It seems strange that a 3-day procedure would be used and the mother sent home if, in fact, we were dealing with an emergency. Nevertheless, even abortionists say that the vast majority of partial-birth abortions are elective. Dr. Haskell, the Ohio abortionist, stated as follows: ''And I'll be quite frank; most of my abortions are elective in that 20–24 week range.''

Why? Why? Why does the baby have to be killed?

Opponents of this bill say that this procedure is necessary when a fetus is abnormal. Now, I do not believe the condition of the fetus ever warrants killing it. But, even abortionists and some opponents of this ban agree that most partial-birth abortions involve healthy fetuses. The inventor of this procedure himself, the late Dr. James McMahon, said ''I think, 'Gee, it's too bad that this child couldn't be adopted.' ''

So, again, the question: Why does the baby have to be killed?

Opponents of this bill say that this partial-birth procedure is rare. But, again, that is not true either. Even the director of the National Coalition of Abortion Providers admitted that there are up to 5,000 partial-birth abortion procedures in the United States.

Why? Why does the baby have to be killed?

Opponents say that this ban violates Roe v. Wade, and so it is unconstitutional. But, anyone who has read the case knows that Roe declined to consider the constitutionality of the part of the Texas statute banning the killing of a child who was in the process of delivery. And, the Supreme Court again declined to decide this issue in Planned Parenthood v. Casey.

Again, we must ask, why does the baby have to be killed?

Opponents say this bill is unconstitutional because it doesn't have a ''health exception.'' First, the ''health exception'' is defined by Doe v. Bolton so broadly as to make the ban unenforceable—effectively gutting the bill. We know that is how the courts have defined the ''health exception'' in abortion legislation. Both sides of this debate fully understand that.

The American Medical Association itself has stated:

> There is no health reason for this procedure. In fact, there is ample testimony to show that all of the health consequences are more severe for this procedure than any other procedure used.

Further, the AMA concluded:

> The partial delivery of a living fetus for the purpose of killing it outside the womb is ethically offensive to most Americans and physicians. (New York Times, May 26, 1997).

I ask my colleagues who wish to continue to allow this heinous procedure by upholding the President's veto, why? Why does the baby have to be killed? Why do babies, inches away from their first breath, have to die? Something is terribly wrong in this country when these babies continue to be killed.

With the advent of modern technology, we can sustain young life in ways we could not have just a few short years ago. Those of us who have had the privilege of going into neonatal intensive care units in our States have seen the miracles being worked today with precious, tiny children. Medical science can keep babies alive who are only 22 weeks, 23 weeks, children who before would simply not have survived.

While we have this great technology, while we have made such great advances, while we are saving so many innocent children, at the same time we have also perfected and created more and more savage ways of killing other children, other babies who are the same level of development.

I think we are destroying ourselves by not admitting as a society that partial-birth abortion is an evil against humanity. I believe there will be more and more horrible consequences for our Nation if we do not ban this cruel procedure. As a friend of mine reminded me, no culture can be demolished without the voluntary cooperation of at least a number of its own members. We must stop and ask, to what depths has the American conscience sunk? When it comes to abortion, is there nothing to which we will say no? Is there nothing so wrong, so cruel that we will not say, as a society, we will not tolerate this; we will not put up with this; this is going simply too far?

Partial-birth abortion is a very clear matter of right and wrong, good versus evil. It is my wish that there will come a day when my colleagues and I no longer have to come to the floor, to debate this issue. I hope we have the votes this year to not only pass the partial-birth abortion ban, but also to override the President's veto. We have to do it. It is the right thing to do, because innocent children are dying every day in America because of this horrible, barbaric procedure.

Let us ban this procedure which kills our partially born children, and let's do it for our children.

I thank the Chair, and thank my colleagues. I congratulate Senator SANTORUM for bringing this matter to the floor, and Senator SMITH, who has so long been a proponent of doing away with partial-birth abortion.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I thank the Senator from Ohio, Senator DEWINE for his eloquent remarks that were delivered in such a way as to touch the conscience of all of us. I join him in also thanking Senator SANTORUM for his insightful, intelligent, and passionate commitment to ending this horrible procedure which, by any definition, is not good for this country.

I also appreciate the leadership of Senator BOB SMITH, who is here tonight. Senator SMITH started this debate a number of years ago. I don't know if people thought he was even telling the truth about it or not. They didn't know it was really going on. But as time has gone by, we have seen more and more that this procedure is horribly true and much more common than we knew.

This is a bipartisan effort, Republicans and Democrats. We have joined together, and I think it is important we work together to not just talk about this problem but to end it.

Some, I think, would prefer not knowing about it. They do not want to be told the gruesome details of this procedure; how a child, a baby, just 3 inches from birth, is deliberately and systematically killed. That is not something people want to talk about. They cringe and wish it would go away. I wish the procedure would go away. Unfortunately, it has not. It is so cruel, so inhumane, and so unnecessary, I believe this legislation is justified and necessary to prevent it.

A number of people during this debate have expressed concern about the life of the mother. I have heard this argument during my time on the Senate Judiciary Committee, serving with Senator DEWINE and others. We have had a number of hearings on this subject.

The bill, crafted by Senator SANTORUM, provides for this contingency. It would permit this procedure, partial-birth abortion, but only ''to save the life of a mother whose life is endangered by physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from pregnancy itself.''

These are the kinds of exceptions that are in this bill. Some may say, as most physicians do, that these exceptions are not necessary. It is never the kind of occurrence that would justify this procedure. But it is in this bill. It makes me wonder why those who are concerned about the health of the mother are not able to read those words and understand them. The truth is clear. This bill will not endanger the life of the mother.

The fact is, the American Medical Association has noted that this procedure is never medically necessary. It is not the kind of procedure we need to use. It is a convenient procedure that abortionists have found they like to use. I don't think it is necessary and it should be outlawed.

So there is broad bipartisan support for the bill from both pro-life and pro-choice people. I think that shows what we are debating goes beyond the traditional debate on abortion. This support exists because the partial-birth abortion procedure deeply offends our sensibilities as human beings and as a people who care for one another, who know that life is fragile and believe that people need to be treated with respect and dignity and compassion. The Declaration of Independence notes life, liberty, and the pursuit of happiness, those are ideals of American life. A child partially born has those rights ripped from them in a most vicious way.

This is a dangerous policy. It is a thin line, a thin thread that we are justifying a procedure that is so much and, I think, in fact is infanticide. It is an unjustifiable procedure we are dealing with.

There has been a tremendous amount of debate on the number of partial-birth abortions performed each year. The pro-abortion groups and others have emphatically insisted that the total number of partial-birth abortions performed was small, and they were only performed in extreme medical circumstances. Therefore, they say the Federal Government should not pass laws about it. But now we know the truth. It has come out in dramatic form. Their issue, that this procedure is rare and only for extreme circumstances, has plainly been established to be false.

These claims were either manufactured or disseminated in an attempt to minimize the significance of the issue.

As reported in a 1997 front-page article in the Washington Times, Mr. Ron Fitzsimmons, executive director of the National Coalition of Abortion Providers—let me say that again, the executive director of the National Coalition of Abortion Providers, who has been traveling the country and saying these procedures were rare—admitted, that he had ''lied through his teeth'' about the numbers of partial-birth abortions performed. Mr. Fitzsimmons estimated ''that up to 5,000 partial-birth abortions are performed annually and that they're primarily done on healthy women and healthy fetuses.''

That is a fact. That is what we are dealing with today. Those who would oppose this procedure, I believe, are not as concerned—or at least are not thinking clearly—when they suggest their opposition is based on their concern for the health and safety of the mother. I say to my colleagues on both sides of the aisle, how can we answer to our children, our constituents, and others if we allow children to be destroyed through this brutal partial-birth abortion procedure? So I think if we are a nation that aspires to goodness, that aspires to be above the course and to reach minimum standards of decency, this legislation is needed.

I find it very puzzling that there is such resistance to the banning of just this one brutal procedure. I ask myself, what is it? I have heard it said that, well, the people who oppose partial-birth abortions do so for religious reasons, as if that is an illegitimate reason. Was it illegitimate for Martin Luther King to march for freedom based on his belief in the Scriptures? It is not an illegitimate reason if you have a religious motivation. But that has been a complaint about those who would question this.

I have analyzed the opposition to this partial-birth abortion bill and I can't see that it can be founded on law. I can't see that it can be founded on science; the AMA says it is not necessary. I can't see that it can be founded on ethics. Certainly, it seems to me that it is so close to infanticide—if not in fact infanticide—that it is difficult to see how it could be argued ethically. Why is it? The only thing I can see is that there is a sort of secular religious opposition to any control whatsoever on abortion—we will never agree to anything, any time, anywhere, no matter what you say. We are going to allow these procedures to go forward just as long as the abortionists wish to perform them and you, Congress, should never intervene in any aspect of it.

I don't believe that is a rational argument. It is not justified. This legislation is specific; it is directed to a procedure that all good and decent people, I believe, if they knew the facts and studied it, would know to be an unacceptable procedure. It would ban one procedure and it would not affect other abortions. I think all good Americans should be for it. I will be deeply disappointed if the President of the United States insists once again on vetoing this legislation, which has the overwhelming support of the Members of Congress and the American people. I don't see how it is possible that we continue to come back to this floor again and again over this issue. But it is going to continue because the procedure continues. Lives are being eliminated in a way that is unhealthy and not good for America. It is below the standards to which we ought to adhere. I thank Senator SMITH, who is here, and Senator SANTORUM for their leadership and dedication to this issue.

I yield the floor.

Mr. GRAMS. Mr. President, I offer my support today of S. 1692, the Partial-Birth Abortion Ban Act of 1999, introduced by my colleague, Senator SANTORUM. Congress has twice passed legislation outlawing partial-birth abortion, only to have it vetoed by the President for fallacious reasons. It is time that we close this shameful chapter in our nation's history during which we have permitted the destruction of fully-formed, viable human beings in a most gruesome and shockingly cold-hearted manner. If there is a meaningful distinction between this abortion procedure and infanticide, it escapes me.

I know that there is a certain numbing fatigue that sets in when we are forced to once again review the details of the partial-birth abortion procedure. But we must not let our aversion to the particulars of the procedure cause us to turn away from addressing the cruel injustice of it. I commend Senator SANTORUM for his persistence in pursuing this legislation. Congress must keep the pressure on President Clinton to stop opposing the bill and sign it into law.

It is time for President Clinton to abandon the false claim that somehow this bill would jeopardize the health of a mother unless a so-called health exception permitting the procedure is not added to the bill. President Clinton knows that the term ''health'' in the context of abortion has become so broadly defined by the Supreme Court that it would strip this bill of any force, and would render the entire bill meaningless. Former Surgeon General C. Everett Koop has denounced this false argument, asserting that ''partial-birth abortion is never medically

necessary to protect a mother's health or her future fertility. On the contrary, this procedure can pose a significant threat to both.'' The American Medical Association has also expressed support for the partial-birth abortion ban, noting that the Santorum bill ''would allow a legitimate exception where the life of the mother was endangered, thereby preserving the physician's judgment to take any medically necessary steps to save the life of the mother.''

The bottom line is, the alternative bill that has been offered by the minority leaders in the past, and which we will likely see again, extends no real protection at all to unborn children. Again, the so-called health exception it adopts essentially renders the bill meaningless, and offers opponents to the Santorum bill only a cosmetic, public relations cover to veil their commitment that abortion should be free of any reasonable restrictions.

To allow this partial-birth procedure to continue to be performed across our land cheapens the value of life at all stages, for the unborn, the physically handicapped, and the feeble elderly. Our government must affirm life and not let our civil society decay into a mentality that only the strong and self-sufficient should survive and the weak can be considered expendable.

President Clinton once said that he wanted abortion to be ''safe, legal, and rare.'' He has worked very hard to keep it ''legal,'' in the sense of being completely free of any restrictions. It is now time for Congress and the President to make the partial-birth method of abortion truly rare by passing and signing S. 1692.

Ms. SNOWE. Mr. President I rise today to oppose the so-called ''Partial Birth'' Abortion Ban.

In 1973 the Supreme Court held that women have a constitutional right to an abortion. That decision—Roe v. Wade—was carefully crafted to be both balanced and responsible while holding the rights of women in America paramount in reproductive decisions. This decision held that women have a constitutional right to an abortion, but after viability, states could ban abortions as long as they allowed exceptions for cases in which a woman's life or health is endangered.

The legislation before us today is in direct violation of the Court's ruling. It does not ban postviability abortions as its sponsors claim, but it does ban an abortion procedure regardless of where the woman is in her pregnancy. And this legislation, as drafted, does not provide an exception for the health of the mother as required by law, and provides a very narrow life exception. In fact, the legislation's exception only allows that the ban, and please let me quote from the bill here, ''shall not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, illness, or injury.'' Not her health, but only her life.

There is no question that any abortion is an emotional, wrenching decision for a woman. No one would debate this. And when a woman must confront this decision during the later stages of a pregnancy because she knows the pregnancy presents a direct threat to her own life or health, the ramifications of such a decision multiply dramatically.

We stand on the floor of this body day after day and pontificate on laws, treaties, appropriations bills, and budget resolutions. But how often do we really, truly consider how a piece of legislation will affect someone specific . . . a wife or a husband . . . a mother or a father? And I don't mean knowing how the budget numbers or appropriations will generally help our constituents, I mean considering the very, very personal lives of our constituents.

This last March the Lewiston Sun Journal, a paper in my home state of Maine, ran an article about a woman in Maine, one of the women that I was elected to represent, who had faced the heartbreaking decision of a late-term abortion. Before I tell my colleagues her story, I ask unanimous consent that this article be printed in the RECORD at the conclusion of my remarks.

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

(See Exhibit 1.)

Ms. SNOWE. Mr. President, Barbara and her husband had been ecstatic when they discovered that they were expecting a child—an unborn daughter they would name Tristan. But this anticipation and delight turned to profound sorrow when, at 20 weeks into the pregnancy Tristan was diagnosed with a rare genetic disease called Edwards' syndrome. An extra chromosome in Tristan's DNA had caused lethal abnormalities.

The Sun Journal reports that ''Their daughter would have severe heart and gastrointestinal problems, they were told. In an ultrasound image, they could already see cystic tissue forming on top of Tristan's brain and partly outside of the skull tissue. The shape of her stomach and diaphragm muscle were abnormal. Her diaphragm was perforated. Her stomach was growing in her heart and lung cavity. In all likelihood Tristan wouldn't be born alive. She probably would suffocate before that because her lungs would be so underdeveloped. Barbara and her husband were told that no surgery could or would be possible.'' In fact, doctors predicted that Tristan would probably die before she was born. And if not, she had a 95 percent chance of dying before her first birthday.

Barbara told the Sun Journal that ''It seemed to us that it would be cruel, that it would be absolute torture to put our little girl through the pregnancy. . . . With her heart and her lungs being crushed by her stomach and her diaphragm. We were worrying what it would feel like. What sensation she might be experiencing as the cystic tissue continued to grow on her brain.'' And as Barbara and her husband consulted other medical specialists and prayed over the fate of their daughter, Barbara remembers that ''I was so afraid for my baby. I didn't want her to feel any pain in the last hours of her life. . . . It wasn't really life yet. She wasn't born.''

Barbara remembers that ''Loving the baby was never part of the discussion. . .. Of course you would love the baby no matter what was going on, disability or healthy. I think sometimes there's a misperception about that, that love might be conditional based on whether it's a perfect fetus or not.''

This family in Maine is what the debate today is really about—when does the State have the right to tell Barbara and her husband that they cannot have the abortion they believe to be the best medical procedure? A procedure that will protect her health and her future fertility? At the very end of her story, Barbara tells the Sun Journal that women who have abortions are unfortunately ''portrayed as some kind of careless monsters without any kind of moral direction. The people who know me would be aghast that that's how I'm seen by people who don't even know me.''

I stand before this body today and I am saddened that there are those out there who would so judge Barbara and her husband. Because I do believe they have moral direction—and I don't believe that I or my fellow Senators should be able to tell them when a decision such as this is wrong or medically inappropriate. I don't believe that I have the medical training necessary to decide when one type of medical procedure is best used over an alternative procedure.

And let there be no doubt about it, this legislation does nothing but create an inflammatory political issue. This legislation does nothing to end postviability abortion—nothing—or to prevent unwanted pregnancies. And courts around the country have recognized this.

In fact, of the 30 states that have enacted legislation banning so-called ''partial birth'' abortions, there have been 21 court challenges and 19 of these challenges have been either partially or fully enjoined while their constitutionality is considered. Four U.S. Courts of Appeal have ruled on the issue—and just this September, the U.S. Court of Appeals for the Eighth Circuit affirmed three trial court injunctions on partial birth abortion bans in Arkansas, Iowa, and Nebraska.

When the Kentucky District Court overturned its State's ban on these so-called ''partial birth'' abortions this year, the author of the decision, the Honorable John G. Heyburn, II, said ''By adopting a considerably less precise definition of a partial birth abortion, the legislature not only defined the terms of its prohibition, but also said a lot about its own collective intent. Though the Act calls itself a partial birth abortion ban, it is not. The

title is misleading, both medically and historically. . . . A few [legislators] seem to disregard the constitutional arguments and push for language which they believed would make abortions more controllable.''

And though proponents of this legislation claim that these bans address only one abortion procedure, courts have disagreed. Last year, the Honorable Charles P. Kocoras, a U.S. District Judge for the Northern District of Illinois, also struck down an Illinois law banning these so-called partial birth abortions. In his opinion Judge Kocoras stated that, ''[The Act] has the potential effect of banning the most common and safest abortion procedures. . . . To ensure that her conduct does not fall within the statute's reach, the physician will probably stop performing [all] such procedures. . . . Because the standard in [the Act] effectively chills physicians from performing most abortion procedures, the statue is an undue burden on a woman's constitutional right to seek an abortion before viability.''

And this year, the Honorable G. Thomas Porteous, writing for U.S. District Court for the Eastern District of Louisiana said that the Louisiana ''Partial Birth'' Abortion ban ''advances neither maternal health nor potential life and clearly would create undue burdens on a woman's right to choose abortion. At most, the Act may force women seeking abortions to accept riskier or costlier abortion procedures which nevertheless result in fetal death.''

Riskier or costlier? At what price? Can you ask Barbara and her husband to risk that? They desperately wanted their baby—and though they were faced with losing her they knew that they would want to try again. Four years later they have a beautiful 2½-year-old daughter. But they would not have this daughter nor even had the chance to try again had Barbara been forced to have a procedure that threatened her ability to have another child. What if the riskier or costlier procedure Judge Porteous referred to had been a total hysterectomy?

Is this what we really want? To put Barbara's health and life at risk? To put women's health and lives at risk? Shouldn't these most critical decisions be left to those with medical training, and not politicians?

I believe so. I believe that a decision such as this should only be discussed between a woman, her family, and her physician. I am absolutely and fundamentally opposed to all post-viability abortions except in the instances of preserving the life of or preventing grievous physical injury to the woman. This legislation neither provides for those exceptions nor does it prevent post-viability abortions.

I yield the floor.

EXHIBIT I

[From the Lewiston (ME) Sun Journal, Mar. 7, 1999]

ABORTION: ONE WOMAN'S STORY

(By Christopher Williams)

For weeks Barbara and her husband had consulted medical experts and researched scientific journals. They meditated and prayed.

To the visible mound protruding above her waist Barbara spoke quietly, lovingly. She sang to it. She sometimes felt the light flutter of kicks.

The day before final tests had confirmed the diagnosis, Barbara and her husband had named their unborn daughter Tristan, which means tears and sadness.

Then the time came for Barbara's decision.

It's not the kind of choice that any mother ever wants to have to make.

She would have an abortion.

''I didn't feel like I was taking my baby's life away,'' she says ''I felt like it had already been taken away from her. And all that was left for me to have any control over was what was going to be the least painful for her.''

QUALITY OF LIFE

It was the last day of summer.

Barbara made the 2½-hour trip from her Camden home to Portland. She rocked all night in a motel room, crying, unable to stop.

At 20-weeks, Tristan had been diagnosed with a rare genetic disease called Edwards' syndrome. An extra chromosome had caused ''lethal'' abnormalities.

Doctors said Tristan would probably die before she was born. If not, she had a 95 percent chance of dying before her first birthday. No surgical options could correct the multiple birth defects.

''It seemed to us that it would be cruel, that it would be absolute torture to put our little girl through the pregnancy,'' Barbara recalls. ''With her heart and her lungs being crushed by her stomach and her diaphragm. We were worrying what it would feel like. What sensation she might be experiencing as the cystic tissue continued to grow on her brain.''

As Barbara continued rocking in her motel room, cramps from medicine preparing her for the abortion gripped her insides.

''I was so afraid for my baby. I didn't want her to feel any pain in the last hours of her life,'' she says adding, ''It wasn't really life yet. She wasn't born.''

She also was ''grateful'' that she didn't live in a state that would ''force me to carry her to term because I knew at that moment, in those hours, that if I had, I probably would have cracked up.''

The strain would likely have landed end of the process. To have done that, feels to me, like it would have been the epitome of selfishness.''

The last few days, Barbara had been jolted awake by nightmares, including ''ghastly images.'' In one of the dreams, a python had devoured her youngest niece.

The dishes had piled up in the sink. Housework was forgotten. Tristan was the only thing they talked about.

THE ABORTION

The abortion was scheduled for Sept. 23, the first day of fall.

There was only one place in Maine where an abortion could be performed in the 20th week of a pregnancy.

Barbara would have a procedure called a dilation and extraction. Her cervix was slowly dilated. Then the fetus was extracted. The method would be less damaging to her uterus and therefore to her future fertility.

Rain poured down. By noon the sky had darkened, turning an eerie greenish yellow. Barbara imagined it was ''crying as deeply as I was because that day I was losing Tristan.''

She wandered around the halls of the hospital guided by her husband's hand on her elbow. She remembers staring at signs, but not understanding their meaning. Studying the words, she didn't know what she was reading.

In the waiting room, she shook uncontrollably and kept breaking into sobs, consoled by her husband.

''I couldn't stop them. I kept trying to think of anything to shut down the tears. Sitting in that waiting area. Just kept crying and waiting.''

A nurse's clipboard recorded Barbara's demeanor as ''appears emotional.''

The abortion took 45 minutes. She asked for general anesthesia. Then she spent about an hour recovering before she was allowed to leave the hospital.

Driving back to Camden, she reclined in the seat, putting her feet on the dashboard. It was raining even harder.

''The sky was so dark. And it was only mid-afternoon, early evening. It was much darker than it should have been.''

GRIEF

But that was just the beginning, Barbara says.

For the next two years, she cried every day. The first year, several times a day.

''I don't mean light crying, where you can sort of keep it back. I mean it would kind of well up from my center and it just didn't seem to stop. It seemed to be bigger than the person who's doing the crying. There was so much grief over the baby I'd hoped for,'' she says.

She wasn't grieving her decision to have the abortion, Barbara says, ''That's a very important distinction,'' That decision was the ''most humane choice possible for Tristan.''

Instead, she was grieving for the child she didn't have.

''I had so much grief for the baby that I had fantasized about. A vibrant, healthy little girl.

For the two years following her abortion, Barbara was treated by a therapist who helped her to work through the grief.

She decided not to join the support groups for parents who suffered the loss of babies due to stillbirth, miscarriage or ''other means,'' as if it's a ''dirty phrase'' to say abortion.

Yet, Barbara says she is ''very careful'' about revealing the details of how her pregnancy ended.

''By and large most of the people I'm close with I would describe as moral, ethical people and without exception they were all supportive about the decision we had made, which is not to say they would have done the same thing,'' she says.

''But they seemed to inherently understand that if you're not in the situation, how could you possibly know all the ins and outs of the circumstances and come up with the universal which is right and which is wrong, a cookie-cutter answer for someone else's baby.''

FEAR

Four years later, Barbara sits on the couch in her cottage overlooking the water. Her legs are tucked under her and her 2½-year-old daughter is asleep on her breast.

Outside, in the garden, a dark gray angel cherub perched on the edge of a scallop shell keeps watch.

A week after the abortion, Barbara and her husband bought the sculpture, which doubles as a bird bath. Each summer, they plant marigolds around it and a bleeding heart behind it.

On the first day of November every year, they sprinkle marigold petals from the garden to the steps of the house. It's a Catholic

tradition in Mexico performed during the day of the dead, she explains. The petals are intended to lead Tristan back to hearth and home. Barbara learned of the ceremony when she lived in New Mexico and made frequent trips over the border.

Their daughter knows about Tristan. Sometimes she wanders over to the angel, talking to the statute and stroking its smooth stone surface.

''She knows there was a baby named Tristan who wasn't born, who was in mommy's tummy,'' Barbara says.

Barbara asked that her last name not be used, fearing harassment or intimidation by those who disagree with her decision to seek an abortion.

She sees a growing threat to abortion access around the state. A citizens' petition aimed at ''partial birth'' abortions is clearly an attempt to further erode reproduction rights, she says.

Although she and her husband collected all of the information about Tristan and discussed the options for weeks, Barbara says he recognized who had to make the final choice.

''He was being very clear that ultimately it was my body that we were talking about.''

But others don't.

''Today, we're portrayed as some kind of careless monsters without any kind of moral direction. The people who know me would be aghast that that's how I'm seen by people who don't even know me.''

Mr. FEINGOLD. Mr. President, I want to take the opportunity to state my position on S. 1692, and to explain the reasons why I will again oppose this legislation.

I respect the deeply held views of those who oppose abortion in any circumstances. I have always believed that the decisions in this area are best handled by the individuals involved, guided by their own beliefs and unique circumstances, rather than by government mandates.

Second, like most Americans, I would prefer to live in a world where abortion is unnecessary. I support efforts to reduce the number of abortions through family planning and counseling to avoid unintended pregnancies.

I support Roe v. Wade, but I also understand that some restrictions on abortion can be constitutional when there is a compelling State interest at stake. I have previously voted to ban post-viability abortions unless the woman's life is at risk or the procedure is necessary to protect the woman from grievous injury to her physical health. That is why I will vote for the Durbin alternative to S. 1692. I conduct a Listening Session in every one of Wisconsin's 72 counties every year. In 1997 and 1998, hundreds of Wisconsin citizens came to talk to me about their serious and sincere concerns that, in some nearby states, abortions are being performed very late in pregnancy for reasons that they believe are not medically indicated. I support legislation that will actually reduce the total number of late-term abortions while providing reasonable exceptions when necessary to deal with serious medical situations. I am disappointed that the proponents of S. 1692 have steadfastly refused to accept any amendment, no matter how tightly crafted, which would include provisions to protect women's physical health. This intentionally polarizing approach is the reason people suspect that the objective of the bill is to further a political issue rather than change the law.

I am concerned that S. 1692 will not stop a single abortion late in pregnancy. The bill, by prohibiting only one particular procedure, creates an incentive for an abortion provider to switch to a different procedure that is not banned. The Durbin alternative amendment would stop abortions by any method after a fetus is viable, except when serious medical situations dictate otherwise.

I am supporting the Durbin amendment because it recognizes that, in some circumstances, women suffer from severely debilitating diseases specifically caused or exacerbated by a pregnancy or are unable to obtain necessary treatment for a life-threatening condition while carrying a pregnancy to term. The exceptions in the Durbin amendment are limited to conditions for which termination of the pregnancy is medically indicated. It retains the option of abortion for mothers facing extraordinary medical conditions, such as: breast cancer, preeclampsia, uterine rupture, or non-Hodgkin's lymphoma, for which termination of the pregnancy may be recommended by the woman's physician due to the risk of grievous injury to the mother's physical health or life. In contrast, S. 1692 provides no such exception to protect the mother from grievous injury to her physical health. At the same time, by clearly limiting the medical circumstances where post-viability abortions are permitted, this legislation prohibits these procedures in cases where the mother's health is not at such high risk.

I also feel very strongly that Congress should seek to restrict abortions only within the constitutional parameters set forth by the U.S. Supreme Court. I would have preferred that S. 1692 had been reviewed by the Judiciary Committee on which I serve, rather than having been placed straight on the Senate calendar. I believe S. 1692 raises significant constitutional questions, and with court decisions in 19 of the 21 states where state legislation similar to S. 1692 has been challenged, the Judiciary Committee should have reviewed this bill prior to its consideration on the Senate floor.

S. 1692, by prohibiting a procedure whenever it is used, breaches the Court's standard that the government does not have a compelling interest in restricting abortions prior to fetal viability. However, I am also aware that some of the recent decisions on state legislation similar to S. 1692 raises questions about whether an exception for grievous physical injury may be too narrow. To date I have supported this very narrow definition of the exception necessary to protect the physical health of the woman while balancing concerns that abortion late in pregnancy should only be used in rare circumstances. I have specifically voted for the Daschle amendment last Congress, legislation which exactly reflects this position. The Durbin amendment contains similar language.

The Durbin amendment goes farther than the Daschle amendment in ensuring that the exceptions to the ban on post-viability abortions are properly exercised. It requires a second doctor to certify the medical need for a post-viability abortion. The second doctor requirement is intended to ensure that post-viability abortions take place only when continuing the pregnancy would prevent the woman from receiving treatment for a life-threatening condition related to her physical health or would cause a severely debilitating disease or impairment to her physical health.

The Durbin alternative amendment strikes the right balance between protecting a woman's constitutional right to choose abortion and the right of the state to protect future life. It protects a woman's physical health throughout her pregnancy, while insisting that only grievous, medically diagnosable conditions could justify aborting a viable fetus. Both fetal viability and women's health would be determined by the physician's best medical judgement, as they must be, in concurrence with another physician.

I hope, as we vote today, we do so in full knowledge of the strong feelings about this issue on all sides. We should respect these differences, avoid efforts to confuse or trick each other and the public, and maintain a level of debate that reflects the importance of ascertaining the truth about this issue and finding responses that are sensitive and constitutionally sound.

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator from New Hampshire is recognized.

ORDER OF PROCEDURE

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that immediately following my remarks there be a period for the transaction of routine morning business.

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

Mr. SMITH of New Hampshire. Mr. President, I thank my colleagues, the Senators from Ohio, Mr. DEWINE, and Alabama, Mr. SESSIONS, for their kind remarks. It has been a long, long struggle, and we are still not there yet. It is very frustrating to this Senator, who initially came to the floor in the mid-1990s, the early 1990s, in 1994 and 1995, where I found out these kinds of procedures were occurring, the so-called partial-birth abortions. I was shocked and I could not believe that in America we would be doing anything like this. This is America, I thought, we can't be killing children inches from birth. It makes no sense.

So I sought answers and talked to a number of people, including a nurse who had witnessed them. After getting all of that information together, I decided to write a bill banning partial-

birth abortions. Here we are. Each time we have passed it here, it has been vetoed by the President of the United States, regretfully. I think it has been two or three times now. There will be another veto coming if we pass it again. But initially, when we started, we only had 25 to 35 votes on the floor because we were told it was only four or five times a year. Then we were told it was maybe 15 times a year. As the years progressed, we found out this is on demand and is not strictly for abnormalities at all but, rather, on demand, for any reason, if a woman chooses to have such a procedure.

So it has been a long struggle. As I listened to the debate—and I have been on the floor all day listening to my friend, RICK SANTORUM, the Senator from Pennsylvania, who has done such an outstanding job on this issue. He is very passionate. You need to be passionate on this issue. I don't know how anybody can come down on the floor of the Senate and talk about this issue and not be passionate. We are killing unborn children who are in the process of exiting the birth canal. That is what needs to be understood. I ask my fellow Americans and my colleagues, don't we have better things to do than that here in America?

I am proud to say that I, to some extent, exposed this horrible procedure, establishing that it did take place. I am proud to say that I exposed it for what it is—infanticide, or murder. That is what it is. We are killing children as they exit the birth canal, and we are putting all kinds of labels on this process. We are saying all kinds of things to cover up what is happening. I remember—how well I remember—the incredible amount of flack I got for standing on the Senate floor with a plastic medical doll. The liberal press called it a plastic fetus. There is no such thing. It was a medical doll. And with a pair of scissors, I demonstrated how this process worked because I thought the American people needed to know what was happening.

I was terrorized, if you will, by the press, bashed, called a ''right-wing extremist,'' and ''out of the mainstream.'' Of course, those people who commit these acts of violence against these children are not extreme in the eyes of the media, which is fascinating.

President Bill Clinton personally came to my State, as did Vice President Gore, as did Mrs. Clinton, and campaigned against my reelection in 1996 on this issue. It was ugly; it was nasty; it was brutal. But, you know, for every one of those arrows that I took, I said to myself, it is all worth it because these children can't speak for themselves. They do not have the opportunity to stand here on the Senate floor. They don't have a representative here unless we do it for them. They don't get a chance to say I would like to be born. They don't have that opportunity.

So I am proud to take every arrow they can throw, shoot, or whatever they want to do. I take it as a badge of honor. And I am glad to do it.

I got an incredible amount of flak from the media on this to the extent that they have distorted what I said. It is interesting to read ''mainstream'' respectable papers such as the New York Times and find that they cannot get it right. We called a number of times to correct these papers and reporters to tell them that the things they were saying I did I didn't do.

For example, they said, as I indicated earlier, that I waved a plastic fetus around on the floor of the Senate when it was a little medical doll. They did get the scissors right. They also then said I showed pictures of aborted children on the floor of the Senate, photographs, which was not true. I showed a photograph of a child who had been born prematurely and had lived. That, I did show. In fact, some of them went so far as to say that I actually showed photographs of an actual abortion, which, again, was not true. They had a heyday at my expense. I lived through it all. I am proud of it.

People said, well, you know you made a mistake, Senator, that almost cost you your election last time. You know you did all of this on the Senate floor.

I would do it again. I am going to do it again right now for whatever time it takes for me to make the point that I want to make tonight.

There are several points that I want to make.

One of them that I want to make is that this is a disgusting, dark, horrible game we are in, this abortion industry. And somebody needs to take a flashlight or, bigger than that, a searchlight and shine it into this industry so that we find out exactly what is going on in this abortion industry. It is not just partial-birth abortion. It is abortion in general.

It is a dirty business. It is a profitable business. There are people making money out there at the expense of young women, young mothers, who are in a terrible dilemma. They are making money on them.

We are going to find out, as I move through my presentation tonight, that we are going to be talking about some things in this industry that aren't too pleasant. It is not just that they are making money on the women. We will get into that a little bit further in a moment.

But I think most Americans, if they knew what was going on, would be disgusted, appalled, sickened, and angry that such a brutal act as killing a child with scissors to the back of the head, with no anesthesia, in the act of birth, would go on in this America—defenseless in America, a defenseless little unborn child. We do it at random. We do it 4,000 times a day, every day—not just partial birth but abortions in general, 4,000 of them every single day. We don't know how many partial births. It doesn't matter; it is still the killing of a child.

I ask my colleagues and those who may be watching out across America tonight: If you saw an article in your local paper tomorrow that said that all of the puppies and all of the kittens in your local SPCA that no one adopted were going to be killed tomorrow with no anesthetics, with a needle to the back of the head to suck out the brains of those animals, what would be your reaction? I guarantee you there would be people marching down in front of the SPCA, and it wouldn't happen. But that is what we are doing to our children.

I know it is not pleasant to talk about. I don't like to talk about it.

I wish I didn't have to stand on the floor of the Senate as some of the great orators and great Senators of all time have stood and debated the issues of the day. Think about it, the issues of the Civil War, the issues of federalism, and civil rights, all of the great issues of the day that have been debated right here with some of the greatest people—John C. Calhoun, Daniel Webster, at whose desk I sit—the great debates that have taken place in here. Yet because this President refuses to stop this procedure, we are down here now again for the fifth or sixth time debating this again trying to stop this horrible, horrible procedure that kills unborn children.

Why are we surprised, my fellow Americans, when we pick up the newspaper and read somewhere that a mother flushes her child down the toilet or that somebody shoots somebody in school? Why should that surprise you? What message are we giving to our children? We are telling them every day: Children, you are expendable. You are not important. Go to school today, Johnny. You be a good boy. While you are in school doing your class work, and then you come home to do your homework, we are going to abort your sister.

Kids understand. They know what is going on. They are smarter than you think they are. They know what is going on. They read about this stuff. They hear it. Some of them are listening to this debate right now. They know what is happening.

Yet as horrible as this procedure is, and as many times as so many people have been down on this floor, as my two colleagues a moment ago did, eloquently discussing this issue and talking about how horrible it is, as I have done, as Senator SANTORUM has done in great detail over the years, as many times as we talk about it, we still can't get enough votes to override the veto of the President of the United States.

It is frustrating. I tried one time to meet with the President of the United States personally on this issue. I asked him for 15 minutes of his time. I said, I will go on the record, off the record, with staff, without staff, personally, with just you and me, whatever you want. Just give me 15 minutes. I couldn't get it. He wouldn't deal with me. He wouldn't talk with me about it.

This procedure that kills a child, as you have seen it described—I will not go through the description again—is legal in all 50 States of the United States of America.

In addressing the controversy over the partial-birth abortion method, the National Abortion Federation has written to its membership and said don't apologize for this process. Do not be on the defensive for killing children this way because it is a legal procedure. It is legal to do this. So don't apologize for it. When somebody says, oh, you know, you took scissors to the back of a head and you killed a little baby coming out of the birth canal, don't apologize for that, they say. It is right in their literature because it is legal.

This is America. America, America, we sure need help. If we ever needed God to shed his grace on this great country, it is now. We are killing the posterity that the Founding Fathers talked about—our posterity, our children. We are killing them every single day—not just with partial-birth abortion but with all abortions—4,000 a day. Think of it: 4,000 abortions a day in this country; 4,000 children—children. Let's use the correct term.

Many of my opponents argue that this procedure is necessary to preserve the health of the mother. I am going to dispel that myth in great detail in a little while. I hope you are listening because it is a myth. It is not done for the health of the mother; it is done for the profit of the abortionist.

President Clinton twice vetoed this legislation with false and deceptive information and justification.

How does partially delivering a living child and then restraining it from exiting the birth canal so that only the head remains in the womb possibly enhance the health of a mother?

I have asked that question on the floor 100 times, and I can't get an answer. You have to understand now. The child is exiting the birth canal. The abortionist is holding the child—actually holding that child—in his or her hands and forcefully stopping the head from exiting the birth canal because once the head exits the birth canal, it is a birth. It is a birth.

What is he holding? Is that not a child? What is that part of the body? The feet, the legs, the torso, the shoulders, the hands, what is that? That is not supposed to be a child? If the baby turned around and exited headfirst, you couldn't do it because then it is born.

That is a pretty fine line. That is a pretty fine line. They do that in the name of the mother's health? You have got to be kidding me.

What is wrong with this country? Where are we going? We have to stand down here on the floor of this Senate and protect and fight to protect the lives of children, our children, killed in this way every day in America, every day. We can't win because the President will veto what we pass with about 63 or 64 votes. He will veto it. We need 67 votes.

President Clinton's claim that partial-birth abortions are only undertaken to protect the mother from serious injury to her health has been conclusively proven to be false. When he says that—and he will when he vetoes it—he is not telling the truth. In fact, the vast majority of partial-birth abortions are performed on perfectly healthy women with perfectly healthy babies—that is the truth—80 to 90 percent, perfectly healthy women, mothers and babies.

The Nation's leading practitioner of partial-birth abortion, Dr. Martin Haskell of Ohio, has been quoted extensively today. He said in the American Medical Association's American Medical News:

> 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.

That is the abortionist speaking. That is not me. It is not some pro-life organization. That is the abortionist.

He said 20 to 24 weeks; 24 weeks is a 6-month fetus.

I want to share with my colleagues a phone call I received in my office a few months ago from a 9-year-old girl. She said to me: Senator, I heard you were very much pro-life. I want to give a message that I would like you to share with your colleagues and with the American people as you travel around the country.

She said: I want them to know that I'm now 9 years old but my Mommy gave birth to me at 5 months; she was 5 months pregnant, and I lived and am here to tell you and tell America that babies at 5 or 6 months in the womb can survive. I'm glad my Mommy didn't pick that option.

When somebody says we are not taking the lives of unborn children, we are not taking the lives of people who have an opportunity to be productive members of our society, they are wrong.

At the White House veto ceremony Mr. Clinton hosted the last time he vetoed the partial-birth abortion ban, he presented five women at a press conference whom the President said ''had to make a lifesaving, certainly health saving but still tragic decision, to have the kind of procedure that would be banned by H.R. 1833.'' That is, the ban of partial-birth abortions.

The President around this town and around America doesn't have the greatest reputation for telling the truth, and he didn't tell the truth there either. Despite saying those five women had health-saving partial-birth abortions, one of the women involved in the press conference later publicly admitted neither her abortion nor those of any of the other four women was actually medically necessary.

Two days after the ceremony, one of the five women, Claudia Ades, appeared by telephone on a radio show in Mobile, AL, and quotations from the interview appear in the May-June 1996 edition of the newspaper Heterodoxy. During the course of the radio show, she told Mr. Malone, the MC: This procedure was not performed in order to save my life. This procedure was not performed in order to save my life.

This procedure was elective. That is considered an elective procedure, as were the procedures of all the other women who were at the White House veto ceremony.

Here again, President Bill Clinton is using people and not telling the truth.

The health-of-the-mother exception is so broadly defined, it would include the mother's emotional health, let alone physical health.

I don't enjoy talking about this stuff on the Senate floor. I don't enjoy standing here and talking about the fact we are killing our children. Who does? If we don't, it will keep on happening. Some in politics, some even in the Republican Party, the pro-life party in America supposedly, said we shouldn't talk about this issue; it is too controversial; let's sweep it under the rug and try to be less confrontational, be more together.

I don't believe we ever would have ended slavery or segregation or any of the other great issues we resolved in American history if we hadn't talked about it, if we hadn't faced it. Suppose Lincoln had said: I'm totally opposed to slavery, but my neighbor wants to own a couple of slaves; that is OK with me; I will not make a big deal out of it.

So we can take that approach on abortion and say, I'm personally opposed to abortion but my neighbor wants to have an abortion; that is OK with me.

Somebody has to stand up for 4,000 babies a day who are being killed in this country by all abortions. I don't mind being that person, I will be very honest. If that means I lose an election somewhere, that is fine with me. I am not here to compromise my views to win elections. I am here to lead, to stand up on principle. Otherwise, I don't want to be here. Anybody who stands here and says they are afraid to discuss this issue or won't come down here and discuss this issue because they are afraid they might leave ought to resign because they are not bringing dignity to this body. They should stand up and passionately fight for what they believe.

I will review in a few moments some very dirty, disgusting little secrets about the abortion industry in this country. It doesn't apply strictly to any one type of abortion; it applies to abortions in general. It is not pleasant. It is not pretty. It is pretty graphic. But I am going to talk about it because the American people need to understand what is going on. These children don't have a voice. They can't ask for the opportunity to be born.

Imagine, since Roe v. Wade passed—and we will have a vote on that very shortly, tomorrow, this infamous Roe v. Wade decision in 1973—40 million babies have died in this country. I don't want anyone to misunderstand me lest

I be accused of misusing facts. All abortions, including partial-birth abortions—40 million babies.

Have you ever stopped to think what some of those babies might have grown up to be had they had the chance? I wonder if there is a President in that group. How about a doctor? How about a cure for cancer? Maybe there is a scientist who would cure breast cancer—wouldn't that be ironic—or cure any type of cancer, or perhaps discover some big secret in the universe, maybe even a Senator. Never to have a chance to live their dream, never to have a chance to grow up, have a family, to pursue their dreams—gone, down the drain. They didn't have a chance to talk about it, didn't have a chance to even ask for mercy; they were just eliminated.

Do the math. We have about 260 million Americans. We have killed 40 million of them in the years since Roe v. Wade, and we have people on this floor bragging about Roe v. Wade, what an important decision it is and has been in American history. You bet it is important; they are right about that.

We took the lives of 40 million of our fellow citizens, 40 million people who never get a chance to pay Social Security taxes or pay any taxes or build any bridges or buy any products or contribute any money to the U.S. Treasury, if you want to put it in those terms, never, never had a chance. Mr. President, 40 million children, one-seventh of the entire U.S. population, one-seventh, and we are killing them.

You do not think we have some cultural problems in America? Unbelievable. I would like to ask all of you listening to answer this question silently to yourself: If you knew a woman who had three children born blind, two children born deaf, and one child born retarded, she was pregnant again and she had syphilis, would you recommend she have an abortion? Answer to yourselves out there. I will give you a second.

Guess who you just killed? Beethoven. That was Beethoven's mother, a pretty fair contributor, I would say, to the arts of the world, and this country. Who are we, Roe v. Wade? Who are we to do that to the Beethovens, the potential Beethovens of the world? This is a sick society, for people to stand down here and defend that, and that is what we are doing.

Mr. President, 95 percent or more of all abortions are used for birth control, 1 or 2 percent of all abortions performed are done because the life of the mother was threatened or she was raped or sexually abused by a member of her family—a small minority. That means over 38 million abortions occurred for a variety of reasons that boil down to one word—convenience. It is convenient. That is what it is, convenience. The mother was too old, maybe too young, in high school, maybe in college, had to work, didn't have a husband, didn't have a boyfriend; it wasn't in her best interests to have the baby; she had her whole life ahead of her. Pick any excuse, pick any reason. Pick the one you like, but that is the reason—convenience. It is a little inconvenient, isn't it? I have raised three children. Sure, it is inconvenient. But they are beautiful and I am sure glad I have them, and I am sure glad nobody made the decision to end their lives.

I know many of these desperate young mothers myself. I serve on the board of a home for unwed mothers. I have raised money for homes for unwed mothers. I have compassion for these mothers and for those who have gone through a horrible experience of having an abortion, or struggling in terms of whether to have the abortion or not, or whether to give the child up for adoption or to keep it.

I must say to any woman out there listening to me tonight, any mother, there are people out there who will help you. There are people out there who will help you. You do not have to have an abortion and you don't have to listen to one side of the argument. Ask. If you want help, call my office; I will put you in touch with people who will help you. It would be my honor and privilege to do that. Don't have an abortion; have your child like I did, my wife and I. You will be glad you did when you get down the road. You will be very glad you did.

You have other options available, options that will benefit you, that will benefit your child. Choose adoption or choose to keep your child. There are people out there who want to love that child. In either case, adoption or keep your baby, choose life. I beg you to do that, please. Do it for yourself; don't do it for me. Do it for yourself and for your baby. You will be glad you did. I promise you will. It will be tough for awhile but you will.

All across the fruited plains of America runs a river of abortion—blood. School shootings, we blame guns for that. After all, it could not possibly be our fault. Babies born alive left in trash cans: A young woman who goes into a restroom, gives birth to a child and throws it in the trash can can be prosecuted for murder. If she had a partial-birth abortion 5 minutes before that happened, it is all legal. Is there any difference in terms of the result, the child? It is still a child, isn't it?

Why are we here today? I just told you a few moments ago. It is to outlaw a cruel, inhuman procedure used for late-term abortions, a process so barbaric and so inhuman we would not even do it to animals. We wouldn't even think of it, I promise you. It is not being done to animals anywhere in the country.

We fell three votes short last time to override this President. I would give anything to have this President change his mind and not veto this. Do you realize how many children died since then? We don't really know. We know there are thousands who die from partial-birth abortions every year. If you multiply that by 4 or 5 years, we know it is probably in the vicinity of 15,000. I don't know what the number is. Whatever it is, it is too many. But hundreds, if not thousands, of young children are gone, just because the President of the United States refused to sign that bill; three votes short of an override. You talk about whether one vote means something or two votes mean something? You bet they do. If you are out there somewhere in America and you think I am right, you ought to take a look at who your Senators are and see how they are voting on this because those votes are going to cost lives. We are not talking about budgets. We are not talking about taxes. We are not talking about things such as that. We are not talking about anything other than lives, American lives, little babies.

Generically, without singling anybody out, let me speak to those Senators out there who might be wavering. I know some of you have been struggling with this vote for 4 years. You know in your heart it is wrong to kill unborn children this way. You know it, but you have connections to the abortion industry, the National Abortion Rights League, and others. I know they pressure you. I know I get pressured on the other side, too. I know what pressure is. We all do. But in your heart you know it is wrong. You can stop it. Three more votes or four more votes here can stop this. We can save thousands of lives down the road—thousands.

Imagine, if you could, all those children who have died from just partial-birth abortion in the last 25 years coming here today. If they had the opportunity to live, what do you think they would say? I don't think they would be with those who say, no, we ought to have this process. I don't think so. Maybe I am wrong. I have been wrong before.

Hold your grandchild in your arms, or your child, and ask yourself: How far removed is that grandchild or child from the process that you are voting to allow? A year? A month? Maybe you have a newborn. Think about it. I have.

According to the American Medical Association, the partial-birth abortion method is never medically necessary—never medically necessary. According to the Physicians' Ad Hoc Coalition for Truth, partial-birth abortion is likened to infanticide and is considered an extremely dangerous procedure.

Let me quote from these physicians:

> The prolonged manipulation of the cervix introduces a serious risk of infection and excessive bleeding. Turning the child inside the womb using forceps risks rupture or puncture of the uterus, infection, and hemorrhage from displacing the placenta. Inserting the scissors—a blind procedure—risks cutting the cervix.

That is one doctor.

Another one says:

> Beyond the immediate risks, partial-birth abortion can undermine a woman's future fertility and compromise future pregnancies.

Many pro-abortion advocates have publicly stated their opposition to the

partial-birth-abortion technique. Warren Hern, the author of the Nation's most widely used textbooks on late-term abortions, said:

You really can't defend it. I would dispute any statement that this is the safest procedure to use.

This leads me to another dirty little secret about the industry which is that abortion clinics are losing doctors who are willing to perform abortions. Do you know what happens when you lose the ability to perform abortions? You lose the ability to make money.

My colleagues on the left will assert that they are afraid they are going to get killed by a pro-life activist. That has happened seven times, and it is seven times too many, but it has happened. I have statements from the media, the abortion industry, and the doctors themselves that say the reason abortion clinics cannot find doctors is because they are considered losers in the medical field.

Those of us who have been pro-life who have been talking about this are making a difference in some of these abortions. Abortionists are losers. They are having such a tough time recruiting abortionists. They are actively lobbying right now to force medical students to perform abortions. What happened to choice? It is very interesting, isn't it?

Listen to these quotes from the abortion industry. I am making these points because I want to lead you into the next issue of what is happening in the industry and why these things are occurring and what you will see where I am leading you in terms of another ugly little secret, dirty little secret about what is happening in addition to the abortionists. Here is what Morris Wortman, abortionist, Democrat and Chronicle, 1992, said:

Abortion has failed to escape its back-alley associations . . . [it is the] dark side of medicine . . . Even when abortion became legal, it was still considered dirty.

That was the abortionist.

Joe Thompson, retired abortionist, South Bend Tribune, December 26, 1992:

In obstetrics and gynecology, the term abortionist is a dirty word.

Jean Hunt, former executive director, Elizabeth Blackwell Center, Philadelphia, PA, Westchester Daily Local News, November 26, 1992:

Doctors today see abortion as a mud puddle not worth jumping into.

David Zbaraz, abortionist, Washington Post, 1980:

[Abortion is] a nasty, dirty, yukky thing and I always come home angry.

Another:

. . . some residents are concerned about being stigmatized for performing abortions and feel they are likely to perform abortions once in practice.

Abortionist Trent MacKay and Andrea Phillips MacKay, Family Planning Perspectives, May and June, 1995.

Organized medicine has been sympathetic to abortion—not abortionists.

Carol Joffe, pro-abortion author, 1998.

A couple more:

[Abortion] is a difficult field from an emotional aspect. Some of us, and all of us, I suspect, to some degree or another, have emotional isolation and separation and distance from some of our social friends, certainly from the community and from our professional colleagues.

George Tiller, abortionist, St. Louis, MO.

On the status of abortionists, Warren Hern says.

. . . status of [abortionists] is somewhere well below the average garage mechanic . . . patients do not value what we do.

Richard Hausknecht, abortionist, January 1998:

It's true that abortion providers are perceived as not very good doctors—that they have no alternative so they do abortions, that they cannot earn a living any other way.

Is that the kind of person you want to send a woman to because you want to protect her health?

Another one. Merle Hoffman, president, Choices Women's Medical Center, Queens, NY, 1995:

The medical establishment has yet to welcome in abortion providers . . .

Tom Kring, director, California Planning Clinic:

Abortion has a stigma attached to it that is increasingly scaring doctors and clinics.

I think, I say to my colleagues, one of the reasons clinics are closing is because of the doctors. You cannot get a good doctor.

Eileen Adams, former administrator for Park Medical Center in Illinois which closed after 13 years of operation:

You cannot get a good doctor.

Then she said:

I hate to have that in the paper so the anti-abortionists would say they've won—but they did.

That is what Eileen Adams said.

A 1993 Boston Globe article had this so say:

Opponents of abortion in New England may have lost the battle of public opinion, but they appear to be winning the war . . . there are no longer enough doctors and hospitals in some areas to provide abortions.

With all that testimony from within the industry—dirty, yucky, not protecting the health of the mothers—why is it still going on? Because there is another dirty little secret, and it is called fetal tissue marketing. We will take a look at this chart.

I want everybody to see what happens in this dirty little secret of the abortion industry. I want my colleagues to know this is the abortion industry in general, but abortion is abortion. There are different types of abortion. Partial-birth abortion is what is on the agenda today. But fetal body parts marketing is what I am talking about.

A woman comes into an abortion clinic. It could be Planned Parenthood. She goes into the clinic, and she is talked to, advised to have an abortion. But what she may or may not know is that inside that clinic in a little room somewhere or some office that is not necessarily visible to her, is the harvester, the wholesaler, the person who is going to take her baby, cut it into pieces and sell it.

They are going to say: Oh, no, no, no, nobody is selling any babies. Listen to what I have to say, and then you tell me.

The wholesaler and the harvester is in the clinic. This poor woman, this mother, this woman who has probably gone through unimaginable trauma, is now faced with this little secret because she has to sign a waiver that allows them to do it.

You have the harvester now who is in that building. Anatomic Gift Foundation, Opening Lines—those are the names of a couple of the wholesalers.

What happens? We will get into that in a few moments.

But here is the buyer over here. If you are pro-life, you will be pleased to know, I am sure, that maybe a university in your State, Government agencies to which you are paying taxes, pharmaceutical companies, private researchers, and research organizations are buying body parts.

How does this work?

Here is step 1. The buyer orders the fetal body parts from the wholesaler/harvester. The buyer says: We need a couple of eyes, or whatever. The abortion clinic provides space for the wholesaler and harvester in the clinic where that woman goes to procure fetal body parts. The wholesaler/harvester faxes an order to the abortion clinic, faxes an order to the clinic, and says: We need this, and we need this, and we need this. The wholesaler's technician harvests the organs: Skin, limbs, whatever, from aborted babies.

Now, bear in mind how gruesome this really is. This is the abortion industry, ladies and gentlemen. Here is a woman coming into that clinic, thinking she needs an abortion. She is advised to have it. And these people are sitting around the room, the harvesters. When they are looking at that woman, there is a living child there that has not been aborted yet, and they are placing orders for body parts—placing orders for body parts—before the child is even dead.

The wholesaler's technician harvests the organs. Then the clinic ''donates'' fetal body parts to the wholesaler/harvester, who in turn pays the clinic a ''site fee'' for access to the aborted babies. Then the wholesaler/harvester ''donates'' the fetal body parts to the buyer. The buyer then ''reimburses'' the wholesaler/harvester for the cost of retrieving the fetal body parts. We are going to get into a little more detail on this.

You might say: This is a debate about partial-birth abortion. What does the sale of fetal tissue have to do with partial-birth abortion?

First, like partial-birth abortions, the selling of fetal tissue is immoral and unethical. It is illegal. And it is a reprehensible, dirty practice that is

going on in the shadows of the industry. It is a practice I had never even heard of. Again, I could not believe this was going on. But it is.

Second, it is a practice that very graphically shows how this industry has gone far beyond the ethical boundaries that even most pro-choice Americans would find repugnant.

Third, like partial-birth abortion, the industry has taken the practice of selling fetal body parts, which is illegal under Federal criminal law, and created a loophole to allow them to do it.

In partial-birth abortion, they use the head loophole. In other words, what I mean by that is: Arms, feet, body, neck, heart, toes. That is not birth. That is not the baby—until the head comes into the world. Then it is a baby. Really? It is a legal mumbo jumbo, as Senator SANTORUM talked about. It is a bunch of garbage. It makes lawyers around the country very rich, and it allows these clinics to kill our children.

I am sure the legal team that came up with the head loophole is very proud of themselves, just as we have the fetal harvesting loophole. In a sense, we call it ''donations'' or ''reimbursements'' rather than selling parts. They are both loopholes to hide the facts.

Stabbing a baby in the back of the head and sucking its brains out is illegal; it is murder; it is infanticide—whether that child is sitting in a play pen or whether that child is trying to exit the birth canal to become a member of this world. But its head is conveniently, under this stupid legal definition, ''stuck'' in the womb. And it is not stuck; it is held there. And they call it medicine. We have people standing down here saying: This is medicine. We're doing this for the health of the mother. Really?

Let's go back to the sale of fetal body parts. I have here the United States Code. Here is what the United States Code says:

> Prohibitions Regarding Human Fetal Tissue.

That is the topic. That is the heading right here in the United States Code.

> Purchase of tissue. It shall be unlawful for any person to knowingly acquire, receive, or otherwise transfer any fetal tissue for valuable consideration if the transfer affects interstate commerce.
>
> Criminal penalties for such violations.
>
> In general, any person who violates subsection—

The one I just referenced—

> shall be fined in accordance with title 18, U.S. Code, subject to paragraph 2, or imprisoned for not more than 10 years, or both.
>
> The term ''valuable consideration'' does not include reasonable payments associated with the transportation, implantation, processing, preservation, quality control, or storage of human fetal tissue.

It is against the law, ladies and gentlemen, my fellow Americans, and colleagues, it is against the law to do this. And they are doing it every day to our children—every day. So 10 years in jail if you sell human fetal tissue. That was signed into law, ironically, by President William Jefferson Clinton. It took effect on June 3, 1993.

But the lawyers went to work, as only lawyers can do. They found a loophole: How can we sell this tissue, make a profit at the expense of this poor woman victim, and get it to research, and hide it all by calling it research? How do we do that without getting caught and getting our tails thrown in jail?

That was the question. So they found it in section D(3) which:

> . . . allows reasonable payments associated with the transportation, implantation, processing, preservation, quality control, or storage of human fetal tissue.

That is the loophole I just read out of the book.

But because there is no documentation, no disclosure, no government oversight, this section has become a gigantic loophole to allow this industry to engage in the illegal trafficking of body parts of fetal tissue without any prosecution.

Mr. President, we need a big beam of light to shine into this industry, to get into the darkness and find out what is going on in this for-profit industry. We need some sunshine. We need it so badly. I am not looking to get into the medical records of individuals. That is not what I am about. But I believe if we are going to allow the use of fetal tissue from aborted fetuses —I mean aborted fetuses for research, which I believe we should not—if we are, we need at least a minimum of documentation to ensure this tissue is not being sold in violation of Federal criminal law.

Is partial-birth abortion used for this? I don't know. Why not find out? Let's shine the light in. Let's talk about a few things that might make you think, however, that there is a link here. Your call. You listen. You make your own determination.

Let us talk about dilation and evacuation, the so-called D&E, for a moment. This method, which is performed during months 4 to 6, 6 months, is particularly gruesome in that the doctor must tear out the baby parts with a pliers-like instrument. Literally disassembles it in the womb. It is horrible. No wonder they are angry when they get home and sick, sick before they start. Then the nurse gruesomely has to take all these body parts of this child who was torn apart in the womb and reassemble them in a pan to be sure they got it all. That is the first method.

I will just ask you to think, as we go through this, if you are in the business of selling body parts, how is that going to work with your buyer, if all the body parts are torn apart? I think you would say, well, probably it isn't going to be much good. There might be some tissue, but if you need intact organs, disassembling the organs ought to lead you to believe, reasonably, I think, they are probably not very good. If you need a liver and it is all chopped up in this procedure, it is probably not going to do you much good. So the D&E method is not real good for selling body parts. But that is one type of abortion.

The next is the saline abortion. This occurs after the first trimester. The abortionist injects a strong salt solution into the amniotic sac and, over a period of an hour, the baby is basically poisoned and burned to death in her mother's womb. That is the saline solution. So now I ask you again, if you are selling body parts, and the buyers want good body parts, good condition, that is not going to do a lot of good. That is not going to make your product very marketable. That is probably not a good method either.

The next one is a little more grotesque, if you can imagine that. This is called the dig method, or digoxin method. It is called harpooning the whale inside the industry. You see, even in the industry they can't even be respectful to the child or even the woman in some cases, the mother. They use terms such as that, ''harpooning the whale.'' The abortionist inserts a needle containing digoxin into the abdomen of the woman. In order to make sure the doctor hits the baby and not the woman, which would be lethal for her as well, he must watch to see the needle begin moving wildly. And when it does move wildly, he knows he has harpooned the whale and can push his needle all the way through and kill the baby. This abortion procedure is probably the least desired method for the body parts people because the baby's organs are, in essence, liquefied by this horrible poison. They are basically worthless to the body parts market.

Those are three types of abortions. They have nothing to do with partial-birth abortion. I use these examples of three types of abortions to show you they basically make the sale of body parts worthless for the most part. Some tissue I am sure they can use.

So where are they getting these things? Ask yourself, what have we been talking about all day? How can we get a good specimen, a baby whose organs are intact, a good cadaver? You can do it two ways. You could have a live birth and kill it, or you could have a partial-birth abortion, kill it that way, and damage only the brain so the rest of the body is good for research.

Now, is this happening? Shine the light in. There are going to be people who say that I have made this link. I will tell you right now, I haven't. I am asking you to shine the light into this industry. Bring in the sunshine. Let's look in the clinics. Let's find out what is going on. Are they being used? We will take a look in a few moments at some of the things going on here. I ask you whether or not you think they might be getting these parts from some other source of abortion other than partial-birth abortions. I don't know. I know one thing. It is a black market. It is illegal. It is unreported, and it is unregulated. If it is the last thing I do before I leave this body, I will change that. I am going to change that.

The good news is abortion rates are down. That is good. But the problem is, because they are down and because the doctors aren't doing them, they have to make it up somewhere. The industry has to make up the money. They have to make it up. Where do they do that? By selling body parts. That is where they make it up. It is really the dark side of the industry.

This is the testimony of a woman who calls herself Kelly, a fictitious name. Kelly was working and received a service fee from the Anatomic Gift Foundation, which is the wholesaler, the harvester, of these organs.

Listen to what Kelly had to say. Kelly fears for her life. That is why Kelly is a fictitious name and why Kelly is not being identified.

''We were never employees of the abortion clinic,'' Kelly explains.

That is when they would sit in the clinic, in this room, and the lady comes in pregnant.

''We would have a contract with the clinic . . . .''

Listen very carefully to what I am saying. A woman comes in. I am sorry. I am confusing the stenographer. I will go through the quote first and then explain it.

We were never employees of the abortion clinic. We would have a contract with an abortion clinic that would allow us to go in to procure fetal tissue for research. We would get a generated list each day to tell us what tissue researchers, pharmaceuticals and universities were looking for. Then we would go and look at the particular patient charts. We had to screen out anyone who had STDs or fetal anomalies. These had to be the most perfect specimens we could give these researchers for the best value that we could sell for. Probably only 10 percent of fetuses were ruled out for anomalies. The rest were healthy donors.

To capsulate, a woman is in the abortion clinic, and basically they are eyeing up the source. It is like a hunter going out and seeing, I guess in this case, a trophy doe rather than a trophy buck, and saying, there is a good specimen there. I hope that baby is fairly normal so I can sell the body parts. And they looked at the patients' charts while this child was alive in the womb. This girl might change her mind on whether to have this abortion, and nobody is helping her change her mind or asking her if she would like to change her mind. Oh, no, we have a contract here. We have a patient chart here. We have somebody looking at her, looking at the trophy and then saying: Hey, this chart looks real good, this gal has what we want; she has a normal baby there. My goodness, a perfect specimen, the most perfect specimen we could find. So give the researchers the best value we could sell for. Her words. Probably only 10 percent of fetuses were ruled out for anomalies; the rest were healthy donors. So said Kelly.

Let's look at a work order. This is a work order. Mailing address, shipping address, everything. OK. Tissue, fetal lung; one or both from the same donor, 12 to 16 weeks. Preservation: Fresh. Gestation: 12 to 16. Shipping: Wet ice. Constraints: No known abnormalities. We don't want any babies who have any problems. Obtain tissue under sterile or clean conditions.

Let me ask you a question, colleagues. In this filthy, dirty, disgusting business we are talking about, do you really think you can get a perfect lung, with no cuts and no abnormalities, by chopping up the child in the womb or putting all of this poison in the body, in the womb, in the embryonic sack? Or do you think it might be possible that the best way to get a normal lung is to bring a child through the birth canal in perfect condition, damaging only the brain, or perhaps even a live birth? Oh, you think that would not happen? Well, we will talk about that in a little while. Oh, yes, it happens.

Look here: ''Normal fetal liver.'' A normal fetal liver is not one filled with poison. It is not a liver that has been chopped up. It is a normal fetal liver. There aren't too many ways you can get a normal fetal liver in an abortion clinic. ''Dissect fetal liver and thymus and occasional lymph node from fetal cadaver within 10 minutes of the time it is extracted, and ship within 12 hours.'' ''No abnormal donors.''

There is a whole lot of money in this business, folks. With abortions down, they will charge a woman anywhere from $300 to $1,000 for an abortion and make several thousand dollars on the parts of her child. But she doesn't get any of that money, you can bet on that.

Let's look at another work order. The National Institutes of Health gets the delivery here. If you are pro-life, you will be ''pleased'' to know they are getting some of this stuff. ''I would prefer tissues without identified anomalies; in particular, bone anomalies.''

Let's look at another one. This is just the tip of the iceberg. I could give you hundreds of these work orders. I am picking a few of them.

Now, this one is particularly disturbing—as if the others weren't. Here is the donor criterion on this. We are talking about whole eyes. Now, the donor criterion is that the child be ''brain dead.'' Think about that for a minute. Why would you put that on there? Are we to assume this child is going to be delivered to them live?

I assume if a child has been aborted and it is being sold, or provided, or donated, or whatever it is, to some research center, we ought to assume it is dead. Well, they are not assuming it. They are not assuming it at all. They are directing it: Make sure it is ''brain dead.'' If anything else is moving, that is OK. Maybe the heart is beating, and that is OK. But make sure it is brain dead, noncadaver, and post 4 to 6 hours, any age. Again, no contagious diseases. ''Remove eye with as much nerve''—they go into that. Federal Express—send it out. That is against the law.

So let's say a girl walks into a clinic and sits down to wait. I want to try to paint you a picture of what happens. A girl walks into a clinic and sits down to wait. A fax comes in, and the fax contains a list of what body parts are needed for that day. So here she comes. She still hasn't had the abortion. But they now have this list—the abortionist perhaps, but I don't know; I have not seen this. Perhaps he looks through the glass window, and maybe there is a one-way glass. He looks out into the waiting room and stares at her stomach and knows this is the very same child who is very much alive now, perhaps even moving and kicking; he knows that child will be dead in a few moments, and they already have the work order. They have already checked the charts, already know it is normal; they already know what they need. They are already planning it all.

If that is not sick, if that doesn't bother you, then, man, there is something wrong with the people in this country—big-time wrong.

After her abortion, in a matter of 10 minutes, if it is done then, that baby can be shipped on wet ice to researchers across the country, just like going into a supermarket and buying a piece of meat.

There are four illegal and immoral things happening with this issue. First, as I said before, current law prohibits receiving any consideration, valuable consideration, from the tissue of aborted children for research purposes. This is happening. So that is wrong. Violation No. 1.

Secondly, it has been reported that, in fact, live births are occurring at these clinics. Oh, that is a dirty little secret we don't want anybody to talk about. Let's not talk about that. It doesn't happen a lot, but in 100 abortions it could be as few as 5, 6, maybe 7, maybe 10 times—live births. Oh, boy, that is a real problem. What better way to get a good sample than a live birth?

It is the law of every State to make every medical effort to save the life of that child. I am going to show you proof that that isn't done. It is not happening in every case.

Thirdly, our tax dollars are being used to fund Planned Parenthood on the one end to kill the children, and NIH on the other end to do research on them. If you are pro-life, as I am, you won't like it; I don't like it. I am going to do something about it if it is humanly possible.

In 1996, Planned Parenthood received $158 million in taxpayer dollars. Who knows how much in addition is being funneled through the valuable consideration loophole from NIH research labs. The taxpayers and Congress deserve an answer. The chart shows Federal funds supporting Planned Parenthood Federation of America and its affiliates, in fiscal year 1994, $120 million; in 1995, $120 million; in 1996, $123 million. Add it all together. It is $158 million.

The fetal body parts industry is a big business, ladies and gentlemen, and it is not being honest. Mothers are not being given their consent forms sometimes. Sometimes they are. And the

wholesalers are not forthright about how they ship the babies, among other things. These people are in the business of selling dead humans, so I guess maybe we should not expect too much in terms of ethics.

There are two statutes that govern fetal tissue research, and both statutes were passed as part of S. 1 in 1993, the National Institutes of Health and Revitalization Act of 1993. I was one of four Senators who voted no, as usual, because I don't believe Government should be doing any research on induced abortions, aborted fetuses. Up until 1992, we had a President, George Bush, who agreed. But Bill Clinton changed all of that. But even President Clinton, who signed the fetal tissue research Executive order as one of the first acts of his Presidency, was unwilling to accept the sale of fetal tissues.

Prior to 1993, there was a moratorium prohibiting Federal funding of fetal tissue research. That was overturned by President Clinton by Executive order on January 22, 1993. And Senator KENNEDY introduced S. 1 to codify Clinton's Executive order. Part of that was because this ''statute permits the National Research Institutes to conduct support research on the transplantation of human fetal tissue for therapeutic purposes.'' The source of the tissue may be from an abortion where the informed consent of the donor is granted. This statute allows for Federal money to be used in fetal tissue research. And you will see that NIH is involved in this.

The second statute made it unlawful to transfer any human fetal tissue for valuable consideration. I talked about this statute. In other words, it is illegal to give monetary value to the various body parts being sold. And it is illegal to profit from the sale. The guilty receive fines and imprisonment for not more than 10 years. As long as the tissue is donated, it is OK. But large amounts of cash are changing hands.

Again, abortion clinics and the wholesalers are making a killing—that is a sick pun, a killing—literally with the abortion and with the sale of human baby parts.

Listen to what one of the leaders of fetal body parts marketing said in an interview with a pro-life publication: ''Nearly 75 percent of the women who chose abortion agree to donate the fetal tissue.''

Granted, this organization claims to only operate out of two abortion clinics. But if you apply their statistic nationwide, for theoretical purposes, you are talking about a lot of aborted babies being sold for cold, hard cash.

In addition, the consulting firm of Frost & Sullivan recently reported that the worldwide market for sale in tissue cultures brought in nearly $428 million in 1996, and they predict that market will continue to expand and will grow at an annual rate of 13.5 percent a year, and by 2002 will be worth nearly $1 billion. That is a whole lot of money at the expense of these unfortunate women.

In a taped conversation with the wholesaler, she says they do not buy the tissue. That is the way it works. That is really what happens.

In a taped conversation with another marketer of fetal body parts, they admit to try to get abortion clinics to alter procedures to get better tissue, which is a violation of Federal law. This person then offers discounts for being a ''high volume'' user, and that the buyer can save money by purchasing their cost-effective, lower-range product.

Let's look now at a chart offered by Opening Lines, and you tell me if this isn't a business transaction for profit. Bear in mind the sale of body parts is illegal. You are not supposed to receive any consideration. Well, then maybe you could tell me why—this is one of those wholesalers, Opening Lines. Maybe you could tell me why they have a price list. Has anybody ever done any marketing before?

Look. You can get a kidney for $125. You can get a spinal cord for $325. Then down at the bottom, it says prices in effect through December 31, 1999. That is a price list, ladies and gentlemen. I suppose there will be somebody who will come down here and say, ''Well, Senator, that is not a price list. That is fee-for-service.''

That is what it says at the top.

What is the service? You say: Well, you know it is expensive. You have to take the brain out, or you have to take the spinal cord out. OK. We take the spinal cord out. I am not a doctor. I am not going to pretend to be. I am not going to make any reference to how difficult that might be.

But let's assume to remove a spinal cord from a child is a difficult operation. They are charging $325 for the spinal cord. I would think it would be safe to assume—I am not a doctor, but if you want to send an intact cadaver, that doesn't involve any research at all. Does it? They don't have to cut anything. We will just ship that along. But it cost $600. It doesn't have anything to do with what the service is in terms of finding the spinal cord and getting it out. It has nothing to do with it at all.

I will tell you why this is $600—the cadaver. Because when they get the cadaver; they can get the spinal cord; they can get the eyes; they can get the nose; they can get the ears; they can get the liver; they can get the thyroid, whatever they want. That is why it is $600. That is why the price list is there. You can even get a discount if you buy enough.

This is a dirty business. It is bad. It stinks.

The brochure boasts that it offers researchers ''the highest quality, most affordable and freshest tissue prepared to your specifications and delivered in the quantities you need when you need it.''

Here is the copy of the brochure. I didn't make it up. This is their brochure, Opening Lines. This is what they said.

Think about it. ''We are professionally staffed and directed,'' it says. ''We have over 10 years of experience in harvesting tissue and preservation. Our full-time medical director is active in all phases of our operation. We are very pleased to provide you with our services. Our goal is to offer you and your staff the highest quality, most affordable, and freshest tissue prepared to your specifications.''

Please tell me how you can do that if it is simply a matter of taking an aborted child and sending it off to a research laboratory somewhere.

My colleagues and American people, I don't know what is going to happen to this country. But I just want to recap for you what has happened here.

A woman comes into a clinic, an abortion clinic. She is pregnant. She is in trouble. She needs help. They already have somebody who has read her charts. They know her baby is normal. They know it has no abnormal functions. They know they need to get that baby out of there quickly. They know they can't do damage to the cadaver. They cannot do damage to the fetus. They can't poison it. They can't cut it because, to their specifications, they need perfect eyes, or they need perfect skin, or good lungs, even the gonads, the ultimate. The poor little child just has no privacy here. Limbs, brains, spinal, spleen, liver, all of it, price list, all the way down—they have it all figured out.

And they have the gall to stand out here and tell you these clinics care for the women. They care for the profit. They cannot make it because abortions are going down. They can't charge these women any more because they are too poor to pay. So they take it from their bodies, from the children. It is a filthy, disgusting, dirty business, and it needs to be exposed and eliminated.

How much more should we tolerate in this country? How much more degradation must these children absorb and endure?

Look at that list. Look at it and tell me that is fee-for-service—to your specifications, your specifications. You give us the order, and we will make sure you get perfect eyes that weren't hurt by any abortionist's knife, or they weren't poisoned by digoxin, or saline. Oh, we will make sure. We will get you a live birth, if we have to, or a partial birth, if we have to. We will get it for you because there is a lot of money in it. That is why we will get it.

This is a filthy, disgusting, dirty business.

People say: Oh, you are antiresearch. I am not antiresearch. If a woman has a miscarriage and wishes to donate that miscarried child to research, she has every right to do that. I am proresearch.

The Department of Health and Human Services under President Bush determined there was plenty of tissue available through spontaneous abortions and ectopic pregnancies to satisfy

research needs—plenty. But oh, no, we have to get into this. We have to make up for the loss of revenue because, thank God, abortions are starting to go down in this country. We have to make it up. Doctors don't want to do them anymore. It is a dirty business, they say. I'm sick when I go home. We are going down a slippery slope, my fellow Americans.

I used to teach history. I used to tell my kids in those classes: If you forget everything else I said, I want you to remember you have a responsibility to pass on America to your children, hopefully in better shape than we gave her to you. If you do that, America will always be here; if you fail, we could lose it.

What message are we giving to our children when we tolerate this—an order form before the woman even has the abortion.

Henry Hyde said: I deplore any medical procedure that treats human beings as chattel, personal property, as a subject fit for harvesting. The humanity of every fetus should be respected and treated with dignity and not like some laboratory animal.

Is that dignity? Is that respect?

Let me tell a story about a girl name Christy. This is not a pleasant story. These are the abortion clinics, there to protect the mother and make her healthy again. She went in to have her safe, healthy, legal abortion. Something went wrong. On July 1, 1993, Christy—fictitious name—underwent an abortion by John Roe, abortionist. After the procedure, Roe looked up to find Christy pale with bluish lips and no pulse or respiration. Christy's heart had stopped and there were no records that her vital signs were monitored during the procedure. Additionally, Roe was not trained in anesthesia and the clinic had no anesthesia emergency equipment or staff trained to handle a complication. Paramedics were able to restore Christy's pulse and respiration, but she was left blind and in a permanent vegetative state. Today, she requires 24-hour-a-day care and is fed through a tube in her abdomen. She is not expected to recover and is being cared for by her family. Christy had a legal abortion on her 18th birthday.

They took good care of her, didn't they? I have in my hand a consent form that Christy signed. Do you know what they tell you in the industry? Ask them; don't believe me. Ask them. They say: We know the woman is in a terrible emotional condition when she comes in, so we don't always ask her to sign these forms. We wait until after the procedure.

Is that so? Well, you have to do it within 10 minutes if you want to get some of these buyers for organs because they say they need them in 10 or 15 minutes from the time they exit the birth canal; otherwise, they are no good in some cases. They have to do it quickly. So the poor girl is just coming out of the anesthetic. I know she is not coming out in 10 minutes. ''Here, Christy, want to sign this? We want to send your 6-month old boy to be chopped up for medical research. Would you sign this?''

They say we don't bother the women before. OK, can a woman who is in a 24-hour-a-day coma sign a consent form? Can she? Here is the form. It is signed and she didn't sign it after the procedure. She signed it before the procedure and she signed it because they needed the body parts of her fetus and they wanted to make doggone sure they got them. They didn't want anything to get in the way of that. They didn't want anything to interrupt that little profit they had coming, so they just said we will get this signed by Christy.

Maybe they should have taken a little time to counsel her. ''Would you like to have some other discussion perhaps about adoption?''

We gave her that. OK, fine.

How about the anesthesiologist. Did someone know what in the hell they were doing when they put this poor woman under?

Oh, no, we have to get this, because this is money.

Here is what Christy signed:

> I grant permission to one of these agencies and each of its authorized agents and representatives to distribute and dispense tissue from the surgery. I release all my property and financial interests therein and any product or process which may result therefrom. I read and I understand this document and I have been given the opportunity to ask questions. I am aware I may refuse to participate. I understand I will receive no compensation for consenting to this study.

As I said, if anybody thinks she signed it after the surgery, I will sell you some ocean-front property in Colorado. They say they don't bother them beforehand because they are too distraught, they are too emotional, or they don't want to bring all this up.

That is Christy.

I saw a bumper sticker once that said:

> Abortion: One dead; one wounded.

Can't sum it up any better than that. One dead and one wounded. And the people who were in charge of the health and safety of the mother in these cases are more interested in the dead than the wounded because they are going to make a big profit.

Let's talk about the dirtiest most disgusting secret of all. This is not pleasant. I had somebody from the National Right to Life tell me today, believe it or not—I won't mention names— that we don't have any evidence of any link here. Fine. I am not asking anyone to tell me whether they think this is evidence or not. I am asking everyone to make their own decisions. I am not making any links. I am giving facts. Make your own links.

There is a little complication called ''live birth.'' Uh-oh. Live birth. It happens. When it does, what happens?

I was at an award dinner several years ago when a young woman who is known by many in the right-to-life movement by the name of Gianna Jessen, who then was about 21, so she is probably 25, 26, maybe a little older now. She had been aborted. She was a beautiful girl. She was aborted. There were 1,000 people at this event. She stood up and sang ''Amazing Grace.'' There wasn't a dry eye in the place, including mine. When it was all over she said: I want all of you to know something. My mother made a terrible mistake because I wanted to live. If I had had my choice, if I could have said, spare me, I would have said that. I didn't, but I survived, and I am meaningful. I just sang to you. And she said: I love my mother and I forgive her.

There is a lot more power in that than these people that run these clinics that do this.

Why can't we bring this debate to that level? There is no way to know how many live births actually occur. It happens in partial-birth abortions because they are alive until they are executed as they come through the birth canal. Feet first, they are executed; headfirst, they are born. Any difference? Maybe somebody can explain it.

Many of you may have heard of a gentleman by the name of Eric Harrah. About 10 years ago he left the abortion business. One night Eric and his staff were called to the clinic— remember, he was an abortionist then—because a pregnant girl had given birth in a motel room. The baby was wrapped in a towel. She had been given medication to begin the process of dilation. So it was wrapped in a towel and they thought it was dead, so she came from the motel room carrying this little child in the towel.

Eric, the abortionist, saw the baby's arm fly up and he screamed, ''My God, that baby is alive.''

The doctors sent Rick and the nurse out of the room. When he came back in the baby was dead. A live birth? You might ask yourself, did they take any means to save the child? Or did they kill the child? Who knows? In either case, they let it die.

I have been in this business of doing research on this issue since 1984. I have been involved in the pro-life movement. I have read, I don't know how many thousands of pages. What I am going to read to you now is the worst I have ever come across in everything and anything that I have read. I have never seen anything to equal it. I do not understand how we can tolerate this in this country, but it shows you how sick we really are. We are sick. Oh, we are sick, collectively, believe me. This is a story from Kelly. A short paragraph, what she said. It is very difficult for me even to read it, but you need to hear it.

The doctor walked into the lab. This is in an abortion clinic. Kelly is the wholesaler for the fetal tissue. She is the person who has to take this fetus and do what has to be done to it to get it to the supplier.

> The doctor walked into the lab and set a steel pan on the table. ''Got you some good

specimens,'' he said. ''Twins.'' The technician looked down at a pair of perfectly formed 24-week-old fetuses, moving and gasping for air. Except for a few nicks from the surgical tongs that had pulled them out, they seemed uninjured.

This is pretty difficult. I have witnessed the birth of my three children, so forgive me if I have a little trouble.

The wholesaler, Kelly, said, ''There is something wrong here. They are moving. I don't do this. That's not in my contract.''

She watched the doctor take a bottle of sterile water and fill the pan until the water ran up over the babies' mouths and noses. Then she left the room. ''I couldn't watch those fetuses moving. That's when I decided it was wrong.''

So the abortionist, twin live births, 6 months—the little girl I spoke to you about earlier who wrote to me was born prematurely at 5 months. Two little twins drowned in a pan so their body parts could be sold because they had an order for the body parts. America.

Many of you may have heard about Jill Stanek, the nurse at Chicago's Christ Hospital who has openly admitted that live births occur at her hospital. We are going to have some testimony from Jill. She will be up here on the Hill very soon so you do not have to believe me; you can listen to her. The hospital staff, when it happens, offer comfort care, which amounts to holding the child until it dies. If they are lucky, they get a little love on the way out. Perhaps it is better than being drowned in a dish.

Jill Stanek says:

What do you call an abortion procedure in which the fetus is born alive, then is left to die without medical care? Infanticide? Murder?

Most people would recoil at just the thought of such a gruesome, uncaring procedure, but it is practiced at least one Chicago suburban hospital. When I called Christ Hospital, the Medical Center at Oak Lawn, I frankly expected a denial that it uses the procedure, but instead the spokeswoman explained it is used for ''a variety of second-trimester'' abortions when the fetus has not yet reached viability. That's up to 23 weeks of life, when a fetus is considered not yet developed enough to survive on its own.

Instead of medical care, the child is provided ''comfort care,'' wrapped in a blanket and held when possible.

This is very interesting.

The procedure is chosen by parents and doctors instead of another method in which the fetus is terminated within the womb by, for example, injection with a chemical that stops the heart.

She says further: One day there was a newborn who survived the abortion with no one around to hold it. It was left to die in a soiled-linen closet.

The hospital denies it. She says it happened. Interesting, the hospital says abortions are elective, but they are done only to protect the life or health of the mother or when the fetus is nonviable due to extreme prematurity or lethal abnormalities.

The nurse, Jill Stanek, said she has seen some elective abortions done on newborns whose physical or mental defects are deemed incompatible only with the ''quality of life.''

That is pretty heavy stuff. This is going on in America. People come down here on this floor, year after year, and defend it. That is what they are doing, defending it: A woman's right to choose. The bassinet or the hospital sterile bucket, which is it? Right—right to choose. Put the child in the bassinet or throw it in the garbage or send it off to some research lab.

Here is a headline, a transcript from the WTVN-TV in Columbus, OH, 20 April, 1999:

Partial-Birth Abortion Baby Survives 3 Hours.

A woman 5 months pregnant came to Women's Medical Center in Dayton, Ohio, to get a partial-birth abortion. During the 3 days it takes to have the procedure she began to have stomach pains and was rushed to a nearby hospital. Within minutes she was giving birth.

Nurse Shelly Lowe in an emergency room at the hospital was shocked when the baby took a gasp of air. [Lowe] ''I just held her and it really got to me that anybody could do that to a baby. . .I rocked her and talked to her because I felt that no one should die alone.'' The little girl survived 3 hours.

Mark Lally, Director of Ohio Right to Life, believes this is why partial birth abortions should be banned. [Lally] ''This shows what we've have been trying to make clear to people. Abortion isn't something that happens just early in pregnancy, it happens in all stages of pregnancy. It's legal in this state any time.''

Like it is in any State.

Warren Hern is the author of the most widely used textbook on abortion procedures. Dr. Hern says, in this article:

A number of practitioners attempt to ensure live fetuses after late abortions so that genetic tests can be conducted on them.

There is a link. They say there is no link? There is one.

It is his position that practitioners do this without offering a woman the option of fetal demise before abortion in a morally unacceptable manner since they place research before the good of their patients.

(Mr. SANTORUM assumed the Chair.)

Here is an admission from the industry itself that when they want to—I am not saying all do it, I am saying some do it—when they want to, practitioners can do this. They can ensure a live birth to fall within that 10-minute window, to get that child chopped up quickly and on ice so those limbs are better for the researcher and worth more money. You don't want any abnormalities, don't want any problems.

There was an article in the Philadelphia Inquirer a few years ago called ''Abortion Dreaded Complication.'' The patient had been admitted for an abortion, but instead of a stillborn fetus, a live 2½-pound baby boy appeared. A dismayed nurse took a squirming infant to the closet where dirty linens are stored. When the head nurse telephoned the patient's physician at home, he said: ''Leave it where it is. He will die in a few minutes.''

I used a term in a speech over the weekend referring to doctors such as that. I said they took a hypocritic oath. Someone corrected me and said: ''Don't you mean Hippocratic oath?''

I said: ''No, hypocritic; they are total hypocrites because they are not protecting the lives of unborn children. They should not even be taking the oath.''

In this article, there are some very interesting headlines in this dreaded complication. Listen to what some of the people in the industry say:

Reporting abortion livebirths is like turning yourself into the IRS for an audit. What is there to gain?

Another article says:

How things sometimes go wrong.

Another one:

You have to have a fetus—

Whatever; I can't pronounce the word—

dose of saline solution. It is almost a breach of contract not to. Otherwise, what are you going to do, hand her back a baby, having done it questionable damage?

What a bunch of insensitive, uncaring individuals.

Then they say:

If a baby has rejected an abortion and lives, then it is a person under the Constitution. . . .

I think it is a person under the Constitution before it is born, not under Roe v. Wade but under the Constitution. Roe v. Wade did not let the Constitution get in its way when it made that terrible decision.

Then another guy says:

I find [late-term abortions] pretty heavy weather, both for myself and for my patients.

I stood by and watched that baby die.

They are real caring people, aren't they? They are compassionate, caring people. I think I have made my point on that.

You will notice from these charts I have been putting up that many of the highlights suggest the baby be put on ice within 10 minutes of exiting the womb. I mentioned that earlier.

Stop and think about this. If you do any of the other types of abortions—saline, digoxin, and these other procedures, D&E—what are you going to get? You are going to get something that is going to be an abnormality. No abnormal donors. Within 10 minutes, we want it on ice.

The point I am trying to make is, there are only two ways you can get a baby, a fetus, on ice that quickly. One is a live birth; you instantly kill it. Another is partial-birth. If there is another method, I am open-minded. I would like to hear about it. Maybe somebody has it.

Let me read a letter I received today. This letter is pretty devastating. I want you to think about this 10 minutes on these charts. Within 10 minutes, we need to be able to ship it to give you no abnormal donors, to make sure the fetus is in good shape:

This is from Raymond Bandy, Jr., M.D., Dallas, TX:

Dear Senator SMITH: As a physician and pastor in the Dallas Texas suburb of

Lewisville, I was shocked and outraged several months ago when my friend Mark Crutcher invited me to the offices of Life Dynamics to review for him from a medical perspective of several requisitions for fetal tissue and body parts.

There were 2 areas particularly disturbing: No. 1, It was almost unfathomable to be reading requests for arms, legs, brains, etc., from aborted babies. Leading institutions in our country with research scientists requesting in mail-order catalog format, body parts from babies killed in abortion clinics.

Leading institutions were requesting these parts.

No. 2, My attention was drawn to the fashion in which the requests were made. Over and over again the requests would mention that the tissue must be ''fresh''—

It says ship on wet ice. Another one says fresh, remove specimen and prepare within 15 minutes.

This is the process, a doctor talking now:

(a) The baby must in some fashion be killed in its mother's womb. (b) The baby must then be extracted from the womb. (c) It must then be delivered in some fashion to a technician who would then proceed to amputate limbs; extract eyes, brains, hearts, and then process them; (d) all within 10 minutes. I am not an abortionist, nor have I performed an abortion, but to require these procedures to be accomplished in 10 minutes, means of necessity that the baby be extracted as close to life as possible, and would lead to in many cases babies. . .being born living, in order to be able to have them on ice, or otherwise processed within this short period of time.

As a community physician, I find this barbaric, cruel, evil, and intolerable to the greatest degree. This is a return to the medical practices of the [Nazis] of 1940s. . . .

Can anyone with even the most remote conscience, or moral decency, tolerate this practice?

He closes with that.

Here is a doctor. He is telling us and he is reinforcing everything I have said. Fresh, wet ice, no known abnormalities; get it on the ice. How do you get a fetus that is not chopped up, that is not poisoned? There are only two places. I talked to you about both of them: Live births, partial births.

The dirty little secret is that Planned Parenthood takes Federal taxpayers' dollars. American workers, especially pro-life workers, all of us—but those especially who are pro-life, I am sure, would be opposed to it—are having money taken out of their paychecks to pay for the marketing of babies' body parts. I talked about the $158 million grant from the Federal Government for Planned Parenthood, NIH, $17.6 billion in this year's labor bill—not all for that but just in the bill.

I am not against the funding of the National Institutes of Health, but I think when research is being conducted by the Government, where taxpayer dollars are involved, there is a much higher ethical standard to meet.

In addition, universities receive Federal funding, lots of it. In fact, there are some universities that receive Federal funding specifically for fetal tissue research.

I want to point out one chart that I did not highlight before because this really drives the point home in terms of whether or not there is any particular reason to believe that in the industry they are looking for live births or partial births.

Look what it says on this memo: ''Please send list of current frozen tissues.'' And they go down the list: Liver and blood and kidney and lung, and all this down here. And then what does it say? No digoxin donors. ''No DIG.'' That is the term for digoxin donors.

I want you to understand this and think about this: This is an order form. They are saying here: We don't want any digoxin babies.

Well, why don't they want them? Because they cannot sell them. The parts are no good. It is in their own writing. They are incriminating themselves. They are violating the law, and they ought to be prosecuted.

Shine in the light. Bring in the sunshine. Live births are a big problem, but DIG is not good for research. Abortion clinics and harvesters are also deliberately hiding the fact that they are shipping these parts all over the United States. They even use vague language to trick and deceive shippers such as Federal Express who will not do it, to their credit. But they are not told. They are hidden. One marketer says: ''We've learned through the years of doing this'' how to avoid problems with shippers like Federal Express.

But they have. If you are violating the law, you do everything you can.

As I have gone through this now for I don't know how long here on the floor, you probably say to yourself: Could it get any worse? Can it be any more humiliating?

We have covered pretty well what is happening to the child. Recapping: A woman, pregnant—abortions are down, the industry is losing money, and they can only charge so much. So they find a buyer of the body parts of the fetus. There it is: ''Fee For Services.'' As I said before, $600 for a cadaver, $125 for this, $75 for that. The lower numbers are probably so common that they are not worth much. So they sell the body parts. Then they do unimaginable things to the emotional life of this unfortunate woman who is in so much need of help and counseling.

But there is another dirty little secret, which isn't very well talked about; that is, untold numbers of women in some clinics are being sexually assaulted, harassed, physically harmed, and sometimes killed, as I said before, in these ''safe'' and ''legal'' clinics.

I will give you two examples.

Two months later, [fictitious Dr.] Roe was performing a first-trimester abortion on 23-year-old ''Lucy'' when she began to hemorrhage from a perforation he had made. Still operating without a back-up supply of blood, Roe gave her a transfusion of his own blood. . .

The only problem was, it was not her blood type. He did not bother to check that out.

Lucy then went into cardiac arrest. . . . In Texas, private ambulances are limited to transfers of stable patients and are prohibited from responding to emergency calls. Therefore, they do not respond with any sense of urgency. When the ambulance crew finally arrived and discovered the case was a life-and-death emergency, they transported Lucy immediately rather than call for a fire department ambulance. Unfortunately, Lucy was not as lucky as Claudia [another girl] and she bled to death—

She bled to death—

on November 4, 1977.

That was a long time ago, so I will probably be criticized for bringing something up that long ago.

On June 2, 1989, ''Margaret'' went to [an abortion clinic] to have an abortion performed. . . . After she was dismissed, she started experiencing pain and bleeding, and called the facility about her symptoms. They did not advise her to seek medical care. Two days later, she sought medical treatment on her own and was told that she had a perforated uterus and retained fetal tissue. A D&C was performed to complete the abortion and, due to infection, a hysterectomy was also necessary. Unfortunately, despite all efforts to save her life, Margaret died of the complications of her abortion, leaving behind her husband and one-year-old son.

Taking good care of mom, aren't they? They really are.

And more recently in 1997, in San Diego:

An abortion doctor is being charged with murder by the district attorney of Riverside County, east of Los Angeles.

Dr. Bruce Steir faces a February hearing on a murder charge stemming from the December 1996 death of Sharon Hamptlon, 27, following an abortion at A Lady's Choice Clinic in Moreno Valley, near Riverside.

Miss Hamptlon died from internal bleeding as the result of a perforated uterus. The pathologist in the case found ''gross negligence'' and recommended that the death be considered a homicide.

You see, it is getting more serious because the better trained doctors in all types of abortions are not doing them anymore. So they want to go where the money is: Body parts. I am not going to go into the gory details and some of the sick things that have been done by some in terms of the humiliation of patients, in terms of sexual abuse, and so forth.

Tomorrow, at some point, I intend to offer an amendment that shines the light into the industry. I intend to push for a full investigation into this industry. I intend to find out whether live births are, in fact, used for the sale of body parts. I intend to find out whether in fact partial-birth abortions are used for the sale of body parts. I intend to find out whether laws are being violated in this country and, if so, who is violating them.

This amendment will provide for the light to shine into these clinics so we can get these answers. We deserve these answers. If you are pro-woman, and you are pro-child, you ought to be for my amendment. If you do not like the fact that women die horrible deaths, that children are being chopped up and sold illegally, I don't care which side of the debate you are on, if you wonder whether or not and you are not sure whether or not partial-birth abortions are used for the sale of body parts

in some cases, if you want to know whether they are, then let's find out. Let's look into it. Let's see if we can get the answers. And that is what my amendment does.

This has been a long, difficult speech for me to make. But I want my colleagues to know that just about everything in America is regulated—unfortunately, in some cases. There is no reason why this industry should not be regulated. Let's find out what is going on. Let's shine the light in. Let's bring the sunshine in. And let's get answers. And let's find out about the sale of body parts. Let's find out what the source of those body parts are. Let's shine the light in on the industry.

Tomorrow, I will have an amendment on that subject. I truly hope all Americans will be supportive—pro-life, pro-abortion. If you want to see to it that women are not abused, if you want to see to it that women are treated with respect and dignity, if you want to see to it that if an abortion occurs and there is a live birth, that that child should get help, should be allowed to live, if you want all that, and you care, then you should support this amendment because all it does is shine the light in. It is a disclosure amendment. That is all it is. It requires disclosure to shippers for any package containing human fetal tissue. It also contains language to limit the payment of a site fee from the transferee entity to the abortionist to be reasonable in terms of reimbursement for the actual real estate or facilities used by such an entity.

We are going to find out whether these people are in the business of selling body parts or abortions or both. What is the percentage? How much are they making on each? Shine in the light.

I have been on the floor year after year and in the House before that, for 15 to 16 years, trying to end this horrible industry, this disgusting exploitation of children and women, to no avail. If we just had a President who would pick up his pen and say, ''I don't want to see another few thousand people die in the next 5 years; I am willing to sign the ban on one type of abortion,'' we could get a good start. But he won't do it. We are going to lose again.

So let's win with this amendment. Let's try to get an amendment passed that will shine the light in so we can find out what goes on in the industry.

I yield the floor.

MORNING BUSINESS

The PRESIDING OFFICER (Mr. BROWNBACK). Under the previous order, the Senate will now proceed to a period of morning business with Senators permitted to speak.

The Senator from Pennsylvania.

THOUGHTS ON DISCUSSION OF PARTIAL-BIRTH ABORTION

Mr. SANTORUM. Mr. President, I will speak briefly. The Senator from Tennessee, Mr. FRIST, is here. I know he is planning to come and talk about this issue. Under our agreement, I agreed I would yield the floor when he gets here to make a speech.

I, first, thank the Senator from New Hampshire. I did not catch all of his remarks. I caught the last 45 minutes or so. He is talking about a very difficult issue. It is an amendment we will have to vote on tomorrow. It is not a difficult issue. It is a difficult issue to talk about. I think it is a rather simple issue. I am hopeful, again, this will be an issue where we put the politics of abortion aside and understand this kind of action should at least be looked into by some sort of study to determine whether this activity occurs and how pervasive this is.

What I would like to do tonight is share some thoughts in response to a discussion today about the anecdotes of cases that were presented in defense of partial-birth abortions. We heard about cases of women who needed this procedure to save the mother's health or the mother's life. I would like to review what the medical evidence is, again, and also bring up some cases where people took a different option and show how that option, as humane as the other side, with their wonderful pictures of husbands and wives and in some cases children, as warm and fuzzy as they would make it out to be, the fact is, in every one of those cases a child was killed. A baby was killed. That is a tragedy.

In many cases the baby would not have lived long, but the baby was killed before its time. Many of the people I am going to talk about tonight understood their baby was not going to live long or might suffer from severe abnormalities, but they were willing to take their child's life for what it was, as we all do when we are confronted with it in our own lives. We find out a son or daughter is afflicted with a horrible illness. Our immediate reaction is, well, how can I put my child out of its misery? Or my child isn't going to live very much longer; how can I end it sooner?

I don't think that is the immediate reaction of mothers and fathers in America. But yet, when it comes to the baby in the womb, we have many people who believe that is the logical thing to do. I argue that it is not the logical thing. It is not the rational thing. It is not the humane thing. It is not in the best interest of the health of the mother. All those other things, in fact, in this debate don't matter.

What does matter in this debate is, is it in the best health interest of the mother? I will talk tonight about cases where people made a different choice and, I argue, from a health perspective, a better choice. When I say ''health,'' I mean not only the physical health of the mother but also the mental health of the mother.

We will talk about some of those cases. I will talk about some of the cases that were brought up today and explain why those cases, again, were not medically necessary to protect the health of the mother. There were other options available, even if they wanted to choose abortion.

Then I will share with you some things that have happened to me as a result of this debate and provide to my colleagues that, while we may not win all the votes, at times there are things even more important than that.

I see the Senator from Tennessee, Dr. FRIST, is here. I yield the floor to him.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. FRIST. Mr. President, I rise to continue the debate on the Partial-Birth Abortion Ban Act of 1999. I rise to follow the Senator from Pennsylvania, who has taken a leadership position and a moral position. I am delighted to hear he will tonight concentrate on an issue that I think has been for far too long overlooked in this debate; that is, the effects of this procedure, which is a barbaric procedure, on women. Those women are our sisters, our mothers, our daughters. That health effect is something that gets lost too often in the debate, which is not the politics. It is not the rhetoric. It is not the emotion. It is the health of the woman involved.

This is the third time I have had the opportunity to come to the floor and participate in this debate on the issue of partial-birth abortion. Each time I come, as a physician, I take the time to review the recent medical literature to see what the facts are, what the clinical studies are, what is the information and the medical armamentarium, the literature that is out there. That is where the medical profession, that is where the scientists involved in medicine, that is where the surgeons publish their experience, where you talk about indications, you talk about the side effects, you talk about risk, you talk about complications. That is where you share it with your colleagues.

Each time before coming to the floor to debate this issue and discuss this issue, I talk to my colleagues at the various institutions where I have trained and have been, on the east coast, the west coast in training. I picked up the phone and talked to several of them today, colleagues who are obstetricians directly involved in the surgical aspects of this procedure.

Each time this issue comes to the floor of the Senate, I step back and look at what studies, what developments there have been since we last discussed this issue. I rise tonight to talk about this procedure as a medical procedure. It has been interesting to me because over the course of today I have heard again and again that there is no obstetrician in this body of the Senate. I am not an obstetrician. I am a surgeon, which means I am trained to perform surgical procedures.

I am trained. I spent 20 years in both training and engaged in surgery to make surgical diagnoses, to perform

technical operations, to evaluate the risk of these operations, and to assess the outcome of these operations. No, I am not an obstetrician, and I don't pretend to be. I call obstetricians. I call people who are on the frontline. But I am a surgeon. I know something about surgical procedures. That is what I did before coming to the Senate. I am board certified in surgery. I am board certified in two different specialties.

When people talk about this medical procedure, I want to make it clear I am not an obstetrician. But I am board certified in general surgery. I am board certified in cardiothoracic surgery. I have spent 20 years studying and performing surgical procedures.

This is background. A lot of what I did is publish and research surgical procedures. But this is background. I have focused not, as I mentioned earlier, on the politics or the rhetoric, but on the medical use of this specific procedure, partial-birth abortion. As my colleagues know by now—but I want to restate it because I have gone back and reviewed the medical literature and have talked to colleagues at other institutions, and I have looked at developments since last year—I conclude partial-birth abortion is a brutal, barbaric procedure that has no place in the mainstream practice of medicine today.

Again, partial-birth abortion is a brutal, barbaric procedure that has absolutely no place in the mainstream practice of medicine today. Partial-birth abortion is a procedure that is rarely, if ever, needed in today's practice of medicine. Alternative methods of abortion, if abortion is necessary, are always available—even when the abortion is performed very late in pregnancy.

Now, we have had the American College of Obstetricians and Gynecologists quoted on the floor, and they will continue to be, which I think is appropriate. A number of their statements, I think, are taken out of context and put forward. Ultimately, their recommendation is, I believe, against the procedure; but for a lot of different reasons they are against passage of what is being proposed. I will come back to that. But it is interesting, when it comes back to answering the question, ''Are there always alternative procedures available,'' their answer would be yes.

Again, I refer to a number of documents, but this is the Journal of the American Medical Association of August 26, 1996, volume 280, No. 8. In an article this quotation is made:

> An ACOG policy statement emanating from the review declared that the select panel ''could identify no circumstances under which this procedure would be the only option to save the life or preserve the health of the woman.''

There are always alternative procedures available. This is important because the procedure of partial-birth abortion, as we have described and laid out—a procedure in which the fetus is manipulated in the uterus, partially evacuated from the uterus, scissors inserted to puncture the skull or the cranium with evacuation of the contents of the cranium, the brain—that procedure has not been studied. We know there are certain risks, but the alternative procedures that are available in every case have been studied. You can go to a medical textbook and look up those alternative procedures, and you can go to the clinical literature and read the studies. It has been peer reviewed and presented at meetings. Debate has been carried out. There are comparisons between one surgeon's results and another's. You can identify the risks for the alternative procedures, but you cannot for the partial-birth abortion.

Now, ACOG, as has been mentioned on the floor, does take the position that the procedure ''may'' be superior to other procedures, as its basis for justifying opposition to this legislation. But with everything I have read, ACOG did not identify those specific circumstances under which partial-birth abortion would be the preferred procedure. And thus, as a scientist, where you want to look at outcomes, risks, and results in determining whether or not to use a certain procedure or recommend such a procedure, the data is clearly not there. It is not there. Thus, you have a procedure which, as I have said, is a brutal, barbaric procedure, with no data substantiating it or identifying the risks, compared to alternative procedures that have been defined, where we know what those risks are. Thus, this use of the word ''may,'' I would flip around and say ''may not.'' I would say the burden of proof is to go to the literature and present the clinical studies that show this barbaric procedure, in any case, is the best or most appropriate. The data, I can tell you, is not there.

So I think the next question to ask is: Are we talking about a procedure, partial-birth abortion, which this legislation would prohibit, which is a part of mainstream medicine? Is it part of the surgical armamentarium out there that is talked about in textbooks, in the literature, or in medical schools?

The answer is, no, it is not. It is a fringe procedure. It is out of the mainstream. This procedure is not taught. This procedure is not taught in the vast majority of medical schools in the United States of America. Yet we will hear some medical schools talk about some types of dilatation and extraction, and they will talk about it at 16 weeks, at 14 weeks, and even 18 weeks. I think we need to make very clear we are talking about a procedure that requires manipulation in the uterus, partial delivery; thus, the partial-birth aspects of this procedure, with the insertion of the scissors and the evacuation of the contents. I can tell you, that procedure is not taught in medical schools today. When an obstetrician says, ''Oh, yes, but we teach late-term abortions,'' some do, but they don't teach this procedure.

Surgical training. Again, I am not an obstetrician, but I did spend 7 years in surgical training learning every day. What do you learn as part of that? You learn the specific indications for a particular procedure. In your surgical training, you learn the various surgical techniques that have been described on the floor. Although it is very difficult for people to talk about and listen to on the floor of the Senate, that is part of it, that is the barbarism, the brutality of the way this procedure has evolved. In your surgical training, you look at the complications, outcomes, and risks of these accepted surgical procedures.

The indications for a partial-birth abortion, for the surgical techniques as described, the complications, the outcomes, and the risks are not taught in medical schools today. The procedure of partial-birth abortion is not routinely part of the residency programs today. Why? Because it is dangerous, because it is a fringe procedure, because it is outside of the mainstream of generally accepted medical practice. It has not been comprehensively studied or reviewed in the peer-reviewed literature. There are no clinical studies of it in the medical literature.

As I said, when this debate comes to the floor and you want to make the case, you look at the medical literature, which I have done, and then you want to say: What about the textbooks? Surely, it is in the textbooks if people are out there doing this procedure on women, which I contend is harmful to women; surely, it is written in the medical obstetric textbooks. That is what you study. That is the foundation.

So what I have done over the last couple of days is I have gone to the medical textbooks and reviewed 17 of those textbooks. I can tell you, after reviewing those 17 textbooks, only 1 of the 17 even mentioned partial-birth abortion, and that 1 of the 17 mentioned it in one little paragraph. It mentioned the fact there have been vetoes of the partial-birth abortion legislation from last Congress and the Congress before.

The textbooks that I reviewed were Williams Obstetrics, which is one of the foundations of obstetrical education today by Cunningham and Williams.

I reviewed the manual of obstetrics by Niswander and Evans.

I reviewed the Essentials of Obstetrics and Gynecology by Hacker and Moore.

I reviewed the Practice Guidelines for Obstetrics and Gynecology by Skoggin and Morgan.

I reviewed the Blueprints in Obstetrics and Gynecology by Callahan and Caughey.

I reviewed Novak's Gynecology by Novak and others.

I reviewed Operative Gynecology by Te Linde, Rock, and Thompson.

I reviewed Mishell Comprehensive Gynecology;

And Textbook of Women's Health by Wallis.

And the list goes on.

Again, I think it is important because it demonstrates that this procedure is outside of the mainstream. It is a fringe procedure, and, therefore, any defense of this procedure, which we know has complications, which we know affects women in a harmful way, should be justified in some way in the medical literature, where it is not.

The fringe nature of this procedure is also underscored by the fact that there are no credible statistics on partial-birth abortion.

Throughout the course of today—and really has been put forward on both sides—people cited certain numbers of how many are performed. We went through this again in the last Congress. Some say that there are 500 of these procedures performed annually. The more realistic estimate I believe is that there is somewhere—again, it is truly so hard to estimate to even mention specific numbers—between 3,000 and 5,000 of these partial-birth abortions performed every year.

The numbers do not matter, I don't think, because what we are talking about is this barbaric procedure. It is harmful to women. So 1 is too many, or 5 is too many, or 10, or even 500—any is too many.

What data do we have that this procedure can be performed safely? Absolutely none. Part of the problem is the absence of accurate data with which to judge the safety of this procedure, and because of, in part, the incomplete data that is accumulated, and the way we accumulate data on abortions. Although the CDC collects abortion statistics every year, not all States provide that information to the CDC, and the ones that do lack information on as many as 40 to 50 percent of the abortions performed in that particular State.

But I think most importantly the categories that the CDC, Centers for Disease Control, uses to report the method of abortion does not split out partial-birth abortions from the other procedures. So it gets mixed in with all of the other procedures.

It is this lack of data on this procedure that I think is especially troubling because of the grave risk, as the Senator from Pennsylvania pointed out earlier, of complications the grave risk that this procedure poses to women.

In the debate, we have opponents of abortion on the one hand, proponents of a right to choose on the other, and we have the debates that come forth with the tint of emotion and rhetoric. But the thing that gets lost is what the Senator from Pennsylvania mentioned, and that is that this procedure is terrible for women. He outlined some of the ways in terms of the physical and mental health.

But I would like to drop back and look at this safety issue because in all of the arguments for rights, we need to have this procedure out there.

It is critically important, I believe—I say this as a physician—that we recognize that this procedure is dangerous and hurts women.

There are ''no credible studies'' on partial-birth abortions ''that evaluate or attest to its safety'' for the mother.

I take that from the Journal of American Medical Association, August 26, 1998.

There are ''no credible studies'' on partial-birth abortions ''that evaluate or attest to the safety'' for the mother.

The risk: I can tell you as a surgeon—again, I drop back to the fact that I am a surgeon and I spent 20 years of my adult life in surgery—that patients who undergo partial-birth abortion are at risk for hemorrhage, infection, and uterine perforation.

I can say that. And I can say it and be absolutely positive about it because these are the risks that exist with any surgical midtrimester termination of pregnancy.

The partial-birth abortion procedure itself involves manipulation of the fetus inside of the uterus, turning the fetus around, extracting the fetus from the uterus, and then punching scissors into the cranium or the base of the skull; requires spreading of those scissors to make the opening large enough to evacuate the brain.

That procedure has two additional complications than what would be with a trimester abortion, and that is uterine rupture, No. 1; and, No. 2, latrogenic laceration. That means the cutting of the uterus with secondary hemorrhage or secondary bleeding.

Uterione rupture: What does it mean? It means exactly as it sounds—that the uterus ruptures. And that can be catastrophic to the woman.

It may be increased during a partial-birth abortion because the physician in this procedure must perform a great deal of it blindly while reaching into the uterus with a blunt instrument and pulling the feet of the fetus down into the canal. Thus, you have uterine rupture.

I should also add that this type of manipulation is also associated—we know this from the medical literature because there are very few cases where you have to manipulate the fetus. That manipulation is also associated with other complications of abruption, amniotic fluid embolus, where the fluid goes to other parts of the body and other trauma to the uterus.

All of these are serious, potentially life-threatening complications from this fringe procedure that has not been studied, is outside the main stream medicine, not in the medical textbooks, not in the peer-review literature for which we have alternative procedures available.

The second complication is latrogenic laceration, an accidental cutting of the uterus, occurs because, again, much of this procedure is done blindly. The surgeon has scissors that are inserted into the base of the fetal skull. It is not just the insertion of the scissors, but it takes a spreading of the scissors to establish a real puncture large enough to evacuate the brain.

An another example, an article dated August 26, 1998, another quotation. Let me open with the quotation marks.

''This blind procedure risks maternal injury from laceration of the uterus or cervix by the scissors and could result in severe bleeding and the threat of shock or even maternal death.''

''Could result in severe bleeding and the threat of shock or even maternal death.''

These risks, which I just outlined, have not been quantified for partial-birth abortions.

Would you want this untested procedure performed on anyone that you know? The answer, I believe, is absolutely not because there is always an alternative procedure available.

Mr. President, we are discussing a fringe procedure with very real risks to a woman's health. The lack of data on this procedure underscores my opposition to it. Just as we cannot ignore the risk to the mother, let's also look at the risk a little bit further down the line.

It leads me to a conclusion that partial-birth abortion is inhumane, and offends the very basic civil sensibilities of the American people. The procedure itself, yes. But what about the treatment of the periviable fetus? I say that because at what point in the gestation period viability actually is realized is subject to debate. It shifts with technology and with our ability to intervene over time.

Most of these procedures are performed today in what is called the periviable period—somewhere between 20 and 24 weeks of gestation, and beyond.

The centers for pain perception in a fetus develop very early in that second trimester period. We cannot measure fetal pain directly, but we do know that infants of similar gestational age after delivery—28 weeks, 30 weeks, or 24 weeks—those babies, those fetuses that are delivered, do respond to pain. Again, we are talking about a procedure performed on an infant, a fetus, at 24, 26 weeks.

With partial-birth abortions, pain management is not provided for the fetus at that gestational age. That fetus, remember, is literally within inches of actually being delivered. Pain management is given for procedures if those 2 or 3 inches are realized and the baby is outside of the womb, at the same gestational age; if the fetus is in the womb, pain management is not given.

I say that again because we have to at least think of the fetus and think of the procedure, taking scissors and inserting them into the cranium, into the skull, and the spreading of those scissors. What is that doing? Is that humane?

Therefore, to my statement that this is a barbaric procedure, I say it is an inhumane, barbaric procedure regarding the woman—and I just went

through those complications—and regarding the fetus.

Because of the ''fringe'' nature of this practice, because of the lack of peer review and study of this procedure, I have strong feelings about this issue. I have taken too much time walking through the medical aspects, but I think it is important to free up a lot of the intensity of the debate earlier in the day. I think it is important to have a discussion so the American people and my colleagues know at least one surgeon's view of this surgical procedure.

I close by saying that because of this lack of peer review study of this procedure, because of the fringe nature of this procedure, because of the grave risk it poses to the woman, because I believe it is inhumane treatment of that infant, that fetus, and because even as ACOG, the gynecologic society, concedes partial-birth abortion is never the only procedure that has to be used, I strongly support this legislation by the Senator from Pennsylvania to outlaw this barbaric and this inhumane practice.

I yield the floor.

The PRESIDING OFFICER (Mr. FRIST). The Senator from Pennsylvania.

Mr. SANTORUM. I know the hour is late, and I will not take a lot of time. I appreciate the indulgence of the Senator from Kansas for his marathon stay on the floor and the Chair tonight.

First, let me thank the Senator from Tennessee for his expert testimony. We hear a lot from those who oppose this procedure and the fact there is no obstetrician here. I think someone with the surgical skills and the international reputation of Dr. FRIST, combined with the obstetricians who, in fact, are Members of Congress on the other side of this Capitol who oppose this procedure, who support this bill—I think we have the medical community of the Congress clearly on our side. I think as I stated before, we have the medical community generally on our side, hundreds and hundreds of obstetricians who have come forward and talked about it.

I want to talk tonight about a few cases. I do that for a couple of reasons. I want to articulate again that there are alternatives available to a partial-birth abortion. We heard Dr. FRIST talk about other abortion techniques that are available in the medical literature, techniques available for later in pregnancy if a mother decides to have an abortion. I want to share with people, because I think it is important and this transcends the partial-birth abortion debate, but I think it is relevant to discuss that there are other ways to deal with this that are as healthy, and, I argue, even more healthy, for the mother involved.

We heard the Senator from Illinois, Mr. DURBIN, today talk about Viki Wilson, Coreen Costello, and Vikki Stella. I entered into the RECORD those three cases. All these women came to the Congress. They testified themselves. They brought their own stories forward. They are now being used by Members of Congress and have been used by Members for several years to support the claim this was the only method available to them and this saved their health and their future fertility. I will take them one by one very quickly, but I want to reemphasize that this was not the only option available to them. There were, in fact, more healthy procedures.

That does not mean if a certain procedure is performed—I am sure the doctor would affirm this—there is more than one procedure that can be used. Even if it is not the proper procedure, it may turn out OK with a good result. The point I am trying to make and I think the point the medical community is trying to make: It is not the best medicine, it is not proper, and it certainly isn't the only procedure available.

In the case of Viki Wilson, according to her own testimony, she didn't have a partial-birth abortion. She says in her testimony that the death of her daughter Abigail was induced inside the womb.

> My daughter died with dignity inside my womb, after which the baby was delivered head first.

Partial-birth abortion, as we heard Dr. FRIST describe, is when the baby is delivered in a breach position alive, that all of the baby is taken out of the mother except for the head, and then a sharp instrument is inserted in the base of the skull, the baby is killed, and the brains are suctioned out.

That is not what happened. Yet we know that from her testimony, we have known that for several years, since 1995. Yet year after year after year, as we debate this bill, people come to the floor and hold up this case and say: Here is someone who was saved from health consequences by partial-birth abortion. It didn't happen. It didn't happen.

Let's take the cases where it did happen. I have two letters, one from a Dr. Pamela Smith who is at Mount Sinai Hospital in Chicago and another from Dr. Joseph DeCook who is at Michigan State University, discussing two different cases: First the Vikki Stella case, and second Coreen Costello.

It is very comfortable for me to stand here and talk about the very personal and tragic cases. I am sure it is very painful for those involved to hear their case being brought up by someone they disagree with in a very vociferous way. But if they are going to bring their case to support a conclusion that this procedure is medically necessary, then their story, their records, have to be examined to determine whether, in fact, it does support this medical determination, which has been arrived at by some, that this is a medically necessary procedure.

In the case of Miss Stella, she has proclaimed that this is the only thing that could be done to preserve her fertility.

This is what Dr. Pamela Smith writes:

> The fact of the matter is that the standard care of that is used by medical personnel to terminate a pregnancy in its later stages does not include partial-birth abortion. Caesarean section, inducing labor with petosin or proglandins or, if the baby has excess fluid in the head, as I believe was the case with Miss Stella, draining the fluid from the baby's head to allow a normal delivery, all are techniques taught and used by obstetrical providers throughout this country. These are techniques for which we have safe statistics in regard to their impact with regard to the health of both the woman and the child. In contrast, there are no safety statistics on partial-birth abortion.

We heard Dr. FRIST say that. This is not a peer-reviewed procedure. We do not know from any kind of peer-reviewed study as to whether this is proper.

> There is no reference on this technique in the National Library of Medicine database, and no long-term studies published to prove it does not negatively affect a woman's ability to successfully carry a pregnancy to term in the future. Miss Stella may have been told this procedure was necessary and safe, but she was sorely misinformed.

We all want to believe what our doctor tells us. We all put faith in our doctor. When our doctor says this is the only thing that could have helped you, I am not surprised that that is repeated by people who had the service performed on them. But what this doctor is saying, what 600 obstetricians have said, what Dr. FRIST has said, what Dr. COBURN in the House has said, what Dr. Koop has said—Dr. C. Everett Koop—what the AMA has said, is that this is not good medicine. So she was sorely misinformed.

One of the complicating factors here that Senator DURBIN brought up was that Vikki Stella had diabetes. And Dr. Smith addresses that. She says:

> Diabetes is a chronic medical condition that tends to get worse over time, and it predisposes individuals to infections that can be harder to treat. If Miss Stella was advised to have an abortion, most likely this was secondary to the fact that her child was diagnosed with conditions that were incompatible with life. The fact that Ms. Stella is a diabetic, coupled with the fact that diabetics are prone to infection and the partial-birth abortion procedure requires manipulating a normally contaminated vagina over a course of 3 days, a technique that invites infection, medically I would contend that of all the abortion techniques currently available to her, this was the worst one that could have been recommended for her. The others are quicker, cheaper, and do not place a diabetic in such extreme risk of life-threatening infections.

Again, for all of the argument that we need this procedure to protect the health of the mother, and here are cases in which it was used to protect the life and health of the mother, the fact is it was not the best thing. The evidence is it was not the best thing. So the very cases we are to rely upon to make a judgment that this was in fact a case in point as to why this procedure is necessary do not substantiate the claim. These are their best cases. You don't bring out your worst cases. This is the best evidence.

This goes back to what Dr. FRIST just mentioned, what I have mentioned earlier in the day. We are still waiting to hear what case is necessary: In what case is this the best procedure? Give us the set of facts and circumstances where this is, in fact, a preferable option, where it has been peer reviewed, where there is consensus in the field that this problem with the child and problem with the mother, that combination, requires partial-birth abortion as the preferred method.

Organizations have said this may be the best. If you say ''may,'' then you have to come forward saying where can it be the best; tell me what circumstances. They have not. Yet, incredibly, with all of the evidence we have presented on our side of this issue, of how it is bad medicine, how it is not peer reviewed, how it is rogue medicine, how it was developed by an abortionist who was not an obstetrician, how it is only done in abortion clinics, how it is not taught in medical schools, it is not in any of the literature—all of this information is overwhelming that this is a bad procedure—the only thing they hold onto on the other side is, it may be necessary, with no instance, no hypothetical.

Pull out your worst set of facts for me, put them on paper, and tell me what it is. They will not do it. You have to wonder, don't you, if this is the evidence they want to use to claim that health is a necessary provision. It is bogus. It is bogus.

Coreen Costello—again, this is based on what she has revealed of her medical history of her own accord. Again, Dr. DeCook states that a partial-birth abortion is never medically indicated. In fact, there are several alternative standard medical procedures to treat women confronting unfortunate situations such as what Miss Costello had to face.

According to what she presented to us, the Congress, Miss Costello's child suffered from at least two conditions, polyhydramnios secondary to abnormal fetal swallowing and hydrocephalus.

In the first the child could not swallow the amniotic fluid and an excess of the fluid, therefore, collected in the mother's uterus.

The second condition, hydrocephalus, is one that causes an excessive amount of fluid to accumulate in the fetal head. Because of the swallowing defect, the child's lungs were not properly stimulated, and underdevelopment of the lungs would likely be the cause of death if abortion had not intervened. The child had no significant chance of survival, but also would not likely die as soon as the umbilical cord was cut.

The usual treatment for removing the large amount of fluid in the uterus is called amniocentesis. The usual treatment for draining excess fluid from the fetal head is a process called cephalocentesis. In both cases, the excess fluid is drained by using a thin needle that can be placed inside the womb through the abdomen, transabdominally or through the vagina. The transvaginal approach, however, as performed by Dr. McMahon on Miss Costello, puts a woman at an increased risk of infection because of the nonsterile environment of the vagina. Dr. McMahon used this approach most likely because he had no significant experience in obstetrics and gynecology.

Again, using a higher risk procedure. Why? This man was not an obstetrician; he was an abortionist.

In other words, he may not have been able to do as well transabdominally in the standard method used by OB/GYNs because that takes a degree of expertise he did not possess.

After the fluid has been drained and the head decreased in size, labor will be induced and attempts made to deliver the child vaginally. Miss Costello's statement that she was unable to have a vaginal delivery or, as she called it, natural birth or induced labor, is contradicted by the fact that she did indeed have a vaginal delivery conduct by Dr. McMahon. What Miss Costello had was a breach vaginal delivery for purposes of aborting the child, however, as opposed to a vaginal delivery intended to result in a live birth. A cesarean section in this case would not be medically indicated, not because of any inherent danger but because the baby could have been delivered safely vaginally.

We have heard testimony after testimony from hundreds of obstetricians saying there may be cases where separation has to occur between the mother and the child because of the health of the mother, because of the life of the mother. There may be a case—there are cases where the baby within the mother's womb is a threat to the mother's life and health. But what these doctors have said over and over and over again is, just because we have to separate the mother from the child does not mean you have to kill the child in the process.

In the case of partial-birth abortion—take Coreen Costello—fluid was drained. The baby could have been delivered. The baby could have been delivered and given a chance to survive. By killing the baby, you increase the risk to the mother. When you do a procedure inside of the mother that causes the destruction of the child through shattering the base of the skull, you are performing a brutal procedure, a very bloody, barbaric procedure inside of the mother that could result in laceration, and bony fragments or shards perforating that birth canal area. That is much more dangerous to the health of the mother than simply delivering the baby intact.

It seems almost incredible to me that in the overwhelming—overwhelming—status of the medical evidence presented on the floor we would have any question as to whether this is really necessary to protect the health of the mom.

My argument goes a little further because I think these doctors are saying that you may need to deliver the child prematurely, but you never need to kill the baby to protect the health and life of the mother. There is always a way to deliver the child. At least give this child the dignity of being born.

Remember, most of these abortions are done on healthy mothers and healthy babies. I think everyone looks at this debate and says: Oh, this is a debate; about sick moms and sick kids. It is not a debate about sick mothers and sick kids. This is a debate primarily about healthy mothers who decide late in pregnancy not to have a child, and the child is healthy. The child would be born alive if it were not killed by the partial-birth abortion. The child, in many cases, would not only be born alive but would survive that birth. We in the Senate say too bad; too bad.

I am going to talk now about the small percentage of cases where there are the difficult choices because that is the real powerful argument. That is why they make it because they believe it is the most powerful argument they have to keep this procedure legal. They do not want to talk about the 90 percent of the cases because they cannot defend that. You cannot defend a 25-week abortion with a healthy mother and a healthy baby where that baby would be born alive, survive, develop, and live normally. You cannot defend that.

And guess what. Surprise, surprise, nobody does. They do not talk about those cases. That is the norm here. That is the norm. That is what goes on out there. They do not talk about that. They want to bring in the sick kids and the sick moms and say: We need this for these small percentage of cases.

Again, let's get to the argument again. In every one of those cases where there is a maternal health issue, there is overwhelming evidence this procedure is not in the best interest of the mother, but they want to bring in the sick kids.

That bothers me because it assumes that you, the American public, out there listening to what I am saying, somehow look at sick children as less important, as less worthy of life, as disposable, as a burden, as a freak, as pain and suffering, not as a beautiful, wonderful gift from God. That is why they argue these cases, and they argue these cases because there are millions of Americans who, when they hear about this child who is deformed or not going to live long, see this child as a burden, as unwanted, as imperfect.

It is a sad commentary on our country if we look at God's creations and see only what their utility is to our country, to our lives, to our world. And if their utility is not how we can quantify it in terms of what kind of job they can have, how smart they will be or how beautiful they will be, what they will add to the value of life in America, they are seen as less useful, less needed, less wanted, a burden.

The fact that the people who make this debate, oppose this bill, bring this up and talk about just these cases sends a chill down my spine, because they are appealing to the darker side of us when they do that. They are appealing to our prejudice against people who do not look like us, who do not act like us, who are not perfect like us, and yet they are the very people who will fight heroic fights. And I give credit to many who will fight the heroic fights to give rights to that disabled child after it

survives. But once the child is delivered and once it is alive, then they will fight the battle to make sure it gets a proper education under IDEA.

The Senator in the Chair, Dr. FRIST, was a great leader on that and worked with some of the opponents of this bill on ensuring disabled individuals have rights. But I wonder how they can justify using these cases to appeal to this dark side of us, the cultural phenomenon in this country that demands perfection, that is poisoning our little girls with what perfect little girls must look like, that is leading to disorder after disorder as a result of the striving for perfection that has permeated our culture, what you have to look like, what you have to smell like, what you have to wear.

They feed into that by saying these poor children are not quite worthy of life. While we will fight for them once they are born, I think what they are actually saying is: But we really hope they are not born in the first place.

That is very disturbing because I am going to share with you tonight some stories about parents who made a different choice, who, when they heard about the child inside, decided they were going to look at that child the way God looks at that child, as a beautiful, wonderful creature of God, perfect in every way in His most important eyes, and accepted children for as long or as short a time as their life was to be.

I am going to share with you a story first of Andrew Goin.

Last time we debated this issue on the override of the President's veto last year—it was last fall—I had this picture up here. We talked about Andrew. And I will do so again. But I have a little addendum to this story.

First, let me tell you about Andrew. That is Andrew. Andrew's mother is Whitney Goin. She had a feeling something was wrong 5 months into her pregnancy. When she went in for her first sonogram, a large abdominal wall defect was detected. She described her condition after learning there was a problem with the pregnancy:

> My husband was unreachable so I sat alone, until my mother arrived, as the doctor described my baby as being severely deformed with a gigantic defect and most likely many other defects that he could not detect with their equipment. He went on to explain that babies with this large of a defect are often stillborn, live very shortly, or could survive with extensive surgeries and treatments, depending on the presence of additional anomalies and complications after birth. The complications and associated problems that a baby in this condition could suffer include but are not limited to: bladder exstrophy, imperforate anus, collapsed lungs, diseased liver, fatal infections, cardiovascular malformations . . . .

And so on.

A perinatologist suggested she strongly consider having a partial-birth abortion. The doctor told her it may be something that she ''needs'' to do—that she ''needs'' to do. He described the procedure as ''a late-term abortion where the fetus would be almost completely delivered and then terminated.''

The Goins chose to carry their baby to term. But complications related to a drop in the amniotic fluid level created some concerns. Doctors advised the Goins that the baby's chances for survival would be greater outside the womb. So on October 26, 1995, Andrew Hewitt Goin was delivered by C-section. He was born with an abdominal wall defect known as omphalocele, a condition in which the abdominal organs—stomach, liver, spleen, small and large intestines—are outside of the baby's body but still contained in a protective envelope of tissue. Andrew had his first of several major operations 2 hours after he was born.

Andrew's first months were not easy. He suffered excruciating pain. He was on a respirator for 6 weeks. He needed tubes in his nose and throat to continually suction his stomach and lungs. He needed eight blood transfusions. His mother recalled:

> The enormous pressure of the organs being replaced slowly into his body caused chronic lung disease for which he received extensive oxygen and steroid treatments as he overcame a physical addiction to the numerous pain killers he was given.

It broke his parents' hearts to see him suffering so badly.

Andrew fought hard to live. In fact, Baby Andrew did live. On March 1, 1999, Bruce and Whitney Goin welcomed their second child, Matthew, into the family.

Here is a picture of the two of them.

Contrary to the misinformation about partial-birth abortion that has been so recklessly repeated, carrying Andrew to term did not affect Whitney's ability to have future children.

This is that little boy who ''needed'' to be aborted, who was not ''perfect'' in our eyes. It is one of these ''abnormalities'' that we need to get rid of. What a beautiful little boy. What a gift he is to his parents. What a gift he is to all of us for his courage and inspiration. What inspiration we get as a society from those who overcome the great odds and pain and strife. How ennobled we are by it.

Are we ennobled by partial-birth abortions? Would we be ennobled in this country today if Whitney Goin did what she ''needed'' to do according to the doctor?

Andrew Goin touched more than one life directly.

When I had this previous picture up of Andrew last year, I was here at about this time of night. At that time, Senator DEWINE was in the Chair. I was thinking, and I called my wife about an hour before, as I did tonight, and I said: Honey, I just have to get up and talk some more. I just feel it in me. I have to say more. I know it's not going to change anybody's vote, but I have to say it. I know there is nobody on the floor other than MIKE DEWINE—at that time; and now BILL FRIST at this time—who will be listening to what I'm going to say, but I have to say it.

So here I am again. I remember finishing that night a little after 10 o'clock. And it was after 10 o'clock, because the pages always encourage me, when I speak late at night, to speak until after 10 o'clock so they don't have to go to school in the morning. So congratulations, you are 3 minutes away from it.

So it was after 10 o'clock. And I remember closing down the Senate and Mike coming up here, and I just felt this sense that this was all for nothing—as much as I care about this issue and as wrong as I believe this is for our country—that all that was said that night was falling on deaf ears.

In fact, the next day we lost the override vote. So my feeling of futility, if you will, was compounded—until a few days later when I received an e-mail from a young man who said:

> Recently my girlfriend and I were flipping through the channels, and we came across C–SPAN, and were fortunate enough to hear your speech regarding the evils of partial-birth abortion. We saw the picture of the little boy with the headphones on, who was lucky enough to have had parents who loved him and brought him into this world instead of ending his life prenatally. Both of us were moved to tears by your speech.
>
> And my girlfriend confessed to me that she had scheduled an appointment for an abortion the following week. She never told me about her pregnancy because she knew that I would object to any decision to kill our child. But after watching your emotional speech, she looked at me, as tears rolled down her cheeks, and told me that she could not go through with it.
>
> We're not ready to be parents. We still have a couple years left at college. And then we will have a large student loan to pay back. But I am grateful that my child will live. It is a true tragedy that the partial-birth abortion ban failed to override Clinton's veto. But please take some comfort in knowing that at least one life was saved because of your speech. You have saved the life of our child. May God bless you and keep you.

Fortunately for me, the writer of this e-mail stayed in touch. I received an e-mail a couple of weeks ago that reported back what had happened over the previous year. He says:

> We reevaluated our ability to raise a child at this point in time in our lives, and we finally decided to put our baby up for adoption. I know that she is being raised by a loving couple that cares deeply for her. I often wonder if we did the right thing by putting her up for adoption, but I know we did the right thing by bringing her into the world. Every now and then I think that one day she is going to grow up and be a part of the lives of many people. Then I wonder what would have happened if I had just kept on clicking through the channels and not stopped to see you speaking on C-SPAN. A terrible thing might have happened and I probably would never have known about it. I will always have in my mind the thoughts about her life that she is living and the people that she is important to. Once again, thank you so much for your speech on C-SPAN that day. It is a terrible tragedy that you were unable to override Clinton's veto, what it meant to us, of course, our daughter and her adopted parents.

There is something ennobling about that story, something that touches all

of us, something that gives us hope. What I am saying is, I don't think partial-birth abortion does that to anyone. I don't think it is ennobling to kill a child 3 inches away from being born. I don't think it is inspiring. I don't think it is the better angels of our nature. I don't think it is going to go down in the annals of the Senate as one of our great compassionate civil rights votes or constitutional votes.

It doesn't lift up our spirits. It doesn't make us walk with that longer stride, with our head held high. It is sanctioning the killing of an innocent baby who is 3 inches away from constitutional protection, and it blurs the line of what is permissible in this country. If we can kill a little baby that would otherwise be born alive, 3 inches away from being born, what else are we capable of?

Unfortunately, we are answering that question every day, with the violence we see reported on television, with the insensitivity to life that we see occurring in our daily lives, with the calls for assisted suicide, with the calls for mercy killings, even with this debate, with the argument the Senator from California made earlier. She wants to make sure that every child is wanted.

Mother Teresa said it best at the National Prayer Breakfast a few years ago. ''Give me your children,'' she said. Give me your children. If you don't want your children, give them to me; I want them.

Tens of thousands of mothers and fathers who cannot have children want those children and will love those children. There is not a shortage of wanting in America when it comes to children. The most debilitating thing to think about is that the life of a child can be snuffed out, a life that could include 90 or 100 years. A little girl born this year has a 1-in-3 chance to live to be 100. So for those little girls who are aborted through partial-birth abortion, 100 years of loving and making a contribution to our society, finding the cure to cancer, of enriching our lives is snuffed out because for a period of time, a short period of time, your mother didn't want you. How many of us in our lives today would be snuffed out or could be snuffed out because someone doesn't want you?

We have a chance to make a statement tomorrow in the Senate. We have a chance to stand as a body for these little children, these imperfect little children who the world and, unfortunately, Members of the Senate believe are somehow less worthy of being born because they may not live long or they may be in pain and it would be merciful to put them out of their misery. I am sure Andrew Goin would say, please don't show me that kind of mercy. In fact, we have lots of other children who were born who I am sure would say, please don't show me that kind of mercy.

A picture here of Tony Melendez. Tony was born with no arms, 11 toes, and severe clubfoot. That is little Tony. I am sure what he would say to you today is, please don't show me that kind of mercy because I am not perfect like you would like me to be. Tony didn't let all the prejudice that comes with having no arms, a clubfoot, 11 toes stop him from being one of the greatest inspirations we have had in our time. Tony is now a musician. Tony plays the guitar with his feet. He has performed for the Pope on three occasions, has traveled to 16 foreign countries, played the national anthem in game 5 of the 1989 World Series, on and on and on.

If you would listen to the debate today on the floor of the Senate, you would think it might be more merciful to let him die before he gets the chance to prove that he is worthy.

Donna Joy Watts. Donna Joy was here a couple of years ago. Donna Joy is an amazing story. It has been put in the CONGRESSIONAL RECORD for a long time. We had it in here several times. Lori Watts, her mom, found out that her child had hydrocephalus, an excessive amount of cerebral fluid, water on the brain. She was told her daughter would virtually have no brain, that most of her brain would be gone. So the obstetrician, when she found out on the sonogram, said Donna Joy should be aborted, that a partial-birth abortion should be performed—yes, a partial-birth abortion. Mr. Watts said, ''No, we don't want to do an abortion.'' So they sent the Wattses to see a high-risk obstetrics group. They went to three hospitals in the Baltimore area. All three hospitals said they would abort Donna Joy, but they would not deliver her. Let me repeat that. They would perform an abortion, but they would not deliver her. So people are worried about safe access to abortion. We are getting to the point where we need safe access to birth. Finally, she found a team that would deliver her. Again, this group also advised an abortion but then agreed to deliver. She was born with severe health problems.

What the Wattses expected was that, as soon as the baby was born, a team would go into action to see what they could do to help save this little girl. They found out that they did nothing. They did nothing. They put the baby in a neonatal unit and kept it warm and they said to the Wattses, your baby is going to die. We are not going to do anything. This baby is so sick, has such a little brain, so many complications, we are not going to deal with it. Guess what. She didn't give up. She kept living. So now the doctors had this baby, now alive three days, and they don't know what to do with her. This baby keeps living and she should have been dead.

Finally, three days later, they implanted a shunt to drain off the excess fluid. Of course, the shunt should have been in as soon as possible to minimize the damage, but they waited three days. What has happened ever since then has been remarkable. Yes, there were complications. The shunts haven't worked. They have had to go back in several times to fix that. They had trouble feeding her. And so her mother came up with an ingenious way of fixing a mixture of baby food and giving it by syringe, one drop at a time, because that is all she could handle eating. She had other complications.

Meningoencephalocele is another complication, and I can go on with epilepsy, sleep disorders, digestive complications. She has had a lot of problems. But she has survived them all. She has survived them all.

Donna Joy is about to celebrate, next month, her eighth birthday. And, yes, I have met her. She has been in my office. She walks and talks and plays with my kids. She takes karate and she goes around with her mom to various places. We are fortunate to have the Watts living in Pennsylvania. She provides living testimony to hope and to the horrors of partial-birth abortion, because she should not be alive today. She should not be in this picture. If you accept the arguments on the other side, it is probably better if she wasn't there.

I don't accept those arguments. I don't accept the arguments that because a child may not have the kind of life that you want, she cannot have a life worth living, because all life is worth living.

There are several other cases here that I would like to put in the RECORD. One I want to talk about, finally, is the case of Christian Matthew McNaughton. I talk about this because this is somewhat personal because I know the McNaughtons. They are a wonderful family. Mark is a State legislator up in Pennsylvania. Christian was born in 1993. Before he was born, the McNaughtons found, when Dianne went in for a sonogram, that Christian had hydrocephalus, water on the brain. By the way, in several of the stories we heard about why we need to have partial-birth abortion, the abnormality was hydrocephalus. So these are parallel cases. The radiologist said the baby seemed to have more fluid on the brain than tissue. They cautioned that it was possible the baby had no brain at all. They were told their prospects were dim, and they were advised that they could have an abortion. It would be preferable to have an abortion. In fact, they were offered a partial-birth abortion.

Again, as the doctor explained it, the baby would be partially delivered, the surgical instrument inserted into the base of the skull, the brains would be extracted, or what there was of the brain, and the rest of the body would be delivered. Of course, they rejected that option. One of the doctors said, after they rejected the option, that shunt surgery to relieve the pressure, the fluid on the baby's brain, would not be performed if the child's quality of life prospects did not warrant it. That goes back to the Donna Joy situation.

Christian was born in June of 1993. He required special medical care. A CAT

Scan revealed he suffered a stroke in utero, which caused excess fluid to build up in his brain. It showed that the lower level quadrant of his brain was missing. Within a week of his birth, he had the first shunt surgery to drain fluid, and he had a follow-up procedure in three months. He exceeded everybody's expectations. So a baby, which doctors initially believed was blind, had no capacity for learning, grew to a little boy who talked, walked, ran, sang, enjoyed playing baseball and basketball. He attended preschool. His heroes were Cal Ripken, Jr., Batman, Spiderman, and the Backstreet Boys. He loved whales and dolphins. His favorite movie was Angels in the Outfield. And he especially loved his baby sister, who was two years younger than he. Christian brought joy to all who were fortunate enough to know him.

In August, Christian began experiencing head pains. Here is little Christian in this photo, and this is his little baby sister. His shunt was malfunctioning, and it had to be replaced.

After surgery, Christian experienced cardiac arrest respiratory distress. He slipped into a coma. Fluid continued to accumulate on his brain. He fought hard to live. But he didn't. He died 2 years ago on August 8 at the age of 4.

If you think these kids don't matter, if you think this option is just all pain, ask Mark and Dianne whether they would trade the 4 years. They have those wonderful memories—difficult, sure; painful, sure. But they believed in their child. They loved him. They nurtured him. And he returned much more than they ever gave—not just to them but to all of us.

Do you want to know how they felt about their little brother?

Last year, on his anniversary, these are little ads taken out in the Harrisburg Patriot News by his sisters, his brother, his mom and dad.

His sister said:

> Christian, we love you, we miss you, we wish we could kiss you just one more time.

His brother, Mark:

> I have a poem for you.
> Blue jays are blue, and I love you; robins are red, and I miss you in bed; sparrows are black, I wish you were back; I am sorry for the bad things I did to you, you are the best and the only brother I ever had, please watch over us and take care of us. Love Mark.

His mom and dad:

> Our arms ache to hold you again. Our hearts are forever broken, but we thank God we had a chance to love you. We know your smile is brightening up the heavens, and that Jesus loves the little children. Please help us to carry on until the day we can all play together again.

What would be missed, as some would suggest, if we just take all of this pain away, and kill this baby before it would suffer through this horrible life?

The McNaughtons would not trade a minute. I think it is obvious they wouldn't trade a minute.

All of the stories are not happy ones. All of the sad stories do not have a bright side. Some are just tragic and tragic and tragic.

But I can tell you as a family who has gone through the loss of a child, and what we thought was a normal pregnancy didn't go the way we had hoped, accepting your child, loving your child, taking your children as they are, for as long as they are to be may be the hardest thing you can do. But it is the best that we can do—not just for the child whose life you have affirmed and accepted but in your life.

In the case of Mark, the little boy knew he was loved. He lived a couple of hours. Karen and I and our family have the knowledge that for those hours we opened up our arms to him, and during those 2 hours he knew he was loved.

What a wonderful life we could all have if that is all we had.

We have a chance tomorrow to draw a bright line. A bright line needs to be drawn for this country. If there is a time in our society and in our world when we need a bright line separating life and death, I can think of no better time.

This debate today and tomorrow is drawing that line, affirming that once a baby is in the process of being born and there is a partial-birth abortion outside of the mother, the line has been crossed. It is not a fuzzy line. If we perform that kind of brutality to a little baby who would otherwise be born alive, it is beneath us as a country.

History will look back at this debate, I am sure, and wonder how it could have ever occurred. How we could ever have done that to the most helpless among us? How did we ever cross the line?

But tomorrow those Members of the Senate will have a chance to tell a different story for history, to say that the greatest deliberative body in the world will strike a clear blow for the right to life for little children during the process of being born.

I don't think it is too much to ask. But I do ask it of my colleagues. I plead with them to find somewhere in their hearts the strength to stand up and do what is right for this country, what is right for the little children, and say no to partial-birth abortions.

Mr. President, I yield the floor.

SUBMITTING CHANGES TO THE BUDGETARY AGGREGATES AND APPROPRIATIONS COMMITTEE ALLOCATION

Mr. DOMENICI. Mr. President, section 314 of the Congressional Budget Act, as amended, requires the Chairman of the Senate Budget Committee to adjust the appropriate budgetary aggregates and the allocation for the Appropriations Committee to reflect amounts provided for emergency requirements and arrearages for international organizations, international peacekeeping, and multilateral development banks.

I hereby submit revisions to the 2000 Senate Appropriations Committee allocations, pursuant to section 302 of the Congressional Budget Act, in the following amounts:

[In millions of dollars]

	Budget authority	Outlays	Deficit
Current allocation:			
General purpose discretionary	550,441	557,580	
Violent crime reduction fund	4,500	5,554	
Highways		24,574	
Mass transit		4,117	
Mandatory	321,502	304,297	
Total	876,443	896,122	
Adjustments:			
General purpose discretionary	+7,063	+4,118	
Violent crime reduction fund			
Highways			
Mass transit			
Mandatory			
Total	+7,063	+4,118	
Revised allocation:			
General purpose discretionary	557,504	561,698	
Violent crime reduction fund	4,500	5,554	
Highways		24,574	
Mass transit		4,117	
Mandatory	321,502	304,297	
Total	883,506	900,240	
I hereby submit revisions to the 2000 budget aggregates, pursuant to section 311 of the Congressional Budget Act in the following amounts:			
Current allocation: Budget resolution	1,445,390	1,428,962	−20,880
Adjustments: Emergencies and arrearages	+7,063	+4,118	−4,118
Revised allocation: Budget resolution	1,452,453	1,433,080	−24,998

EXPLANATION OF VOTE

Mr. DODD. Mr. President, I was necessarily absent while attending to a family member's medical condition during Senate action on rollcall votes Nos. 328 and 329.

Had I been present for the votes, I would have voted as follows: On rollcall vote No. 328, adoption of the conference report on H.R. 2684, a bill making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2000, I would have agreed to the conference report. On rollcall vote No. 329, the motion to table Senate Amendment No. 2299, a Reid perfecting amendment to the campaign finance reform bill, I would have voted not to table the amendment.

CAMPAIGN FINANCE REFORM

Mr. MOYNIHAN. Mr. President, we have now set aside—until the next time!—the McCain-Feingold legislation on campaign finance reform. I did not speak during this most recent debate. The third in three years, and for certain not the last as Senator FEINGOLD made clear last evening on the ''NewsHour with Jim Lehrer.'' I supported the reform with only a faint sense of familiarity. Here we are, reforming the results of the last reform. A not infrequent task of Congress. But now it might be useful to offer a few related observations.

The first is to state that raising money for political campaigns has never been a great burden for this Senator, and for the simple reason that I

hardly do any. One dinner a term, perhaps two. Some receptions. Lots of mail. Not surprisingly the results are not exactly spectacular. In 1994, my last campaign, and which will be my last campaign, the Federal Elections Commission records our having raised $6,100,147. This is for the State of New York, the third most populous in the nation. But it sufficed. For practical purposes, all the money went to television, with the incomparable Doug Schoen keeping an eye on the numbers lest trouble appear unexpectedly. Our campaign staff never had ten persons, which may sound small to some, but I believe was our largest ever. Even so, we have done well. In 1988, I received some 4,000,000 votes and won by more than 2,000,000 votes, the largest numerical margin of victory in any legislative election in history. I say all this simply to note that just possibly money isn't everything. But if we think it is, it might as well be. And so we must persevere.

This July, in his celebrated Wall Street Journal column, Paul Gigot referred to me as an ''old pol'' and an ''ever loyal Democrat.'' I wrote to thank him, for this is pretty close to the truth. If I have spent time in universities it was usually seeking sanctuary after a failed election, my own or others. I go back before polling, and before television. (Although in 1953 I did write a 15-minute television speech for the Democratic candidate for Mayor of New York City, Robert F. Wagner, Jr. It might have been seen by 10,000 people.) But of course polling caught on, as the mathematics got better, and television has never stopped. And these, of course, are the technologies that seemingly confound us today. But this subject has been with us the longest while.

Congress first placed restrictions on political spending with the Naval Appropriations Bill of 1867 which prohibited Navy officers and Federal employees from soliciting campaign funds from navy yard workers.

Faced with allegations that corporations had bought influence with contributions to his campaign, President Theodore Roosevelt called for campaign finance reform in his 1905 and 1906 State of the Union addresses. In response, Congress passed the Tillman Act of 1907, banning corporate gifts to Federal candidates. And during World War II, the War Labor Disputes Act of 1943, known as the Smith-Connally Act, temporarily prohibited unions from making contributions in Federal elections. In 1947, the Taft-Hartley Act made this wartime measure permanent. As my colleagues well know, these bans have been made virtually irrelevant with the advent of so-called ''soft money.''

Requirements for the disclosure of donors originated in the so-called Publicity Act of 1910 which required the treasurer of political committees to reveal the names of all contributors of $100 or more. Congress expanded the disclosure rules with the 1925 Federal Corrupt Practices Act, requiring political committees to report total contributions and expenditures. The Court upheld this Act in Burroughs v. United States, declaring that Congress has the prerogative to ''pass appropriate legislation to safeguard (a Presidential) election from the improper use of money to influence the result.'' We continue to debate how to exercise that prerogative today.

But may I focus on one particular aspect of campaign funding, which is relatively new? Money for television. Ease this by providing free television time—those are public airways—and as much about the problem goes away as will ever be managed in this vale of toil and sin.

Max Frankel, the long-time and venerable editor of the New York Times and a wise and seasoned observer of American politics, addressed this issue in the October 26, 1997 New York Times Magazine:

> The movement to clean up campaign financing is going nowhere for the simple reason that the reformers are aiming at the wrong target. They are laboring to limit the flow of money into politics when they should be looking to limit the candidates' need for money to pay for television time. It is the staggering price of addressing the voters that drives the unseemly money chase.

To run effectively for major office nowadays one needs to spend millions for television commercials that spread your fame, shout your slogans, denounce your opponents, and counteract television attacks. A campaign costing $10 million for a governorship or seat in the Senate is a bargain in many states. The President, even with all the advantages of the White House at his command, appears to have spent more than $250 million on television ads promoting his reelection in 1996. $250 million!

The problem of so-called ''issue advocacy'' is only fueling the amount of money going into television ads and further distorting our electoral system. On February 10, 1998, Tim Russert delivered the fifth annual Marver H. Bernstein Symposium on Governmental Reform at Georgetown University. In his address, he asserted that ''television ads paid for by the candidates themselves are (not) going to be the problem in future election cycles. That distinction will be earned by so-called 'issue advocacy' advertising by ideological and single issue groups.'' He made the point that, unlike candidates, these groups are not subject to campaign contribution limits or disclosure requirements.

In Buckley v. Valeo the Supreme court held that these ads are protected speech under the First Amendment. We are told that requiring such groups to disclose their list of contributors might be a violation of the First Amendment under NAACP v. Alabama. Mr. Russert contends that ''unless the Fourth Estate is able to identify these groups and ferret out their funding, and explain their agenda, many elections could very well be taken hostage by a select band of anonymous donors and political hit men.'' There must be a better way.

Might I suggest that the way to reduce the influence of these ''select band of anonymous donors and political hit men'' and to reduce the ungodly amount of money being used in campaigns is free television time for candidates. Frankel writes:

> It would be cheaper by far if Federal and State treasuries paid directly for the television time that candidates need to define themselves to the public—provided they purchased no commercial time of their own. Democracy would be further enhanced if television stations that sold time to special interest groups in election years were required, in return for the use of the public spectrum, to give equal time to opposing views. But so long as expensive television commercials are our society's main campaign weapons, politicians will not abandon the demeaning and often corrupt quest for ever more money from ever more suspect sources.

The version of the McCain-Feingold bill we have been considering restricts so-called ''soft money''—contributions that national, state, county, and local party organizations may collect and spend freely provided only that the television messages they produce with the funds are disguised to appear ''uncoordinated'' with any candidate's campaign. This is a good first step. But it is not enough. Even if soft money and slimy variants were prohibited, political money would reappear in liquid or vaporous form. If we want to make significant changes with regard to how we conduct campaigns, we must—to repeat Frankel—look beyond limiting the flow of money into politics and rather look to limiting the candidates' need for money to pay for television time. Frankel concludes his piece on campaign finance reform by stating that ''there is no point dreaming of a law that says 'you may not' so long as the political system daily teaches the participants 'you must.' Until candidates for office in America are relieved of the costly burden of buying television time, the scandals will grow.'' He could not be more right.

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT APPROPRIATIONS

VERMONT RURAL FIRE PROTECTION TASK FORCE

Mr. JEFFORDS. Mr. President, I first thank Senator BOND for all of his hard work on the FY 2000 Departments of Veterans Affairs and Housing and Urban Development Appropriations bill, and the attention he paid to priorities in my home State of Vermont. I would like to briefly discuss with the Senator from Missouri the $600,000 provided in the Conference Report for the Vermont Rural Fire Protection Task Force.

It is my understanding that the funds provided are for the purchase of personal safety equipment that includes, but is not limited to the following: self-contained breathing apparatus, fire resistant turn out gear (helmets, coats

pants, boots, hoods, gloves, and the like), personal pagers, personal accountability system to fulfill requirements of OSHA's two in two out rule, portable radios and personal hand lights. The need for new firefighting equipment is great in Vermont, because of the new OSHA regulations. I hope that the funds provided in this bill will be matched 50 percent with non-federal funds.

Further, it is my understanding that the funds will be administered by the Vermont Rural Fire Protection Task Force supported by the George D. Aiken and the Northern Vermont Resource Conservation and Development Council.

Mr. BOND. The Senator from Vermont has accurately described the intentions of the Conference Report accompanying the FY 2000 Departments of Veterans Affairs and Housing and Urban Development Appropriations bill.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, October 19, 1999, the Federal debt stood at $5,670,293,241,725.48 (Five trillion, six hundred seventy billion, two hundred ninety-three million, two hundred forty-one thousand, seven hundred twenty-five dollars and forty-eight cents).

One year ago, October 19, 1998, the Federal debt stood at $5,541,765,000,000 (Five trillion, five hundred forty-one billion, seven hundred sixty-five million).

Five years ago, October 19, 1994, the Federal debt stood at $4,705,195,000,000 (Four trillion, seven hundred five billion, one hundred ninety-five million).

Ten years ago, October 19, 1989, the Federal debt stood at $2,876,712,000,000 (Two trillion, eight hundred seventy-six billion, seven hundred twelve million).

Fifteen years ago, October 19, 1984, the Federal debt stood at $1,592,001,000,000 (One trillion, five hundred ninety-two billion, one million) which reflects a debt increase of more than $4 trillion—$4,078,292,241,725.48 (Four trillion, seventy-eight billion, two hundred ninety-two million, two hundred forty-one thousand, seven hundred twenty-five dollars and forty-eight cents) during the past 15 years.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON NATIONAL EMERGENCY WITH RESPECT TO NARCOTICS TRAFFICKERS IN COLOMBIA—MESSAGE FROM THE PRESIDENT—PM 67

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

As required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. 1703(c), I transmit herewith a 6-month periodic report on the national emergency with respect to significant narcotics traffickers centered in Colombia that was declared in Executive Order 12978 of October 21, 1995.

WILLIAM J. CLINTON.

The White House, *October 20, 1999*.

MESSAGES FROM THE HOUSE

At 1:20 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate.

H.R. 1497. An act to amend the Small Business Act with respect to the women's business center program.

H.R. 1887. An act to amend title 18, United States Code, to punish the depiction of animal cruelty.

H.R. 3046. An act to preserve limited Federal agency reporting requirements on banking and housing matters to facilitate congressional oversight and public accountability, and for other purposes.

The message also announced that pursuant to section 1405(b) of the Child Online Protection Act (47 U.S.C. 231), the Speaker appoints the following members on the part of the House to the Commission on Online Child Protection:

Mr. John Bastian of Illinois, engaged in the business of providing Internet filtering or blocking services or software.

Mr. William L. Schrader of Virginia, engaged in the business of proving Internet access services.

Mr. Stephen Balkam of Washington, D.C., engaged in the business of providing labeling or rating services.

Mr. J. Robert Flores of Virginia, and academic export in the field of technology.

Mr. William Parker of Virginia, engaged in the business of making content available over the Internet.

The message also announced that pursuant to section 1405(b) of the Child Online Protection Act (47 U.S.C. 231), and upon the recommendation of the Majority Leader, the Speaker appoints the following members on the part of the House of the Commission on Online Child Protection:

Mr. James Schmidt of California, engaged in the business of making content available over the Internet.

Mr. George Vrandenburg of Virginia, engaged in the business of providing domain name registration services.

Mr. Larry Shapiro of California, engaged in the business of providing Internet portal or search services.

At 2:43 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2670) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2000, and for other purposes.

ENROLLED BILL SIGNED

At 8:18 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 2841. An act to amend the Revised Organic Act of the Virgin Islands to provide for greater fiscal autonomny consistent with other United States jursdiction, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 1497. An act to amend the Small Business Act with respect to the women's business center program; to the Committee on Small Business.

H.R. 3046. An act to preserve limited Federal agency reporting requirements on banking and housing matters to facilitate congressional oversight and public accountability, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

MEASURE PLACED ON THE CALENDAR

The following bill was read twice and place on the calendar:

H.R. 2140. An act to improve protection and management of the Chattahoochee River National Recreation Area in the State of Georgia.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–367. A joint resolution adopted by the Legislature of the State of California relative to trucks entering California from foreign nations; to the Committee on Finance.

ASSEMBLY JOINT RESOLUTION NO. 16

Whereas, A recent study by the United States Government Accounting Office (GAO) found that Mexican commercial trucks entering the United States often fail to meet basic safety standards; and

Whereas, The GAO reported that Mexican trucks entering the United States may have serious safety violations impacting highway safety, including broken suspension systems, substandard tires, inoperable brakes, overweight loads, and improperly maintained hazardous material loads; and

Whereas, The report of the federal Office of the Inspector General titled, ''Motor Carrier

Safety Program for Commercial Trucks at U.S. Borders,'' issued on December 28, 1998, identified California as the only state that enforces the Federal Operating Authority Regulation and complimented California for having both the best inspection practices and the lowest out-of-service rate; and

Whereas, Mexico has no automated system by which California law enforcement officials can determine whether a Mexican commercial driver has a valid license or a driving or criminal record; and

Whereas, The government of Mexico has no laws limiting the maximum number of hours that drivers may safely operate a commercial vehicle and no system of worker's compensation insurance to protect drivers who are injured while at work; and

Whereas, Mexico's mandatory alcohol and drug testing program does not adequately test commercial drivers and its substance-abuse testing laboratory has not been certified by the United States Department of Transportation to meet internationally agreed-upon standards for accuracy; and

Whereas, ''Operation Alliance,'' a federally sponsored drug-enforcement coordinating agency and the United States Customs Service drug-inspection program found that drug traffickers are becoming owners of, or are obtaining controlling interests in, transportation businesses, such as trucking companies, warehouses, and semi-trailer manufacturing companies, in order to take advantage of the increased trucking trade authorized by the North American Free Trade Agreement; and

Whereas, The Southern California Association of Governments recently passed a resolution authorizing its regional council to alert the President of the United States to the ''major safety issues involved in trucking regulations under the North American Free Trade Agreement''; and

Whereas, The federal government has chosen not to implement the provisions of the North American Free Trade Agreement that call for unlimited access by Mexican trucks to the territory of the State of California; now therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature memorializes the President and the Congress of the United States to maintain the existing restrictions on trucks from Mexico and other foreign nations entering California and to continue efforts to ensure full compliance by the owners and drivers of those trucks with all highway safety, environmental, and drug-enforcement laws; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and the Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Governor.

POM–368. A resolution adopted by the House of the Legislature of the State of Michigan relative to block grant amounts to the states through the Temporary Assistance to Needy Families program; to the Committee on Finance.

HOUSE RESOLUTION NO. 48

Whereas, A key component of the welfare reforms enacted in 1996 is the Temporary Assistance to Needy Families block grant program. The levels of these block grants were guaranteed for a five-year period as a means to help in the transformation of the nation's approach to welfare and helping people help themselves; and

Whereas, A proposal has surfaced in Washington to have the states return unobligated balances from the TANF block grant funding. The proposal has raised the concerns and opposition of state policymakers around the country who do not want the success of welfare reform to be derailed or threatened by reductions in this funding. This funding, as well as the flexibility to administer federal programs, is critical to genuine, meaningful, longstanding welfare reform; and

Whereas, Discussions on altering or reducing block grant programs for needy families also include proposed changes in Medicaid options, social services block grants, child support initiatives, and efforts to secure health insurance coverages for children. The possibility of bringing new conditions for the expenditure of funds or cuts in the amounts of block grants has generated considerable concern across the country; and

Whereas, The reforms brought to the country's approach to welfare in 1996 also represented a significant step in the relationship between Washington and the states. This new partnership allowed and even encouraged the ''laboratories of democracy'' to find solutions that account for the unique resources and needs of each state. Michigan's success and the similar achievements across the nation should not be jeopardized by Washington reclaiming money promised to the states; now, therefore, be it

Resolved by the House of Representatives, That we memorialize the Congress of the United Stats to reject any reduction in block grant amounts to the states through the Temporary Assistance to Needy Families (TANF) program or any changes in conditions or requirements that reduce the flexibility of the states, and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–5707. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a report relative to certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to Japan; to the Committee on Foreign Relations.

EC–5708. A communication from the Executive Director, Committee for Purchase from People who are Blind or Severely Disabled, transmitting, pursuant to law, the report of a rule relative to pricing and shipping regulations, received October 15, 1999; to the Committee on Governmental Affairs.

EC–5709. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

EC–5710. A communication from the Executive Director, Marine Mammal Commission, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

EC–5711. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report entitled ''Agency Compliance with the Unfunded Mandates Reform Act of 1995''; to the Committee on Governmental Affairs.

EC–5712. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Extension of Time for Recharacterization of 1998 Roth IRA Contributions'' (Announcement 99-104), received October 14, 1999; to the Committee on Finance.

EC–5713. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to emergency funds made available to the State of New Jersey because of recent floods; to the Committee on Health, Education, Labor, and Pensions.

EC–5714. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medical Devices; Gastroenterology and Urology Devices; Classification of the Electrogastrography System'', received October 14, 1999; to the Committee on Health, Education, Labor, and Pensions.

EC–5715. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''General and Plastic Surgery Devices; Classification of the Nonreusable Gauze/Sponge for External Use, the Hydrophille Wound Dressing, the Occlusive Wound Dressing, and the Hydrogel Wound Dressing'', received October 14, 1999; to the Committee on Health, Education, Labor, and Pensions.

EC–5716. A communication from the Assistant General Counsel for Regulations, Office of Student Financial Assistance, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''The Secretary's Recognition of Accrediting Agencies'' (RIN1845–AA09), received October 14, 1999; to the Committee on Health, Education, Labor, and Pensions.

EC–5717. A communication from the Assistant General Counsel for Regulations, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''Section 8 Moderate Rehabilitation Program; Executing or Terminating Leases on Moderate Rehabilitation Units when Remaining Term of the Housing Assistance Payments (HAP) Contract is for Less than One Year; Statutory Update-Interim Rule'' (RIN2577–AB98) (FR–4472–I–01), received October 19, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC–5718. A communication from the Assistant General Counsel for Regulations, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''Introduction to FHA Programs; CFR Correction'' (FR–Doc. 99–55532), received October 19, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC–5719. A communication from the Assistant General Counsel for Regulations, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''Introduction to FHA Programs; CFR Correction (Second Correction)'' (FR–Doc. 99–55536), received October 19, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC–5720. A communication from the Assistant General Counsel for Regulations, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''Single Family Mortgage Insurance; Clarification of Floodplain Requirements Applicable to New Construction; Final Rule'' (RIN2502–AH16) (FR–4323–F–02), received October 19, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC–5721. A communication from the Assistant General Counsel for Regulations, Department of Housing and Urban Development,

transmitting, pursuant to law, the report of a rule entitled ''Section 8 Housing Assistance Payments Program; Contract Rent Annual Adjustment Factors, Fiscal Year 2000 (Notice of Revised Contract Rent Annual Adjustment Factors)'' (FR–4528–N–01), received October 19, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC–5722. A communication from the Assistant General Counsel for Regulations, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''Fair Market Rents for the Section 8 Housing Assistance Payments Program for Fiscal Year 2000 (Notice of Final Fiscal Year (FY) 2000 Fair Markets Rents (FMRs))'' (FR–4496–N–02), received October 19, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC–5723. A communication from the Legislative and Regulatory Activities Division, Administrator of National Banks, Comptroller of the Currency, transmitting, pursuant to law, the report of a rule entitled ''Extended Examination Cycle for U.S. Branches and Agencies of Foreign Banks'' (RIN3064–AC15), received October 19, 1999; to the Committee on Banking, Housing, and Urban Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CAMPBELL, from the Committee on Indian Affairs, without amendment:

S. 1290. A bill to amend title 36 of the United States Code to establish the American Indian Education Foundation, and for other purposes (Rept. No. 106–197).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 624. A bill to authorize construction of the Fort Peck Reservation Rural Water System in the State of Montana, and for other purposes (Rept. No. 106–198).

EXECUTIVE REPORT OF A COMMITTEE

The following executive report of a committee was submitted:

By Mr. MURKOWSKI, for the Committee on Energy and Natural Resources:

David J. Hayes, of Virginia, to be Deputy Secretary of the Interior.

(The above nomination was reported with the recommendation that he be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. CHAFEE (for himself, Mr. CRAPO, Mr. MOYNIHAN, and Mr. LIEBERMAN):

S. 1752. A bill to reauthorize and amend the Coastal Barrier Resources Act; to the Committee on Environment and Public Works.

By Mr. HATCH (for himself, Mr. ABRAHAM, Mr. LEAHY, and Mr. KENNEDY):

S. 1753. A bill to amend the Immigration and Nationality Act to provide that an adopted alien who is less than 18 years of age may be considered a child under such Act if adopted with or after a sibling who is a child under such Act; to the Committee on the Judiciary.

By Mr. HATCH (for himself and Mr. LEAHY):

S. 1754. A bill entitled the ''Denying Safe Havens to International and War Criminals Act of 1999''; to the Committee on the Judiciary.

By Mr. BROWNBACK (for himself and Mr. DORGAN):

S. 1755. A bill to amend the Communications Act of 1934 to regulate interstate commerce in the use of mobile telephones; to the Committee on Commerce, Science, and Transportation.

By Mr. BINGAMAN (for himself and Mrs. MURRAY):

S. 1756. A bill to enhance the ability of the National Laboratories to meet Department of Energy missions and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. COCHRAN:

S. 1757. A bill to amend title XVIII of the Social Security Act to improve access to rural health care providers; to the Committee on Finance.

By Mr. COVERDELL (for himself, Mr. DEWINE, and Mr. GRASSLEY):

S. 1758. A bill to authorize urgent support for Colombia and front line states to secure peace and the rule of law, to enhance the effectiveness of anti-drug efforts that are essential to impending the flow of deadly cocaine and heroin from Colombia to the United States, and for other purposes; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CHAFEE (for himself, Mr. CRAPO, Mr. MOYNIHAN, and Mr. LIEBERMAN):

S. 1752. A bill to reauthorize and amend the Coastal Barrier Resources Act; to the Committee on Environment and Public Works.

THE COASTAL BARRIER RESOURCES REAUTHORIZATION ACT OF 1999

• Mr. CHAFEE. Mr. President, I am here today to introduce a bill to reauthorize the Coastal Barrier Resources Act (CBRA). Most people do not realize that coastal barriers are the first line of defense protecting the mainland from major storms and hurricanes, and this extremely vulnerable area is under increasing developmental pressure. From 1960 to 1990, the population of coastal areas increased from 80 to 110 million and is projected to reach over 160 million by 2015. Continued development on and around coastal barriers place people, property and the environment at risk.

To address this problem Congress passed CBRA in 1982. This extremely important legislation prohibits the Federal government from subsidizing flood insurance, and providing other financial assistance such as beach replenishment within the Coastal Barrier Resources System. Nothing in CBRA prohibits development on coastal barriers, it just gets the Federal government out of the business of subsidizing risky development.

The law proved to be so successful that we expanded the Coastal Barrier System in 1990 with the support of the National Taxpayers Union, the American Red Cross, Coast Alliance and Tax Payers for Common Sense, to name just a few. The 1990 Act doubled the size of the System to include coastal barriers in Puerto Rico, the U.S. Virgin Islands, the Great Lakes and additional areas along the Atlantic and Gulf coasts. We also allowed the inclusion of areas that are already protected for conservation purposes such as parks and refuges. Currently the System is comprised of 3 million acres and 2,500 shoreline miles.

Development of these areas decreases their ability to absorb the force of storms and buffer the mainland. The devastating floods of Hurricane Floyd are a reminder of the susceptibility of coastal development to the power of nature. The Federal Emergency Management Agency reports that 10 major disaster declarations were issued for this hurricane, more than for any other single hurricane or natural disaster. In fact, 1999 sets a record for major disaster declarations—a total of 14 in this year alone. As the number of disaster declarations has crept up steadily since the 1980's, so has the cost to taxpayers. Congress has approved on average $3.7 billion a year in supplemental disaster aid in the 1990's, compared to less than $1 billion a year in the decade prior.

Homeowners know the risk of building in these highly threatened areas. Despite this taxpayers are continually being asked to rebuild homes and businesses in flood-prone areas. The National Wildlife Federation came out with a study that found that over forty percent of the damage payments from the National Flood Insurance Program go to people who have had at least one previous claim. A New Jersey auto repair shop made 31 damage claims in 15 years.

At a time when climatologists believe that Floyd and other major hurricanes signal the beginning of a period of turbulent hurricane activity after three decades of relative calm, safety factors of continuing to develop coastal barrier regions must also be considered. As roadway systems have not kept up with population growth, it will become increasingly difficult to evacuate coastal areas in the face of a major storm.

Beyond the economic and safety issues, another compelling reason to support the Coastal Barrier Resources Act is that it contributes to the protection of our Nation's coastal resources. Coastal barriers protect and maintain the wetlands and estuaries essential to the survival of innumerable species of fish and wildlife. Large populations of waterfowl and other migratory birds depend on the habitat protected by coastal barriers for wintering areas. Undeveloped coastal barriers also provide unique recreational opportunities, and deserve protection for present and future public enjoyment.

The legislation which I am introducing today would reauthorize the Act for eight years and make some necessary changes to improve implementation. A new provision would establish

a set of criteria for determining whether a coastal barrier is developed. Codifying the criteria will make it easier for homeowners, Congress and the Fish and Wildlife Service to determine if an area qualifies as an undeveloped coastal barrier. The legislation would also require the Secretary of the Interior to complete a pilot project to determine the feasibility of creating digital versions of the coastal barrier system maps. Digital maps would improve the accuracy of the older coastal barrier maps, and make it easier for the Department of Interior and homeowners to determine where a structure is located. Eventually, we hope that the entire System can be accessed by the Internet.

I believe that Congress should make every effort to conserve barrier islands and beaches. This legislation offers an opportunity to increase protection of coastal barriers, and at the same time, saves taxpayers money. I urge my colleagues to support this legislation.●

By Mr. HATCH (for himself, Mr. ABRAHAM, Mr. LEAHY, and Mr. KENNEDY):

S. 1753. A bill to amend the Immigration and Nationality Act to provide that an adopted alien who is less than 18 years of age may be considered a child under such Act if adopted with or after a sibling who is a child under such Act; to the Committee on the Judiciary.

KEEPING IMMIGRANT SIBLINGS TOGETHER

Mr. HATCH. Mr. President, I rise today to introduce a bill corresponding to one introduced by Congressman HORN of California and passed the House of Representatives this week. The intent of this bill is to allow immigrant orphan siblings to stay together when being adopted by U.S. citizens.

Under current law, a U.S. citizen may bring an immigrant child they have adopted to the United States if the child is under the age of 16. This bill would allow U.S. citizens to adopt immigrant children ages 16–17 if the adoption would keep a group of siblings together.

Mr. President, I agree with Mr. HORN's conclusion that family unity is a frequently cited goal of our immigration policy, and this proposal would promote that goal. Under current law, if children are adopted by U.S. citizens and the oldest sibling is 16 or 17, the oldest sibling cannot come to the United States with his or her brothers and sisters under current law. It seems clear to me that siblings of these young ages ought not to be separated.

Further, foreign adoption authorities in some cases do not allow the separation of siblings. In such cases, if a U.S. citizen wanted to adopt a group of siblings and one of them is 16 or older, the citizen would lose the opportunity to adopt any of them under current law.

As Mr. HORN's analysis of the consequences of this bill confirm, this bill is unlikely to cause a significant increase in immigration levels overall. During fiscal year 1996, a total a 351 immigrant orphans older than age 9 were adopted by U.S. citizens, out of 11,316 immigrant orphans adopted by U.S. citizens overall that year.

I thank Congressman HORN for his leadership in this issue. I certainly hope that we can act of this measure before we adjourn.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1753

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

SECTION 1. PROVIDING THAT AN ADOPTED ALIEN WHO IS LESS THAN 18 YEARS OF AGE MAY BE CONSIDERED A CHILD UNDER THE IMMIGRATION AND NATIONALITY ACT IF ADOPTED WITH OR AFTER A SIBLING WHO IS A CHILD UNDER SUCH ACT.

(a) IN GENERAL.—Section 101(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1)) is amended—

(1) in subparagraph (E)—

(A) by inserting ''(i)'' after ''(E)''; and

(B) by adding at the end the following:

''(ii) subject to the same proviso as in clause (i), a child who (I) is a natural sibling of a child described in clause (i) or subparagraph (F)(i); (II) was adopted by the adoptive parent or parents of the sibling described in such clause or subparagraph; and (III) is otherwise described in clause (i), except that the child was adopted while under the age of eighteen years; or''; and

(2) in subparagraph (F)—

(A) by inserting ''(i) after ''(F)'';

(B) by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(ii) subject to the same provisos as in clause (i), a child who (I) is a natural sibling of a child described in clause (i) or subparagraph (E)(i); (II) has been adopted abroad, or is coming to the United States for adoption, by the adoptive parent (or prospective adoptive parent) or parents of the sibling described in such clause or subparagraph; and (III) is otherwise described in clause (i), except that the child is under the age of eighteen at the time a petition is filed in his or her behalf to accord a classification as an immediate relative under section 201(b).''.

(b) CONFORMING AMENDMENTS RELATING TO NATURALIZATION.—

(1) DEFINITION OF CHILD.—Section 101(c)(1) of the Immigration and Nationality Act (8 U.S.C. 1101(c)) is amended by striking ''sixteen years,'' and inserting ''sixteen years (except to the extent that the child is described in subparagraph (E)(ii) or (F)(ii) of subsection (b)(1)),''.

(2) CERTIFICATE OF CITIZENSHIP.—Section 322(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1433(a)(4)) is amended—

(A) by striking ''16 years'' and inserting ''16 years (except to the extent that the child is described in clause (ii) of subparagraph (E) or (F) of section 101(b)(1))''; and

(B) by striking ''subparagraph (E) or (F) of section 101(b)(1).'' and inserting ''either of such subparagraphs.''.

By Mr. HATCH (for himself and Mr. LEAHY):

S. 1754. A bill entitled ''Denying Safe Havens to International and War Criminals Act of 1999; to the Committee on the Judiciary.

DENYING SAFE HAVENS TO INTERNATIONAL AND WAR CRIMINALS ACT OF 1999

Mr. HATCH. Mr. President. I rise today to introduce, along with Senator LEAHY of Vermont, a bill titled ''Denying Safe Havens to International and War Criminals Act of 1999.'' This is an important measure that I hope can move promptly through the Senate Judiciary Committee and through the Senate. The provisions contained in this bill are crucial in combating crime internationally. I believe that it will give law enforcement critical tools in more effectively pursuing fugitives and ware criminals.

I thank my ranking member for his work on this matter. This bill incorporates in title III, his own bill dealing with war criminals and it is an important component of this legislation.

I ask unanimous consent to include the text of the bill in the RECORD.

[Data not available at time of printing.]

● Mr. LEAHY. Mr. President, I am pleased to introduce today with Senator HATCH a bill to give United States law enforcement agencies important tools to help them combat international crime. The ''Denying Safe Haven to International and War Criminals Act of 1999'' contains a number of provisions that I have long supported.

Unfortunately, crime and terrorism directed at Americans and American interests abroad are part of our modern reality. Furthermore, organized criminal activity does not recognize national boundaries. With improvements in technology, criminals now can move about the world with ease. They can transfer funds with the push of a button, or use computers and credit card numbers to steal from American citizens and businesses from any spot on the globe. They can strike at Americans here and abroad. They can commit crimes abroad and flee quickly to another jurisdiction or country. The playing field keeps changing, and we need to change with it.

This bill would help make needed modifications in our laws, not with sweeping changes but with thoughtful provisions carefully targeted at specific problems faced by law enforcement. We cannot stop international crime without international cooperation, and this bill gives additional tools to investigators and prosecutors to promote such cooperation, while narrowing the room for maneuver that international criminals and terrorists now enjoy.

I initially introduced title I, section 4 of this bill, regarding fugitive disentitlement, on April 30, 1998, in the ''Money Laundering Enforcement and Combating Drugs in Prisons Act of 1998,'' S. 2011, with Senators DASCHLE, KOHL, FEINSTEIN and CLELAND. Again, on July 14, 1998, I introduced with Senator BIDEN, on behalf of the Administration, the ''International Crime Control Act of 1998,'' S. 2303, which contains most of the provisions set forth in this bill. Virtually all of the provisions in the bill were also included in

another major anti-crime bill, the ''Safe Schools, Safe Streets, and Secure Borders Act of 1998,'' S. 2484, that I introduced on September 16, 1998, along with Senators DASCHLE, BIDEN, Moseley-Braun, KENNEDY, KERRY, LAUTENBERG, MIKULSKI, BINGAMAN, REID, MURRAY, DORGAN, and TORRICELLI. In addition, Senator HATCH and I included title II, section 1 of this bill regarding streamlined procedures for MLAT requests in our ''International Crime and Anti-Terrorism Amendments of 1998'', S. 2536, which passed the Senate last October 15, 1998.

We have drawn from these more comprehensive bills a set of discrete improvements that enjoy bipartisan support so that important provisions may be enacted promptly. Each of these provisions has been a law enforcement priority.

Title I sets forth important proposals for combating international crime and denying safe havens to international criminals. In particular, section 1 would provide for extradition under certain circumstances for offenses not covered in a treaty or absent a treaty. Treaties negotiated many years ago specified the crimes for which extradition would be allowed. Developments in criminal activity, however, have outpaced the ability of countries to renegotiate treaties to include newly developing criminal activity. Under the bill, extradition would nevertheless proceed as if the crime were covered by a treaty for ''serious offenses,'' which are defined to include crimes of violence, drug crimes, bribery of public officials, obstruction of justice, money laundering, fraud or theft involving over $100,000, counterfeiting over $100,000, a conspiracy to commit any of these crimes, and sex crimes involving children. The section sets forth detailed procedures and safeguards for proceeding with extradition under these circumstances.

Section 2 contains technical and conforming amendments.

Section 3 would give the Attorney General authority to transfer a person in custody in the United States to a foreign country to stand trial where the Attorney General, in consultation with the Secretary of State, determines that such transfer would be consistent with the international obligations of the United States. The section also allows for the transfer of a person in state custody in the United States to a foreign country to stand trial after a similar determination by the Attorney General and the consent of the State authorities. Similarly, the Attorney General is authorized to request the temporary transfer of a person in custody in a foreign country to face prosecution in a federal or state proceeding.

Section 4 is designed to stop drug kingpins, terrorists and other international fugitives from using our courts to fight to keep the proceeds of the very crimes for which they are wanted. Criminals should not be able to use our courts at the same time they are evading our laws.

Section 5 would permit the transfer of prisoners to their home country to serve their sentences, on a case-by-case basis, where such transfer is provided by treaty. Under this section, the prisoner need not consent to the transfer.

Section 6 would provide a statutory basis for holding and transferring prisoners who are sent from one foreign country to another through United States airports, preventing them from claiming asylum while they are temporarily in the United States.

Title II of the bill is designed to promote global cooperation in the fight against international crime. Specifically, section 1 would permit United States courts involved in multi-district litigation to enforce mutual legal assistance treaties and other agreements to execute foreign requests for assistance in criminal matters in all districts involved in the litigation.

Section 2 outlines procedures for the temporary transfer of incarcerated witnesses. Specifically, the bill would permit the United States, as a matter of reciprocity, to send persons in custody in the United States to a foreign country and to receive foreign prisoners to testify in judicial proceedings, with the consent of the prisoner and, where applicable, the State holding the prisoner. A transfer may not create a platform for an application for asylum or other legal proceeding in the United States. Decisions of the Attorney General respecting such transfers are to be made in conjunction with the Secretary of State.

Title III of the bill is the ''Anti-Atrocity Alien Deportation Act,'' S. 1235, which I introduced on July 15, 1999, with Senator KOHL and is cosponsored by Senator LIEBERMAN. This bill has also been introduced in the House with bipartisan support as H.R. 2642 and H.R. 3058. This title of the bill would amend the Immigration and Nationality Act to expand the grounds for inadmissibility and deportation to cover aliens who have engaged in acts of torture abroad. ''Torture'' is already defined in the Federal criminal code, 18 U.S.C. § 2340, in a law passed as part of the implementing legislation for the ''Convention Against Torture.'' Under this Convention, the United States has an affirmative duty to prosecute torturers within its boundaries regardless of their respective nationalities. 18 U.S.C. § 2340A (1994).

This legislation would also provide statutory authorization for OSI, which currently owes its existence to an Attorney General order, and would expand its jurisdiction to authorize investigations, prosecutions, and removal of any alien who participated in torture and genocide abroad—not just Nazis. The success of OSI in hunting Nazi war criminals demonstrates the effectiveness of centralized resources and expertise in these cases. OSI has worked, and it is time to update its mission. The knowledge of the people, politics and pathologies of particular regimes engaged in genocide and human rights abuses is often necessary for effective prosecutions of these cases and may best be accomplished by the concentrated efforts of a single office, rather than in piecemeal litigation around the country or in offices that have more diverse missions.

Unquestionably, the need to bring Nazi war criminals to justice remains a matter of great importance. Funds would not be diverted from the OSI's current mission. Additional resources are authorized in the bill for OSI's expanded duties.

These are important provisions that I have advocated for some time. They are helpful, solid law enforcement provisions. I thank my friend from Utah, Senator HATCH, for his help in making this bill a reality. Working together, we were able to craft a bipartisan bill that will accomplish what all of us want, to make America a safer and more secure place.

I ask that the attached sectional analysis of the bill be printed in the RECORD.

The summary follows:

DENYING SAFE HAVENS TO INTERNATIONAL AND WAR CRIMINALS ACT OF 1999—SECTION BY SECTION ANALYSIS

TITLE I—DENYING SAFE HAVENS TO INTERNATIONAL CRIMINALS

Section 1. Extradition for Offenses Not Covered by a List Treaty

This section allows the Attorney General to seek extradition of a person for specified crimes not covered by a treaty. Treaties negotiated many years ago specified the crimes for which extradition would be allowed, and developments in criminal activity have outpaced the ability of countries to renegotiate treaties to include newly developing criminal activity. Extradition would proceed as if the crime were covered by treaty, and the section sets forth detailed procedures and safeguards. Applicable crimes include crimes of violence, drug crimes, obstruction of justice, money laundering, fraud or theft involving over $100,000, counterfeiting over $100,000, conspiracy to commit any of these crimes, and sex crimes involving children.

Section 2. Technical and Conforming Amendments

This section amends related statutes to conform with Section 1.

Section 3. Temporary Transfer of Persons in Custody for Prosecution

This section allows a temporary transfer of a person from another country to the United States to stand trial where the Attorney General, in consultation with the Secretary of State determines that such transfer would be consistent with the international obligations of the United States. The section also allows for the transfer of a person in custody in the United States to a foreign country to stand trial after a similar determination by the Attorney General.

Section 4. Prohibiting Fugitives From Benefiting From Fugitive Status

This section adds a new section 2466 (Fugitive Disentitlement) to Title 28 to provide that a person cannot stay outside the United States, avoiding extradition, and at the same time participate as a party in a civil action over a related civil forfeiture claim. The Supreme Court recently decided that a previous judge-made rule to the same effect required

a statutory basis. This section provides that basis.

Section 5. Transfer of Foreign Person to Serve Sentences in Country of Origin

This section permits transfer, on a case-by-case basis, of prisoners to their home country where such transfer is provided by treaty. Under this section the prisoner need not consent to the transfer.

Section 6. Transit of Fugitives for Prosecution in Foreign Countries

This section would provide a statutory basis for holding and transferring prisoners who are sent from one foreign country to another through United States airports, at the discretion of the Attorney General. The temporary presence in the United States would not be the basis for a claim for asylum.

TITLE II—PROMOTING GLOBAL COOPERATION IN THE FIGHT AGAINST INTERNATIONAL CRIME

Section 1. Streamlined Procedures for Execution of MLAT Requests

This section permits United States courts involved in multi-district litigation to enforce mutual legal assistance treaties and other agreements to execute foreign requests for assistance in criminal matters in all districts involved in the litigation or request.

Section 2. Temporary Transfer of Incarcerated Witnesses

This section permits the United States, as a matter of reciprocity, to send persons in custody in the United States to a foreign country and to receive foreign prisoners to testify in judicial proceedings, with the consent of the prisoner and, where applicable, the State holding the prisoner. A transfer may not create a platform for an application for asylum or other legal proceeding in the United States. Decisions of the Attorney General respecting such transfers are to be made in conjunction with the Secretary of State.

TITLE III—ANTI-ATROCITY ALIEN DEPORTATION

Section 1. Inadmissibility and Removability of Aliens Who Have Committed Acts of Torture Abroad

Currently, the Immigration and Nationality Act provides that (i) participants in Nazi persecutions during the time period from March 23, 1933 to May 8, 1945, and (ii) aliens who engaged in genocide, are inadmissible to the United States and deportable. *See* 8 U.S.C. §1182(a)(3)(E)(i) and §1227(a)(4)(D). The bill would amend these sections of the Immigration and Nationality Act by expanding the grounds for inadmissibility and deportation to cover aliens who have engaged in acts of torture abroad. The United Nations' ''Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment'' entered into force with respect to the United States on November 20, 1994. This Convention, and the implementing legislation, the Torture Victims Protection Act, 18 U.S.C. §§2340 *et seq.*, includes the definition of ''torture'' incorporated in the bill and imposed an affirmative duty on the United States to prosecute torturers within its jurisdiction.

Section 2. Establishment of the Office of Special Investigations

Attorney General Civiletti established OSI in 1979 within the Criminal Division of the Department of Justice, consolidating within it all ''investigative and litigation activities involving individuals, who prior to and during World War II, under the supervision of or in association with the Nazi government of Germany, its allies, and other affiliated [sic] governments, are alleged to have ordered, incited, assisted, or otherwise participated in the persecution of any person because of race, religion, national origin, or political opinion.'' (Attorney Gen. Order No. 851–79). The OSI's mission continues to be limited by that Attorney General Order.

This section would amend the Immigration and Nationality Act, 8 U.S.C. §1103, by directing the Attorney General to establish an Office of Special Investigations within the Department of Justice with authorization to investigate, remove, denaturalize, or prosecute any alien who has participated in torture or genocide abroad. This would expand OSI's current authorized mission. Additional funds are authorized for these expanded duties to ensure that OSI fulfills its continuing obligations regarding Nazi war criminals.●

By Mr. BROWNBACK (for himself and Mr. DORGAN):

S. 1755. A bill to amend the Communications Act of 1934 to regulate interstate commerce in the use of mobile telephones; to the Committee on Commerce, Science, and Transportation.

THE MOBILE TELECOMMUNICATIONS SOURCING ACT

Mr. BROWNBACK. Mr. President, I rise today to introduce, on behalf of myself and Senator DORGAN, the Mobile Telecommunications Sourcing Act of 1999. This legislation is the product of more than a year's worth of negotiations between the Governors, cities, State tax and local tax authorities, and the wireless industry.

The legislation represents an historic agreement between State and local governments and the wireless industry to bring sanity to the manner in which wireless telecommunications services are taxed.

For as long as we have had wireless telecommunications in this country, we have had a taxation system that is incredibly complex for carriers and costly for consumers. Today, there are several different methodologies that determine whether a taxing jurisdiction may tax a wireless call.

If a call originates at a cell site located in a jurisdiction, it may impose a tax. If a call originates at a switch in the jurisdiction, a tax may be imposed. And if the billing address is in the jurisdiction, a tax can be imposed.

As a result, many different taxing authorities can tax the same wireless call. The farther you travel during a call, the greater the number of taxes that can be imposed upon it.

This system is simply not sustainable as wireless calls represent an increasing portion of the total number of calls made throughout the United States. To reduce the cost of making wireless calls, Senator DORGAN and I are introducing this legislation.

The legislation would create a nationwide, uniform system for the taxation of wireless calls. The only jurisdictions that would have the authority to tax mobile calls would be the taxing authorities of the customer's place of primary use, which would essentially be the customer's home or office.

By creating this uniform system, Congress would be greatly simplifying the taxation and billing of wireless calls. The wireless industry would not have to keep track of countless tax laws for each wireless transaction. State and local taxing authorities would be relieved of burdensome audit and oversight responsibilities without losing the authority to tax wireless calls. And, most importantly, consumers would see reduced wireless rates and fewer billing headaches.

The Mobile Telecommunications Sourcing Act is a win-win-win. It's a win for industry, a win for government, and a win for consumers. I thank Senator DORGAN for working with me in crafting this bill. And, most of all, I thank government and industry for coming together and reaching agreement on this important issue.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

[Data not available at time of printing.]

● Mr. DORGAN. Mr. President, today my colleague Senator BROWNBACK and I are introducing legislation that is designed to address a highly complex issue with respect the taxation of mobile telecommunications service. Although the issue is complex, the solution has a simple goal: to create a reliable and uniform method of taxation on wireless telecommunications services that works best for consumers.

Currently, the mobility of wireless telecommunications services makes the taxation by state and local jurisdictions a complicated and expensive task for carriers and consumers because questions arise as to whether the tax is levied in the location in which the call is placed or where the user resides. Because this situation is difficult to monitor, state and local jurisdictions the prospects of non-compliance and double taxation are also of concern. For example, a person driving between Baltimore, Maryland and Philadelphia, Pennsylvania can pass through 12 separate state and local taxing jurisdictions. In the two hours it would take someone to make that 100 mile drive, several phone calls could be made under a cloud of tax ambiguity that works for no one, not the consumer, not the carrier, and not the taxing jurisdictions. This scenario presents us with challenge to the traditional method of taxation in the face of the growing popularity of mobile communications systems. It is a case that needs to be changed.

The Mobile Telecommunications Sourcing Act is, in itself, an achievement. This legislation was developed through 3 years of dedicated, good faith negotiations between the industry and state and local government organizations. Rather than allow an unworkable situation to continue unresolved and rather than ignite a polemical political debate over a special interest solution, the industry and several state and local government organizations sat down and worked out a solution that satisfies all the stake holders. I extend my congratulations and gratitude to the leaders and staff members of the organizations that participated in the development of this consensus legislation.

Under this legislation, a consumer's primary place of residence would be designated as the taxing jurisdiction for the purposes of taxing roaming and other charges that are subject to state and local taxation. This legislation does not impose any new taxes nor does it change the authority of state and local governments to tax wireless services. It does, however, provide consumers with simplified billing, reduce the chances of double taxation, preserve the authority of state and local jurisdictions to tax wireless services, and reduce the costs of tax administration for carriers and governments. In the end, the consumer will benefit through this tax clarification legislation that is badly needed.

As many of my colleagues in the Senate know, I have been involved in many battles over the years where state and local governments have attempted to preserve their taxation authority as Congress has sought to preempt that authority on behalf of some special interest. I am very pleased to be in a position today to sponsor legislation which addresses a legitimate need to clarify and simplify state and local taxation in a manner that works for consumers, industry, and state and local governments alike.

I also want to express my gratitude to my colleague Senator BROWNBACK for his work on this measure. I hope that our colleagues will take note that Senator BROWNBACK and I stand together on this consensus, bipartisan legislation and join us to advance this bill expeditiously.●

By Mr. BINGAMAN (for himself and Mrs. MURRAY):

S. 1756. A bill to enhance the ability of the National Laboratories to meet Department of Energy missions and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BINGAMAN. Mr. President, today I'm pleased to be joined by Senator MURRAY in introducing the ''National Laboratories Partnership Improvement Act of 1999''. This bill will make it easier for our national labs to collaborate and build strong technical relationships with other technical organizations, particularly universities and companies right near the labs. That will yield two major benefits. It will improve the labs' ability to do their missions, and it will promote high tech economic growth around the labs, thus, helping the labs as it helps the labs' communities.

Many of you know that making it easier to work with our national labs is a cause I've pursued for many years. And we've made solid progress. The labs are now involved in an array of technical collaborations, usually under cooperative research and development agreements or CRADAs, that would have been impossible a decade ago. In 1989, there were no CRADAs with the Department of Energy's national labs; in 1998, the number was over 800.

So, we've come a long way. But there's still work to be done. It's still not as easy to collaborate with the national labs as it should be, nor are collaborations as common as they need to be to keep our labs on the cutting edge of science and technology. This legislation takes the next steps in that direction.

There are three fundamental ideas running through this bill. The first is that scientific and technical collaboration with the national labs is good for our economy and essential to the future of the labs. The labs will be unable to succeed in their missions unless they can easily work with other technical institutions. Why? Because that's where the bulk of cutting edge technology is today. Consider the following. Real federal spending on R&D peaked in 1987, but from 1987 to 1997, national R&D grew by 20%. The federal government was responsible for none of that growth, and now accounts for only about a quarter of national R&D spending. In the same period, industrial R&D grew by over 50% and accounted for around 95% of the growth in national R&D. As Nobel laureate Dr. Burt Richter stated during his testimony on DOE's reorganization, ''All of the science needed for stockpile stewardship in not in the weapons labs.'' That's why I was so concerned with the ability of the labs to collaborate during the reorganization debate.

I emphasize how collaboration helps the labs because it's a point that's often missed in our discussions of tech transfer, CRADAs, and other such things. When legislation making it easier to work with the labs was passed in 1989, we were in the midst of a ''competitiveness crisis'' and looking for ways to use technology to improve our economic performance. After all, innovation is responsible for 50% or more of our long term economic growth. With these roots, people usually focus on how collaborating with the labs helps US industry by giving it access to a treasure trove of technology and expertise. For example, over a 100 new companies were started around DOE technology in the last four years. And, the fact that industry has been collaborating with the labs and recently paying for a greater share of those partnerships is good evidence that its getting something of value. The economic benefits from these collaborations are real and a primary reason I've pushed them for many years.

But the benefits back to the labs are real too. A recent letter from Los Alamos to me stated, ''Working with industry has validated our ability to predict . . . changes in materials . . ., improved our ability to manufacture . . . replacement parts with greater precision and lower cost, and enhanced our ability to assure the safety and reliability of the stockpile without testing.''

As an example, Sandia's collaboration with Goodyear Tire has helped Goodyear produce computer simulations of tires—an extremely complex problem—and helped Sandia improve its modeling and production of neutron generators, a critical component of nuclear weapons. Technical collaborations with our labs that have a clear mission focus by the lab and a clear business focus by the company are good for our economy and good for the labs' missions.

The second fundamental idea flows from the first. If collaborations with the labs are beneficial, we should keep working to make them better, faster, and more flexible—much like the collaborations we see sprouting throughout the private sector. Hence, this bill includes provisions to:

Establish a small business advocate at the labs charged with increasing small business participation in lab procurement and collaborative research;

Establish a technology partnership ombudsman at the labs to ensure that the labs are known as good faith partners in their technical relationships;

Authorize DOE to use a very flexible contracting authority called ''other transactions,'' which was successfully pioneered by the Defense Advanced Research Projects Agency to manage some of its collaborative projects in innovative ways; and

Significantly streamline the CRADA approval process for government owned, contractor operated laboratories like Sandia, allowing the labs to handle more of the routine CRADAs themselves, and allowing more flexibility in the negotiation of intellectual property rights—all to make CRADA's more attractive to industry.

The third fundamental idea that runs through this bill is that if collaboration is important to our economy and to the success of the labs, then the local technical institutions near the lab—the universities and companies that might work with the lab—matter a great deal. We know that the environment inside an institution, how it's managed, will help determine how innovative it is. Managing innovation is more art than science, and that's why people are always visiting places like 3M.

Well, just as the internal environment affects how innovative an organization is, its external environment, the organizations near it that might collaborate with it, also help determine how innovative it is. When the technical institutions in a region form a high quality, dynamic network, they can meld into what's been called a ''technology cluster'' that dramatically boosts innovation and economic growth throughout the region. We see this most famously in places like Silicon Valley, or Route 128, or Austin, TX. In most of these places, there is a large research university that serves as the anchor innovator seeding the cluster.

With that phenomena in mind, this bill seeks to harness the power of technology clusters for the benefit of the labs' missions and the labs' communities, with the labs as the anchor innovator. The bill authorizes the labs to

work with their local communities to foster commercially oriented technology clusters that will help them do their job. Projects under this ''Regional Technology Infrastructure Program'' would be cost shared partnerships between a lab and nearby organizations with the clear potential to help the lab achieve its mission, leverage commercial technology, and commercialize lab technology. This is not about outsourcing a lab's functions, but about promoting technical capabilities near the lab that are commercially viable and useful to the lab. Thus, the lab gets highly competent collaborators nearby and the region gets high tech economic growth.

Let me give an example. Imagine a lab that does research in optics that has optics companies nearby. The lab and the companies discover they both need better training for their machinists and skilled workers. So they agree to set up and share the cost of an advanced training program for their workers at the local community college. This is good for the workers, good for the companies, good for the lab. Other types of projects this program might fund include:

Local economic surveys and strategic planning efforts;

Technology roadmaps for local industry;

Personnel exchanges among local universities, firms, and the lab;

Lab based small business incubators or research parks; and

Joint research programs between a group of local firms and the lab.

We have some real life examples of this kind of thinking in the research parks Sandia and Los Alamos are setting up to collaborate with industry and promote economic growth. And Argonne, Idaho National Engineering and Environmental Laboratory, and Sandia have programs to link their technology with venture capital, to get it into the marketplace, which can only help advance the lab's mission. This bill will encourage the labs to systematically experiment with more projects like those.

Now, some might think that the Internet will make proximity irrelevant to collaboration. But that's not the case, as simple observation of Silicon Valley shows; it's not been dissipating, it's been growing. Close collaboration will remain easier among close neighbors, because it partly depends on people who know each other and are rooted in a community—which is why one provision of this bill is a study on how to ease employee mobility between the labs and nearby technical organizations. The Internet complements and strengthens collaborations, but is not a complete substitute for having collaborators nearby. Thus, even as the Internet grows in influence, it will still make sense to harness the power of technology clusters to help our labs do their jobs and to promote high tech economic growth in their communities.

Mr. President, for many years I've pushed for and supported efforts to make it easier for our national labs to work with industry, universities, and other institutions. I've done this because I think it's good for the science and security missions of our labs, good for our economy, and good for my home state of New Mexico. I think this bill is a comprehensive package that will yield more of those benefits, and I urge my colleagues to join me in supporting it.

Mr. President, I ask unanimous consent that the text of the bill, a summary, and letters of support for this bill from the Technology Industries Association of New Mexico and the City of Albuquerque be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[The text of the bill was not available for printing.]

NATIONAL LABORATORIES PARTNERSHIP IMPROVEMENT ACT OF 1999

SUMMARY

The National Laboratories Partnership Improvement Act of 1999 will build stronger technical relationships between the Department of Energy's national laboratories and other institutions, particularly those near the labs. These relationships will help the labs achieve their missions by leveraging the scientific and technical resources of the private sector and universities and will also promote high tech economic growth around the labs.

BACKGROUND/DISCUSSION

More and more of our nation's innovation occurs outside the federal sector. Since 1987, around 95% of the real growth in our national R&D has come from the private sector, and none from the federal government. Industry now funds almost 70% of our national R&D.

Scientific and technical collaborations between our national labs and other technical institutions improve the lab's access to the huge pool of science, technology, and talent outside their gates. Technical collaboration with the national labs is both good for the companies that do it and essential for keeping the labs on the cutting edge of research.

This bill takes the next step in making it easier for our national laboratories to work with other institutions. In addition to improving the CRADA process, the bill also focuses on improving the ''regional technology infrastructure'' around the labs. This refers to things like the companies, universities, labor force, and non-profit organizations near a lab that are not formally part of it but that nonetheless contribute to its technical success.

Places like Silicon Valley show that when these technical institutions form a high quality, dynamic network, they can develop into a ''technology cluster'' that dramatically improves innovation and economic growth throughout a region. This bill will promote the development of technology clusters around the national labs both to help the labs harness the power of technology clusters to achieve their missions and to stimulate high tech economic growth around the labs.

SECTION BY SECTION DESCRIPTION

Sec. 1–3—Titles, findings, and definitions.

Sec. 4—*Regional Technology Infrastructure Program*—Authorizes the Department of Energy to promote the development of technology clusters around the national labs that will help them achieve their missions. The idea is to foster commercially oriented, dynamic networks of local institutions, broadly analogous to that in Silicon Valley, that will improve innovation and economic growth around the labs—thereby helping the labs as they help the labs' communities. Projects under this program will be competitively selected, cost shared partnerships between a lab and nearby organizations. Projects with the clear potential to help a lab achieve its mission, leverage commercial innovation, and commercialize lab technology will be selected. The program begins with $1M of funding at each of the nine, large multiprogram labs. Examples of the kinds of projects that might be funded are: local economic surveys and strategic planning efforts; technology roadmaps for local industry; personnel exchanges and specialized workforce training programs among local universities, firms, and the lab; lab based small business incubators or research parks; and joint research programs between a group of local firms and the lab.

Sec. 5—*Small Business Advocacy and Assistance*—Establishes a Small Business Advocate charged with increasing small businesses' participation in procurements and collaborative research at each of the nine, large multiprogram labs. Authorizes the labs to give small businesses advice to make them better suppliers and general technical assistance. For example, a lab could point them to venture capitalists or technical partners that would strengthen their ability to work for the lab. Or, a small business could get technical advice from a lab on how to fix a product design problem. Complements Sec. 4, but is focused directly on small businesses.

Sec. 6—*Technology Partnership Ombudsman*—Establishes an ombudsman at the nine, large multiprogram labs to quickly and inexpensively resolve complaints or disputes with the labs over technology partnerships, patents, and licensing.

Sec. 7—*Mobility of Technical Personnel*—Requires DOE to remove any disincentives to technical personnel moving among the national labs. Creates a study to recommend how to ease the movement of technical personnel between the labs and nearby industry with the long term goal of promoting start-ups and stronger networks of technical collaboration near the labs.

Sec. 8—*Other Transactions*—Standard government contracts, grants, or cooperative agreements can be ill-suited to collaborative projects that have a variety of actors and equities. This section gives DOE ''other transactions,'' an exceptionally flexible contracting authority that allows a ''clean sheet of paper'' negotiation with non-federal organizations. Other transactions were successfully pioneered by the Defense Advance Research Projects Agency to manage many of its innovative relationships with industry; more recently they've been adopted by the military services and Department of Transportation.

Sec. 9—*Amendments to the Stevenson-Wydler Act*—The current law governing CRADAs can make them slower to negotiate and less attractive to industry than they should be. This section amends that law to make the negotiation process faster, more flexible, and more attractive to industry. More specifically, this section: shortens the time federal agencies have to review, modify, and approve CRADAs with government owned, contractor operated (GOCO) labs, making it the same as that for government owned, government operated labs; allows more negotiation over the allocation of intellectual property rights developed under a CRADA; and allows federal agencies to permit routine CRADAs to be

simply handled by a GOCO lab by eliminating extra steps now required for CRADA with them.

TECHNOLOGY INDUSTRIES
ASSOCIATION OF NEW MEXICO,
Albuquerque, NM, October 13, 1999.

Hon. JEFF BINGAMAN,
U.S. Senate, Washington, DC.

DEAR SENATOR BINGAMAN: On behalf of the board of directors of the Technology Industries Association of New Mexico (TIA), I am sending this letter to express our support of legislation you are introducing, the National Laboratories Partnership Improvement Act of 1999.

Members of our organization are well aware of the benefits that already have occurred via the ''technology transfer'' process begun with the Stevenson-Wydler Act of 1980 and continuing since with various improvements and changes to the original measure. Although most of the member companies in TIA do not engage in direct sales to or contracting with the Federal government or military a number of these companies have benefited due to the technology transfer process.

At least one of our TIA members was created as a spin-off of Sandia National Laboratories. Some of the larger multinational companies with divisions in New Mexico have benefited via CRADA arrangements. And some of our other smaller member companies have been greatly aided through the simple but effective mechanism of the technology assistance program run by Sandia.

After reviewing draft versions of your proposed legislation, we particularly like two features:

The provision that the national laboratories can link with private companies, rather than the other way around. We think this is important, because, as much as private companies can and have been aided via access to the vast R&D capabilities of the national labs, it is also important that the government institutions learn from private companies those skills necessary to succeed in the intensely competitive international free-market economies.

The section which promotes the development of technology clusters in the local economies where national laboratories are located. This strategic approach to economic development is beginning to emerge in central New Mexico with the help of your office and others. We think the development of technology clusters provides a focus for issues and for building vertical infrastructure that often has been lacking in the previous well-meaning, but scattergun approach to economic development.

TIA thanks you for your effort and is hopeful the legislation will be enacted.

Sincerely,

JOHN P. JEKOWSKI,
President.

CITY OF ALBUQUERQUE,
Albuquerque, NM, October 13, 1999.

JEFF BINGAMAN,
U.S. Senator, Hart Building,
Washington, DC.

DEAR SENATOR BINGAMAN: On behalf of the citizens of Albuquerque, I want to state my strong support of your proposed legislation, ''The National Laboratories Partnership Improvement Act of 1999.'' For the past 50 years the synergy among our scientific, civic, and educational communities and the Department of Energy's national laboratories has helped to build and enhance our modern city. While we welcome these working partnerships, we recognize that stronger technical relationships between the labs, private businesses, and other nearby institutions are needed to leverage additional resources, both public and private, and promote high tech economic growth at the local, regional, and national levels.

Your leadership in the past and your thorough understanding of the complex issues involving tech transfer has deeply benefited Albuquerque's economic diversification, job growth, and stability. This legislation provides an important and timely framework for the future, and we look forward to working with you and your staff in whatever way necessary to implement it. To this end, we would hope that monies generated by the legislation might come directly to the community, and not go to existing or proposed lab tech transfer programs. This will enable our business, institutional and civic leadership to develop the infrastructure required by this well-crafted, thoughtful, and far-reaching proposal.

Sincerely,

JIM BACA,
Mayor.

By Mr. COVERDELL (for himself, Mr. DEWINE, and Mr. GRASSLEY):

S. 1758. A bill to authorize urgent support for Colombia and front line states to secure peace and the rule of law, to enhance the effectiveness of anti-drug efforts that are essential to impending the flow of deadly cocaine and heroin from Colombia to the United States, and for other purposes; to the Committee on Foreign Relations.

Mr. DEWINE. Mr. President, the current situation in Colombia is a nightmare. Embroiled in a bloody, complex, three decade-long civil war, Colombia is spiraling toward collapse. Since the early 1990s, more than 35,000 Colombians have lost their lives at the hands of two well-financed, heavily-armed guerrilla insurgency groups, along with a competing band of ruthless paramilitary operatives, hell bent on crushing the group of leftist guerrillas. Sadly, many of those killed so far have been innocent civilians caught in the constant cross-fire.

The American drug habit is at the core of the Colombian crisis, with drug users and pushers in this country subsidizing the anti-democratic leftists. Americans want drugs. The drug traffickers want money. To ensure their prosperity and to maintain a profitable industry, the traffickers essentially hire the guerrillas and, increasingly, the paramilitary groups to protect their livelihoods. Violence and instability reign. Democracy is crumbling.

That's why, Mr. President, today, along with my colleague Senator COVERDELL, we are introducing the Anti-Drug Alliance with Colombia and the Andean Region Act of 1999. This comprehensive bill is designed to promote peace and stability in Colombia and the Latin American region. Our colleague, Senator GRASSLEY also joins us as a co-sponsor. We believe it is time that our government work in conjunction with the government and the people of Colombia to help lessen the growing crisis in the region.

The problems in Colombia run deep. There are no easy ''overnight'' solutions. If we are to assist in creating and sustaining long-term stability in Colombia, we must commit the resources to achieving that end. It is in our national interest to support Colombia in its effort to thwart further destabilization. Without a strong Colombia, narco-traffickers will flourish, an abundant and steady flow of illicit drugs will head for the United States, one of our largest export markets in the western hemisphere will continue to falter, and a democratic government will further erode.

Just a couple of weeks ago, I met with Colombian President Pastrana during his visit to Washington. We discussed how our two countries can work together—in cooperation—to eliminate drugs from our hemisphere and to begin restoring democracy and the rule of law in Colombia.

For more than three decades, the Revolutionary Armed Forces of Colombia, otherwise known as the FARC, and the National Liberation Army (ELN) have waged the longest-running guerrilla insurgency in Latin America. Both rebel groups have a combined strength of between 15,000 and 20,000 full-time guerrillas. These armed terrorists control or influence up to 60% of rural Colombia. At present, the Colombian military does not appear to have the strength and resources to counter these menacing forces.

Well over a decade ago, the biggest threat to stability from within our hemisphere was communism—Soviet and Cuban communists pushing their anti-democratic propaganda in Central America. We overcame that threat. Under the Reagan and Bush Administrations, Democracy prevailed. Today, in our hemisphere, the communists have been replaced by drug traffickers and the rebels they hire to protect their lucrative industry. These drug traffickers also are financing the roughly 5,000 armed paramilitary combatants, whose self-appointed mission is to counter the strength of the leftist guerrillas. If we hope to have any impact at all in eliminating the drugs in our cities, in our schools, and in our homes, we need to attack drug trafficking head on—here and abroad. This is how we can help both the people of Colombia and the people of our own country.

With the help of my colleagues, Senators PAUL COVERDELL, BOB GRAHAM and CHARLES GRASSLEY, last year we passed the Western Hemisphere Drug Elimination Act. This was a much-needed step toward attacking the drug problem at its core. This Act is a $2.7 billion, three-year investment to rebuild our drug fighting capability outside our borders. This law is about reclaiming the federal government's exclusive responsibility to prevent drugs from ever reaching our borders. This law is about building a hemisphere free from the violent and decaying influence of drug traffickers. This is a law about stopping drugs before they ever reach our kids in Ohio.

This bill was necessary because the Clinton Administration, since coming

into office, has slashed funding levels for international counter-narcotics efforts. By turning its back for the better part of this decade on the fight against drugs abroad, this Administration has contributed inadvertently to the growing strength of drug trafficking organizations, as well as the narco-terrorists in the region.

If one principle has guided American foreign policy consistently since the dawn of our nation, it is this: The peace and stability of our own hemisphere must come first. That certainly has been the case throughout the last century. The Spanish-American War, the Cuban Missile Crisis, the democratization of Central America in the 1980s, and the North American Free Trade Agreement in the 1990s—all of these key events were approached with the same premise: A strong, free, and prosperous hemisphere means a strong, free, and prosperous United States.

Consistent with that principle, the United States must take an active role in seeking a peaceful, democratic Colombia. That is why Senator COVERDELL, who just came back from Colombia, and I have developed a comprehensive assistance plan for Colombia. The Alliance Act of 1999 would authorize $1.6 billion over three years to support: 1. Alternative crop and economic development; 2. Drug interdiction programs; 3. Human rights and rule of law programs; and 4. Military and police counter-narcotics operations. Our plan also contains provisions for counter-narcotics assistance and crop alternative development programs for other Latin American countries, including Brazil, Bolivia, Peru, Panama, Venezuela, and Ecuador.

Our plan not only provides the means to eradicate and interdict illicit drugs, but it also provides the training and resources to strengthen both the civilian and military justice systems to preserve the rule of law and democracy in Colombia. A hemispheric commitment to the rule of law is essential. When I visited with Americans living in Colombia during a trip to the region last year, judicial reform was a central focus of our discussion on ways our nation can better assist Colombia. With our plan, our government would take a leadership role in promoting a strong judiciary and rule of law in Colombia by providing our own technical expertise.

Our plan promotes the sanctity of human rights and provides humanitarian assistance to the hundreds of thousands of people who have been displaced due to the violence and instability.

We not only focus on the economy of Colombia, but also on the stability of the region, as a whole. We provide support for the front-line states and call on them and the international community to assist and support the Government of Colombia. This is a cooperative effort to help Colombia begin to help itself.

Our plan would monitor the assistance to the Colombian security forces, so we can be sure that this assistance is used effectively for its intended purpose and does not fall into the hands of those who engage in gross violations of human rights and drug trafficking.

We urge the Colombian government to take a tough stance against the often over-looked paramilitaries. They are a growing part of the problem in Colombia and should not be ignored.

Our plan is comprehensive. Our plan is balanced. It demonstrates our commitment to assisting the Government of Colombia and our interest in working together to bring peace and security to the hemisphere.

Mr. President, this is not an ''America Knows Best'' plan. We consulted with those who are on the front-lines in Colombia—those who know best what Colombia needs right now. We have talked with the Colombian government, including President Pastrana, to inquire about Colombia's specific needs. We also have consulted with U.S. government officials, who have confirmed our belief that a plan for Colombia must be balanced if we hope to address the complex and dangerous elements of the current situation.

Frankly, Mr. President, it is my hope that the Administration will pro-actively work with Congress—and most importantly, Colombia—to turn the tide against those seeking to undermine democracy in the region. We must act now—too much is at risk to wait any longer.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1758

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Alliance with Colombia and the Andean Region (ALIANZA) Act of 1999''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Purposes.
Sec. 3. Findings.
Sec. 4. Definitions.

TITLE I—UNITED STATES POLICY AND PERSONNEL

Sec. 101. Statement of policy regarding support for democracy, peace, the rule of law, and human rights in Colombia.
Sec. 102. Requirement for a comprehensive regional strategy to support Colombia and the front line states.
Sec. 103. Availability of funds conditioned on submission of strategic plan and application of congressional notification procedures.
Sec. 104. Limitation on availability of funds.
Sec. 105. Sense of Congress on unimpeded access by Colombian law enforcement officials to all areas of the national territory of Colombia.
Sec. 106. Extradition of narcotics traffickers.
Sec. 107. Additional personnel requirements for the United States mission in Colombia.
Sec. 108. Sense of Congress on a special coordinator on Colombia.
Sec. 109. Sense of Congress on the death of three United States citizens in Colombia in March 1999.
Sec. 110. Sense of Congress on members of Colombian security forces and members of Colombian irregular forces.

TITLE II—ACTIVITIES SUPPORTED

Subtitle A—Democracy, Peace, the Rule of Law, and Human Rights in Colombia

Sec. 201. Support for democracy, peace, the rule of law, and human rights in Colombia.
Sec. 202. United States emergency humanitarian assistance fund for internally forced displaced population in Colombia.
Sec. 203. Investigation by Colombian Attorney General of drug trafficking and human rights abuses by irregular forces and security forces.
Sec. 204. Report on Colombian military justice.
Sec. 205. Denial of visas to and inadmissibility of aliens who have been involved in drug trafficking and human rights violations in Colombia.

Subtitle B—Eradication of Drug Production and Interdiction of Drug Trafficking

Sec. 211. Targeting new illicit cultivation and mobilizing the Colombian security forces against the narcotrafficking threat.
Sec. 212. Reinvigoration of efforts to interdict illicit narcotics in Colombia.
Sec. 213. Enhancement of Colombian police and navy law enforcement activities nationwide.
Sec. 214. Targeting illicit assets of irregular forces.
Sec. 215. Enhancement of regional interdiction of illicit drugs.
Sec. 216. Revised authorities for provision of additional support for counter-drug activities of Colombia and Peru.
Sec. 217. Sense of Congress on assistance to Brazil.
Sec. 218. Monitoring of assistance for Colombian security forces.
Sec. 219. Development of economic alternatives to the illicit drug trade.

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to prescribe proactive measures to confront the threat to United States interests of continued instability in Colombia;

(2) to defend constitutional order, the rule of law, and human rights, which will benefit all persons;

(3) to support the democratically elected Government of the Republic of Colombia to secure a firm and lasting end to the armed conflict and lawlessness within its territory, which now costs countless lives, threatens regional security, and undermines effective anti-drug efforts;

(4) to require the President to design and implement an urgent, comprehensive, and adequately funded plan of support for Colombia and its neighbors;

(5) to authorize adequate funds to implement an urgent and comprehensive plan of economic development and anti-drug support for Colombia and the front line states;

(6) to authorize indispensable material, technical, and logistical support to enhance the effectiveness of anti-drug efforts that are essential to impeding the flow of deadly cocaine and heroin from Colombia to the United States; and

(7) to bolster the capacity of the front line states to confront the current destabilizing effects of the Colombia conflict and to resist illicit narcotics trafficking activities that may seek to elude enhanced law enforcement efforts in Colombia.

SEC. 3. FINDINGS.

Congress makes the following findings:

(1) The armed conflict and resulting lawlessness in Colombia present a clear and present danger to the security of the front line states, to law enforcement efforts intended to impede the flow of cocaine and heroin, and, therefore, to the well-being of the people of the United States.

(2) Colombia is a democratic country fighting multiple wars, against the Colombian Revolutionary Armed Forces (FARC), the National Liberation Army (ELN), paramilitary organizations, and international narcotics trafficking kingpins.

(3) With 34 percent of world terrorist acts committed there, Colombia is the world's third most dangerous country in terms of political violence.

(4) Colombia is the world's kidnapping capital of the world with 2,609 kidnappings reported in 1998 and 513 reported in the first three months of 1999.

(5) In 1998 alone, 308,000 Colombians were internally displaced in Colombia. During the last decade, 35,000 Colombians have been killed.

(6) The FARC and the ELN are the two main guerrilla groups that have waged the longest-running anti-government insurgency in Latin America.

(7) The FARC and the ELN engage in systematic extortion through the abduction of United States citizens, have murdered United States citizens, profit from the illegal drug trade, and engage in systematic and indiscriminate crimes, including kidnapping, torture, and murder, against Colombian civilian and security forces.

(8) The FARC and the ELN have targeted United States Government personnel, private United States citizens, and United States business interests.

(9) In March 1999, the FARC murdered three kidnapped United States human rights workers near the international border between Colombia and Venezuela.

(10) The Colombian rebels are estimated to have a combined strength of 10,000 to 20,000 full-time guerrillas, and they have initiated armed action in nearly 700 of the country's 1,073 municipalities and control or influence roughly 60 percent of rural Colombia.

(11) The Government of Colombia has recovered 5,000 new AK–47s from guerrilla caches in 1 month, and the FARC has plotted to use $3,000,000 in funds earned from drug trafficking to buy 30,000 AK–47s.

(12) Although the Colombian Army has 122,000 soldiers, there are no more than 40,000 soldiers available for offensive combat operations.

(13) Colombia faces the threat of an estimated 5,000 armed persons who comprise paramilitary organizations, who engage in lawless acts and undermine the peace process.

(14) Paramilitary organizations profit from the illegal drug trade and engage in systematic and indiscriminate crimes, including extortion, kidnapping, torture, and murder, against Colombian civilians.

(15) The conflict in Colombia is creating instability along its borders with neighboring countries, Ecuador, Panama, Peru, and Venezuela, several of which have deployed forces to their border with Colombia.

(16) Coca production has increased 28 percent in Colombia since 1998, and already 75 percent of the world's cocaine and 75 percent of the heroin seized in the northeast United States is of Colombian origin.

(17) The first 900-soldier Counternarcotics Battalion has been established within the Colombian Army with training and logistical support of the United States military and the Department of State international narcotics and law enforcement program, and it will be ready for deployment in areas of new illicit coca cultivation in southern Colombia by November 1999.

(18) In response to serious human rights abuse allegations by the Colombian military, the Government of Colombia has dismissed alleged abusers and undertaken military reforms, and, while the Colombian military was implicated in 50 percent of human rights violations in 1995, by 1998, the number of incidents attributed to the military plummeted to 4–6 percent.

(19) The Government of Colombia has convicted 240 members of the military and police accused of human rights violations.

(20) In 1998, two-way trade between the United States and Colombia was more than $11,000,000,000, making the United States Colombia's number one trading partner and Colombia the fifth largest market for United States exports in the region.

(21) Colombia is experiencing a historic economic recession, with unemployment rising to approximately 20 percent in 1999 after 40 years of annual economic growth averaging 5 percent per year.

(22) The Colombian judicial system is inefficient and ineffective in bringing to justice those who violate the rule of law.

(23) The FARC continue to press for an exchange of detained rebels, which, if granted, will enable the FARC to increase its manpower in the short term by as many as 4,000 combatants.

(24) The Drug Enforcement Administration has reported that the Colombian irregular forces are involved in drug trafficking and that certain irregular forces leaders have become major drug traffickers.

SEC. 4. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—Except as provided in section 218, the term ''appropriate congressional committees'' means—

(A) the Committee on Appropriations and the Committee on Foreign Relations of the Senate; and

(B) the Committee on Appropriations and the Committee on International Relations of the House of Representatives.

(2) FRONT LINE STATES.—The term ''front line states'' means Bolivia, Brazil, Ecuador, Panama, Peru, and Venezuela.

(3) ILLICIT DRUG TRAFFICKING.—The term ''illicit drug trafficking'' means illicit trafficking in narcotic drugs, psychotropic substances, and other controlled substances (as defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), as such activities are described by any international narcotics control agreement to which the United States is a signatory, or by the domestic law of the country in whose territory or airspace the interdiction is occurring.

(4) IRREGULAR FORCES.—The term ''irregular forces'' means irregular armed groups engaged in illegal activities, including the Colombia Revolutionary Armed Forces (FARC), the National Liberation Army (ELN), and paramilitary organizations.

TITLE I—UNITED STATES POLICY AND PERSONNEL

SEC. 101. STATEMENT OF POLICY REGARDING SUPPORT FOR DEMOCRACY, PEACE, THE RULE OF LAW, AND HUMAN RIGHTS IN COLOMBIA.

It shall be the policy of the United States—

(1) to support the democratically elected Government of the Republic of Colombia in its efforts to secure a firm and lasting end to the armed conflict and lawlessness within its territory, which now costs countless lives, threatens regional security, and undermines effective anti-drug efforts;

(2) to insist that the Government of Colombia complete urgent reform measures intended to open its economy fully to foreign investment and commerce, particularly in the petroleum industry, as a path toward economic recovery and self-sufficiency;

(3) to promote the protection of human rights in Colombia by conditioning assistance to security forces on respect for all internationally recognized human rights;

(4) to support Colombian authorities in strengthening judicial systems and investigative capabilities to bring to justice any person against whom there exists credible evidence of gross violations of human rights;

(5) to expose the lawlessness and gross human rights violations committed by irregular forces in Colombia; and

(6) to mobilize international support for the democratically elected Government of the Republic of Colombia so that that government can resist making unilateral concessions that undermine the credibility of the peace process.

SEC. 102. REQUIREMENT FOR A COMPREHENSIVE REGIONAL STRATEGY TO SUPPORT COLOMBIA AND THE FRONT LINE STATES.

(a) REPORT REQUIRED.—Not later than 60 days after the date of enactment of this Act, the President shall submit to the appropriate congressional committees and the Caucus on International Narcotics Control of the Senate a report on the current United States policy and strategy regarding United States counternarcotics assistance for Colombia and the front line states.

(b) REPORT ELEMENTS.—The report required by subsection (a) shall address the following:

(1) The primary and second priorities of the United States in its relations with Colombia and the front line states that are the source of most of the illicit narcotics entering the United States.

(2) The actions required of the United States to support and promote such priorities.

(3) A schedule for implementing actions in order to meet such priorities.

(4) The role of the United States in the efforts of the Government of Colombia to deal with illegal drug production in Colombia.

(5) The role of the United States in the efforts of the Government of Colombia to deal with the insurgency in Colombia.

(6) The role of the United States in the efforts of the Government of Colombia to deal with irregular forces in Colombia.

(7) How the strategy with respect to Colombia relates to the United States strategy for the front line states.

(8) How the strategy with respect to Colombia relates to the United States strategy for fulfilling global counternarcotics goals.

(9) A strategy and schedule for providing urgent material, technical, and logistical support to Colombia and the front line states in order to defend the rule of law and to more effectively impede the cultivation, production, transit, and sale of illicit narcotics.

SEC. 103. AVAILABILITY OF FUNDS CONDITIONED ON SUBMISSION OF STRATEGIC PLAN AND APPLICATION OF CONGRESSIONAL NOTIFICATION PROCEDURES.

Funds made available to carry out this Act shall only be made available—

(1) upon submission to Congress by the President of the plan required by section 102; and

(2) in accordance with the procedures applicable to reprogramming notifications

under section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1).

SEC. 104. LIMITATION ON AVAILABILITY OF FUNDS.

(a) INELIGIBILITY OF UNITS OF SECURITY FORCES FOR ASSISTANCE.—The same restrictions contained in section 568 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (as contained in section 101(d) of division A of Public Law 105–277) and section 8130 of Public Law 105–262 that apply to the availability of funds under those Acts shall apply to the availability of funds under this Act.

(b) ADDITIONAL RESTRICTIONS..—In addition to the application of the restrictions described in subsection (a), those restrictions shall apply with respect to the availability of funds for a unit of the security forces of Colombia if the Secretary of State reports to Congress that credible evidence exists that a member of that unit has provided material support to irregular forces in Colombia or to any criminal narcotics trafficking syndicate that operates in Colombia. The Secretary of State may detail such evidence in a classified annex to any such report, if necessary.

SEC. 105. SENSE OF CONGRESS ON UNIMPEDED ACCESS BY COLOMBIAN LAW ENFORCEMENT OFFICIALS TO ALL AREAS OF THE NATIONAL TERRITORY OF COLOMBIA.

It is the sense of Congress that the effectiveness of United States anti-drug assistance to Colombia depends on the ability of law enforcement officials of that country having unimpeded access to all areas of the national territory of Colombia for the purposes of carrying out the interdiction of illegal narcotics and the eradication of illicit crops.

SEC. 106. EXTRADITION OF NARCOTICS TRAFFICKERS.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the Government of Colombia and the governments of the front line states should take effective steps to prevent the creation of a safe haven for narcotics traffickers by ensuring that narcotics traffickers indicted in the United States are promptly arrested, prosecuted, and sentenced to the maximum extent of the law and, upon the request of the United States Government, extradited to the United States for trial for their egregious offenses against the security and well-being of the people of the United States.

(b) REPORTS.—Not later than six months after the date of the enactment of this Act, and every six months thereafter, the Secretary of State shall submit to the Committee on Foreign Relations and the Committee on the Judiciary of the Senate and the Committee on International Relations and the Committee on the Judiciary of the House of Representatives a report setting forth—

(1) a list of the persons whose extradition has been requested from Colombia or the front line states, indicating those persons who—

(A) have been surrendered to the custody of United States authorities;

(B) have been detained by authorities of Colombia or a front line state and who are being processed for extradition;

(C) have been detained by the authorities of Colombia or a front line state and who are not yet being processed for extradition; or

(D) are at large;

(2) a determination whether or not authorities of Colombia and the front line states are making good faith efforts to ensure the prompt extradition of each of the persons sought by United States authorities; and

(3) an analysis of—

(A) any legal obstacles in the laws of Colombia and of the front line states to the prompt extradition of persons sought by United States authorities; and

(B) the steps taken by authorities of the United States and the authorities of each such state to remove such obstacles.

SEC. 107. ADDITIONAL PERSONNEL REQUIREMENTS FOR THE UNITED STATES MISSION IN COLOMBIA.

(a) REPORT TO CONGRESS.—Not later than 60 days after the date of enactment of this Act, the President shall submit to the appropriate congressional committees a report detailing the additional personnel requirements of the United States Mission in Colombia that are necessary to implement this Act.

(b) FUNDING OF REPORT RECOMMENDATIONS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—

(A) IN GENERAL.—In addition to amounts otherwise available for such purpose, there are authorized to be appropriated to the relevant departments and agencies of the United States for the period beginning October 1, 1999, and ending September 30, 2002, such sums as may be necessary to pay the salaries of such number of additional personnel as are recommended in the report required by subsection (a).

(B) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subparagraph (A) are authorized to remain available until expended.

(2) ADDITIONAL PERSONNEL DEFINED.—In paragraph (1), the term ''additional personnel'' means the number of personnel above the number of personnel employed in the United States Mission in Colombia as of the date of enactment of this Act.

SEC. 108. SENSE OF CONGRESS ON A SPECIAL COORDINATOR ON COLOMBIA.

It is the sense of Congress that the President should designate a special coordinator on Colombia with sufficient authority—

(1) to coordinate interagency efforts to prepare and implement a comprehensive regional strategy to support Colombia and the front line states;

(2) to advocate within the executive branch adequate funding for and urgent delivery of assistance authorized by this Act; and

(3) to coordinate diplomatic efforts to maximize international political and financial support for Colombia and the front line states.

SEC. 109. SENSE OF CONGRESS ON THE DEATH OF THREE UNITED STATES CITIZENS IN COLOMBIA IN MARCH 1999.

It is the sense of Congress that the Government of Colombia should resolve the case of the three United States citizens killed in Colombia in March 1999 and bring to justice those involved in this atrocity.

SEC. 110. SENSE OF CONGRESS ON MEMBERS OF COLOMBIAN SECURITY FORCES AND MEMBERS OF COLOMBIAN IRREGULAR FORCES.

It is the sense of Congress that—

(1) any links between members of Colombian irregular forces and members of Colombian security forces are deeply troubling and clearly counterproductive to the effort to combat drug trafficking and the prevention of human rights violations; and

(2) the involvement of Colombian irregular forces in drug trafficking and in systematic terror campaigns targeting the noncombatant civilian population is deplorable and contrary to United States interests and policy.

TITLE II—ACTIVITIES SUPPORTED

Subtitle A—Democracy, Peace, the Rule of Law, and Human Rights in Colombia

SEC. 201. SUPPORT FOR DEMOCRACY, PEACE, THE RULE OF LAW, AND HUMAN RIGHTS IN COLOMBIA.

(a) IN GENERAL.—The President is authorized to support programs and activities to advance democracy, peace, the rule of law, and human rights in Colombia, including—

(1) the deployment of international observers, upon the request of the Government of Colombia, to monitor compliance with any peace initiative of the Government of Colombia;

(2) support for credible, internationally recognized independent nongovernmental human rights organizations working in Colombia;

(3) support for the Human Rights Unit of the Attorney General of Colombia;

(4) to enhance the rule of law through training of judges, prosecutors, and other judicial officials and through a witness protection program;

(5) to improve police investigative training and facilities and related civilian police activities; and

(6) to strengthen a credible military justice system, including technical support by the United States Judge Advocate General, and strengthen existing human rights monitors within the ranks of the military.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—In addition to amounts otherwise available for such purpose, there is authorized to be appropriated to the President $100,000,000 for the period beginning October 1, 1999, and ending September 30, 2002, to carry out subsection (a).

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

SEC. 202. UNITED STATES EMERGENCY HUMANITARIAN ASSISTANCE FUND FOR INTERNALLY FORCED DISPLACED POPULATION IN COLOMBIA.

(a) SENSE OF CONGRESS.— It is the sense of Congress that—

(1) the United States Government should provide assistance to forcibly displaced persons in Colombia; and

(2) the Government of Colombia should support the return of the forcibly displaced to their homes only when the safety of civilians is fully assured and they return voluntarily.

(b) REPORT.—Not later than 60 days after the date of enactment of the Act, the Secretary of State shall submit to the appropriate congressional committees a report containing an examination of the options available to address the needs of the internally displaced population of Colombia.

(c) AUTHORIZATION TO PROVIDE ASSISTANCE.—The President is authorized—

(1) to provide assistance to the internally displaced population of Colombia; and

(2) to assist in the temporary resettlement of the internally displaced Colombians.

(d) FUNDING.—Amounts authorized to be appropriated by section 201(b) shall be available to the President for purposes of activities under subsection (c).

SEC. 203. INVESTIGATION BY COLOMBIAN ATTORNEY GENERAL OF DRUG TRAFFICKING AND HUMAN RIGHTS ABUSES BY IRREGULAR FORCES AND SECURITY FORCES.

(a) AUTHORITY.—The President is authorized to support efforts by the Attorney General of Colombia—

(1) to investigate and prosecute members of Colombian irregular forces involved in the production or trafficking in illicit drugs;

(2) to investigate and prosecute members of Colombian security forces involved in the production or trafficking in illicit drugs;

(3) to investigate and prosecute members of Colombian irregular forces involved in gross violations of internationally recognized human rights; and

(4) to investigate and prosecute members of Colombian security forces involved in gross violations of internationally recognized human rights.

(b) FUNDING.—Amounts authorized to be appropriated by section 201(b) shall be available to the President for purposes of activities under subsection (a).

SEC. 204. REPORT ON COLOMBIAN MILITARY JUSTICE.

(a) REPORT REQUIRED.—Not later than 90 days after the date of enactment of this Act, the Secretary of State shall submit to the appropriate congressional committees a report examining the efforts to strengthen and reform the military justice system of Colombia and making recommendations for directing assistance authorized by this Act for that purpose.

(b) REPORT ELEMENTS.—The report required by subsection (a) shall contain the following:

(1) A review of the laws, regulations, directives, policies, and practices of the military justice system of Colombia, including specific military reform measures being considered and implemented.

(2) An assessment of the extent to which the laws, regulations, directives, policies, practices, and reforms relating to the military justice system have been effective in preventing and punishing human rights violations, irregular forces, and narcotrafficking ties.

(3) Recommendations for the measures necessary to strengthen and improve the effectiveness and enhance the credibility of the military justice system of Colombia.

SEC. 205. DENIAL OF VISAS TO AND INADMISSIBILITY OF ALIENS WHO HAVE BEEN INVOLVED IN DRUG TRAFFICKING AND HUMAN RIGHTS VIOLATIONS IN COLOMBIA.

(a) GROUNDS FOR DENIAL OF VISAS AND INADMISSIBILITY.—Except as provided in subsection (b), the Secretary of State shall deny a visa to, and the Attorney General shall not admit to the United States, any alien who the Secretary of State has credible evidence is a person who—

(1) is or was an illicit trafficker in any controlled substance or has knowingly aided, abetted, conspired, or colluded with others in the illicit trafficking in any controlled substance in Colombia; or

(2) ordered, carried out, or materially assisted in gross violations of internationally recognized human rights in Colombia.

(b) EXCEPTIONS.—

(1) GROUNDS FOR EXCEPTION.—Subsection (a) does not apply in any case in which—

(A) the Secretary of State finds, on a case by case basis, that—

(i) the entry into the United States of the person who would otherwise be denied a visa or not admitted under this section is necessary for medical reasons; or

(ii) the alien has cooperated fully with the investigation of human rights violations; or

(B) the Attorney General of the United States determines, on a case-by-case basis, that admission of the alien to the United States is necessary for law enforcement purposes.

(2) CONGRESSIONAL NOTIFICATION.—Whenever an alien described in subsection (a) is issued a visa pursuant to paragraph (1) or admitted to the United States pursuant to paragraph (2), the Secretary of State or the Attorney General, as appropriate, shall notify in writing the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives of such action.

(c) REPORTING REQUIREMENT.—

(1) LIST OF THE UNITED STATES CHIEF OF MISSION.—The United States chief of mission to Colombia shall transmit to the Secretary of State a list of those individuals who have been credibly alleged to have carried out drug trafficking and human rights violations described in paragraphs (1) and (2) of subsection (a).

(2) TRANSMITTAL BY SECRETARY OF STATE.—Not later than three months after the date of the enactment of this Act, the Secretary of State shall submit the list prepared under paragraph (1) to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

(d) DEFINITIONS.—In this section:

(1) CONTROLLED SUBSTANCE.—The term ''controlled substance'' has the meaning given the term in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

(2) HUMAN RIGHTS.—The term ''human rights violations'' means gross violations of internationally recognized human rights within the meaning of sections 116 and 502B of the Foreign Assistance Act of 1961.

Subtitle B—Eradication of Drug Production and Interdiction of Drug Trafficking

SEC. 211. TARGETING NEW ILLICIT CULTIVATION AND MOBILIZING THE COLOMBIAN SECURITY FORCES AGAINST THE NARCOTRAFFICKING THREAT.

(a) AUTHORITY.—The President is authorized to support programs and activities by the Government of Colombia, including its security forces, to target eradication and law enforcement activities in areas of new cultivation of coca and opium poppy, including—

(1) material support and technical assistance to aid the training, outfitting, deployment, and operations of not less than three counterdrug battalions of the Army of Colombia;

(2) to support the acquisition of up to 15 UH–60 helicopters or comparable transport helicopters, including spare parts, maintenance services and training, or aircraft upgrade kits for the Army of Colombia;

(3) communications and intelligence training and equipment for the Army and Navy of Colombia;

(4) additional aircraft for the National Police of Colombia to enhance its eradication efforts and to support its joint operations with the military of Colombia; and

(5) not less than $10,000,000 to support the urgent development of an application of naturally occurring and ecologically sound methods of eradicating illicit crops.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—In addition to amounts otherwise available for such purpose, there is authorized to be appropriated $540,000,000 for the period beginning October 1, 1999, and ending September 30, 2002, to carry out subsection (a).

(c) SENSE OF CONGRESS RELATING TO ERADICATION.—It is the sense of Congress that the Government of Colombia should commit itself immediately to the urgent development and application of naturally occurring and ecologically sound methods for eradicating illicit crops.

SEC. 212. REINVIGORATION OF EFFORTS TO INTERDICT ILLICIT NARCOTICS IN COLOMBIA.

(a) AUTHORITY.—The President is authorized to support programs and activities by the Government of Colombia, including its security forces, to reinvigorate a nationwide program to interdict shipments of illicit drugs in Colombia, including—

(1) the acquisition of additional airborne and ground-based radar;

(2) the acquisition of airborne intelligence and surveillance aircraft for the Colombian Army;

(3) the acquisition of additional aerial refueling aircraft and fuel; and

(4) the construction of remote airfields.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—In addition to amounts otherwise available for such purpose, there is authorized to be appropriated to the President $200,000,000 for the period beginning October 1, 1999, and ending September 30, 2002, to carry out subsection (a).

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

SEC. 213. ENHANCEMENT OF COLOMBIAN POLICE AND NAVY LAW ENFORCEMENT ACTIVITIES NATIONWIDE.

(a) AUTHORITY.—The President is authorized to support programs and activities by the Government of Colombia, including its security forces, to support anti-drug law enforcement activities by the National Police and Navy of Colombia nationwide, including—

(1) acquisition of transport aircraft, spare engines, and other parts, additional UH–1H upgrade kits, forward-looking infrared systems, and other equipment for the National Police of Colombia;

(2) training and operation of specialized vetted units of the National Police of Colombia;

(3) construction of additional bases for the National Police of Colombia near its national territorial borders; and

(4) acquisition of 16 patrol aircraft, 4 helicopters, forward-looking infrared systems, and patrol boats to support for the nationwide riverine and coastal patrol capabilities of the Navy of Colombia.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—In addition to amounts otherwise available for such purpose, there is authorized to be appropriated to the President $205,000,000 for the period beginning October 1, 1999, and ending September 30, 2002, to carry out subsection (a).

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

SEC. 214. TARGETING ILLICIT ASSETS OF IRREGULAR FORCES.

(a) ESTABLISHMENT OF TASK FORCE.—Not later than three months after the date of enactment of this Act, the Secretary of the Treasury, in coordination with the Director of the Office of National Drug Control Policy, Attorney General, Secretary of State, and Director of Central Intelligence, shall establish a task force to identify assets of irregular forces that operate in Colombia for the purpose of imposing restrictions on transactions by such forces using the President's authority under the International Emergency Economic Powers Act (50 U.S.C. 1701).

(b) REPORT ON ASSETS OF IRREGULAR FORCES.—Not later than 12 months after the date of enactment of this Act, the Secretary of the Treasury shall submit to Congress a report on measures taken in compliance with this section and recommend measures to target the unlawfully obtained assets of irregular forces that operate in Colombia.

SEC. 215. ENHANCEMENT OF REGIONAL INTERDICTION OF ILLICIT DRUGS.

(a) AUTHORITY.—The President is authorized to support programs and activities by the United States Government, the Government of Colombia, and the governments of the front line states to enhance interdiction of illicit drugs in that region.

(b) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise available for such purposes, there is authorized to be appropriated to the President $410,000,000 for the period beginning October 1, 1999, and ending September 30, 2002, to carry out subsection (a), of which amount—

(1) up to $325,000,000 shall be available for material support and other costs by United States Government agencies to support regional interdiction efforts, of which—

(A) not less than $60,000,000 shall be available for the Drug Enforcement Administration;

(B) not less than $40,000,000 shall be available for regional intelligence activities; and

(C) not less than $30,000,000 for the acquisition of surveillance and reconnaissance aircraft for use by the United States Southern Command primarily for detection and monitoring in support of the interdiction of illicit drugs; and

(2) up to $85,000,000 shall be available for the governments of the front line states to increase the effectiveness of regional interdiction efforts.

(c) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subsection (b) are authorized to remain available until expended.

(d) LIMITATION ON AVAILABILITY OF FUNDS.—Funds made available to carry out this section may be made available to a front line state only after the President determines and certifies to the appropriate congressional committees that such state is cooperating fully with regional and bilateral aerial and maritime narcotics efforts or is taking extraordinary and effective measures on its own to impede suspicious aircraft or maritime vessels through its territory. A determination and certification with respect to a front line state under this subsection shall be effective for not more than 12 months.

SEC. 216. REVISED AUTHORITIES FOR PROVISION OF ADDITIONAL SUPPORT FOR COUNTER-DRUG ACTIVITIES OF COLOMBIA AND PERU.

Section 1033 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85) is amended—

(1) in the first sentence of subsection (a), by inserting before the period at the end the following: '', including but not limited to riverine counter-drug activities'';

(2) in subsection (c), by adding at the end the following:

''(4) The operating costs of equipment of the government that is used for counter-drug activities.''; and

(3) in subsection (e)(2), by striking ''any of the fiscal years 1999 through 2002'' and inserting ''the fiscal year 1999 and may not exceed $75,000,000 during the fiscal years 2000 through 2002''.

SEC. 217. SENSE OF CONGRESS ON ASSISTANCE TO BRAZIL.

It is the sense of Congress that the President should—

(1) review the nature of the cooperation between the United States and Brazil in counternarcotics activities;

(2) recognize the extraordinary threat that narcotics trafficking poses to the national security of Brazil and to the national security of the United States;

(3) support the efforts of the Government of Brazil to control drug trafficking in and through the Amazon River basin;

(4) share information with Brazil on narcotics interdiction in accordance with section 1012 of the National Defense Authorization Act for Fiscal Year 1995 (22 U.S.C. 2291–4) in light of the enactment of legislation by the Congress of Brazil that—

(A) authorizes appropriate personnel to damage, render inoperative, or destroy aircraft within Brazil territory that are reasonably suspected to be engaged primarily in trafficking in illicit narcotics; and

(B) contains measures to protect against the loss of innocent life during activities referred to in subparagraph (A), including an effective measure to identify and warn aircraft before the use of force; and

(5) issue a determination outlining the matters referred to in paragraphs (1) through (4) in order to prevent any interruption in the provision by the United States of critical operational, logistical, technical, administrative, and intelligence assistance to Brazil.

SEC. 218. MONITORING OF ASSISTANCE FOR COLOMBIAN SECURITY FORCES.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—In addition to amounts otherwise available for such purpose, there is authorized to be appropriated for the Department of Defense and the Department of State for each of fiscal years 2000, 2001, and 2002 an amount not to exceed the amount equal to one percent of the total security assistance for the Colombian armed forces for such fiscal year for purposes of monitoring the use of United States assistance by the Colombian armed forces, including monitoring to ensure compliance with the provisions of this Act and the provisions of section 568 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (as contained in Public Law 105–277; 112 Stat. 2681–195) and section 8130 of the Department of Defense Appropriations Act, 1999 (Public Law 105–262; 112 Stat. 2335).

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

(b) REPORTS.—Not later than six months after the date of the enactment of this Act, and every six months thereafter, the Secretary of Defense and the Secretary of State shall jointly submit to the appropriate congressional committees a report on the monitoring activities undertaken using funds authorized to be appropriated by subsection (a) during the six-month period ending on the date of such report.

(c) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term ''appropriate congressional committees'' means the following:

(1) The Committees on Appropriations, Armed Services, and Foreign Relations of the Senate.

(2) The Committees on Appropriations, Armed Services, and International Relations and the Permanent Select Committee on Intelligence of the House of Representatives.

SEC. 219. DEVELOPMENT OF ECONOMIC ALTERNATIVES TO THE ILLICIT DRUG TRADE.

(a) SENSE OF CONGRESS.—It is the sense of Congress—

(1) to recognize the importance of well-constructed programs for the development of economic alternatives to the illicit drug trade in order to encourage growers to cease illicit crop cultivation; and

(2) to stress the need to link enforcement efforts with verification efforts in order to ensure that assistance under such programs does not become a form of income supplement to the growers of illicit crops.

(b) SUPPORT FOR DEVELOPMENT OF ECONOMIC ALTERNATIVES.—The President is authorized to support programs and activities by the United States Government and regional governments to enhance the development of economic alternatives to the illicit drug trade.

(c) PROHIBITION ON CERTAIN USE OF ALTERNATIVE DEVELOPMENT ASSISTANCE.—No funds available under this Act for the development of economic alternatives to the illicit drug trade may be used to reimburse persons for the eradication of illicit drug crops.

(d) LIMITATION ON USE OF FUNDS.—Funds authorized to be appropriated by subsection (e) may only be made available to Colombia or a front line state after—

(1) such state has provided to the United States agency responsible for the administration of this section a comprehensive development strategy that conditions the development of economic alternatives to the illicit drug trade on verifiable illicit crop eradication programs; and

(2) the President certifies to the appropriate congressional committees that such strategy is comprehensive and applies sufficient resources toward achieving realistic objectives to ensure the ultimate eradication of illicit crops.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—In addition to amounts otherwise available for such purpose, there is authorized to be appropriated $180,000,000 for the period beginning October 1, 1999, and ending September 30, 2002, to carry out subsection (b), including up to $50,000,000 for Colombia, up to $90,000,000 for Bolivia, and up to $40,000,000 for Peru.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

ADDITIONAL COSPONSORS

S. 185

At the request of Mr. ASHCROFT, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 185, a bill to establish a Chief Agricultural Negotiator in the Office of the United States Trade Representative.

S. 620

At the request of Mr. SARBANES, the name of the Senator from Delaware (Mr. ROTH) was added as a cosponsor of S. 620, a bill to grant a Federal charter to Korean War Veterans Association, Incorporated, and for other purposes.

S. 720

At the request of Mr. HELMS, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 720, a bill to promote the development of a government in the Federal Republic of Yugoslavia (Serbia and Montenegro) based on democratic principles and the rule of law, and that respects internationally recognized human rights, to assist the victims of Serbian oppression, to apply measures against the Federal Republic of Yugoslavia, and for other purposes.

S. 758

At the request of Mr. ASHCROFT, the names of the Senator from Texas (Mrs. HUTCHISON) and the Senator from Mississippi (Mr. LOTT) were added as cosponsors of S. 758, a bill to establish legal standards and procedures for the fair, prompt, inexpensive, and efficient resolution of personal injury claims arising out of asbestos exposure, and for other purposes.

S. 1130

At the request of Mr. MCCAIN, the name of the Senator from Michigan (Mr. ABRAHAM) was added as a cosponsor of S. 1130, a bill to amend title 49, United States Code, with respect to liability of motor vehicle rental or leasing companies for the negligent operation of rented or leased motor vehicles.

S. 1144

At the request of Mr. VOINOVICH, the names of the Senator from Delaware (Mr. ROTH) and the Senator from Mississippi (Mr. LOTT) were added as cosponsors of S. 1144, a bill to provide increased flexibility in use of highway funding, and for other purposes.

S. 1242

At the request of Mr. AKAKA, the names of the Senator from South Dakota (Mr. DASCHLE) and the Senator from Georgia (Mr. CLELAND) were added as cosponsors of S. 1242, a bill to

amend the Immigration and Nationality Act to make permanent the visa waiver program for certain visitors to the United States.

S. 1249

At the request of Mr. TORRICELLI, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 1249, a bill to deny Federal public benefits to individuals who participated in Nazi persecution.

S. 1327

At the request of Mr. CHAFEE, the names of the Senator from Maine (Ms. SNOWE) and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. 1327, a bill to amend part E of title IV of the Social Security Act to provide States with more funding and greater flexibility in carrying out programs designed to help children make the transition from foster care to self-sufficiency, and for other purposes.

S. 1447

At the request of Mr. WELLSTONE, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1447, a bill to amend the Public Health Service Act, Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to provide for nondiscriminatory coverage for substance abuse treatment service under private group and individual health coverage.

S. 1452

At the request of Mr. SHELBY, the names of the Senator from Idaho (Mr. CRAPO) and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. 1452, a bill to modernize the requirements under the National Manufactured Housing Construction and Safety Standards of 1974 and to establish a balanced consensus process for the development, revision, and interpretation of Federal construction and safety standards for manufactured homes.

S. 1464

At the request of Mr. HAGEL, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 1464, a bill to amend the Federal Food, Drug, and Cosmetic Act to establish certain requirements regarding the Food Quality Protection Act of 1996, and for other purposes.

S. 1561

At the request of Mr. ABRAHAM, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 1561, a bill to amend the Controlled Substances Act to add gamma hydroxybutyric acid and ketamine to the schedules of control substances, to provide for a national awareness campaign, and for other purposes.

S. 1580

At the request of Mr. ROBERTS, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 1580, a bill to amend the Federal Crop Insurance Act to assist agricultural producers in managing risk, and for other purposes.

S. 1750

At the request of Mr. DEWINE, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 1750, a bill to reduce the incidence of child abuse and neglect, and for other purposes.

SENATE RESOLUTION 196

At the request of Mr. WARNER, the names of the Senator from Rhode Island (Mr. CHAFEE), the Senator from Idaho (Mr. CRAPO), the Senator from Massachusetts (Mr. KERRY), the Senator from Indiana (Mr. LUGAR), the Senator from Virginia (Mr. ROBB), and the Senator from Alabama (Mr. SESSIONS) were added as cosponsors of Senate Resolution 196, a resolution commending the submarine force of the United States Navy on the 100th anniversary of the force.

SENATE RESOLUTION 204

At the request of Mr. HATCH, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of Senate Resolution 204, a resolution designating the week beginning November 21, 1999, and the week beginning on November 19, 2000, as ''National Family Week,'' and for other purposes.

AMENDMENTS SUBMITTED

A BILL TO BAN PARTIAL BIRTH ABORTIONS

DURBIN (AND OTHERS) AMENDMENT NO. 2319

Mr. DURBIN (for himself, Ms. SNOWE, Ms. COLLINS, Mr. TORRICELLI, Ms. MIKULSKI, Mr. LIEBERMAN, Ms. LANDRIEU, Mr. BINGAMAN, Mr. AKAKA, Mr. GRAHAM, Mr. WELLSTONE, Mrs. LINCOLN, and Mr. DODD) proposed an amendment to the bill (S. 1692) to amend title 18, United States Code, to ban partial birth abortions; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Late Term Abortion Limitation Act of 1999''.

SEC. 2. BAN ON CERTAIN ABORTIONS.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 73 the following:

''CHAPTER 74—BAN ON CERTAIN ABORTIONS

''Sec.
''1531. Prohibition of post-viability abortions.
''1532. Penalties.
''1533. Regulations.
''1534. State law.
''1535. Definitions

''§ 1531. Prohibition of Post-Viability Abortions.

''(a) IN GENERAL.—It shall be unlawful for a physician to intentionally abort a viable fetus unless the physician prior to performing the abortion—

''(1) certifies in writing that, in the physician's medical judgment based on the particular facts of the case before the physician, the continuation of the pregnancy would threaten the mother's life or risk grievous injury to her physical health; and

''(2) an independent physician who will not perform nor be present at the abortion and who was not previously involved in the treatment of the mother certifies in writing that, in his or her medical judgment based on the particular facts of the case, the continuation of the pregnancy would threaten the mother's life or risk grievous injury to her physical health.

''(b) NO CONSPIRACY.—No woman who has had an abortion after fetal viability may be prosecuted under this chapter for conspiring to violate this chapter or for an offense under section 2, 3, 4, or 1512 of title 18.

''(c) MEDICAL EMERGENCY EXCEPTION.—The certification requirements contained in subsection (a) shall not apply when, in the medical judgment of the physician performing the abortion based on the particular facts of the case before the physician, there exists a medical emergency. In such a case, however, after the abortion has been completed the physician who performed the abortion shall certify in writing the specific medical condition which formed the basis for determining that a medical emergency existed.

''§ 1532. Penalties.

''(a) ACTION BY THE ATTORNEY GENERAL.—The Attorney General, the Deputy Attorney General, the Associate Attorney General, or any Assistant Attorney General or United States Attorney specifically designated by the Attorney General may commence a civil action under this chapter in any appropriate United States district court to enforce the provisions of this chapter.

''(b) FIRST OFFENSE.—Upon a finding by the court that the respondent in an action commenced under subsection (a) has knowingly violated a provision of this chapter, the court shall notify the appropriate State medical licensing authority in order to effect the suspension of the respondent's medical license in accordance with the regulations and procedures developed by the State under section 1533(b), or shall assess a civil penalty against the respondent in an amount not to exceed $100,000, or both.

''(c) SECOND OFFENSE—Upon a finding by the court that the respondent in an action commenced under subsection (a) has knowingly violated a provision of this chapter and the respondent has been found to have knowingly violated a provision of this chapter on a prior occasion, the court shall notify the appropriate State medical licensing authority in order to effect the revocation of the respondent's medical license in accordance with the regulations and procedures developed by the State under section 1533(b), or shall assess a civil penalty against the respondent in an amount not to exceed $250,000, or both.

''(d) HEARING.—With respect to an action under subsection (a), the appropriate State medical licensing authority shall be given notification of and an opportunity to be heard at a hearing to determine the penalty to be imposed under this section.

''(e) CERTIFICATION REQUIREMENTS.—At the time of the commencement of an action under subsection (a), the Attorney General, the Deputy Attorney General, the Associate Attorney General, or any Assistant Attorney General or United States Attorney who has been specifically designated by the Attorney General to commence a civil action under this chapter, shall certify to the court involved that, at least 30 calendar days prior to the filing of such action, the Attorney General, the Deputy Attorney General, the Associate Attorney General, or any Assistant Attorney General or United States Attorney involved—

''(1) has provided notice of the alleged violation of this chapter, in writing, to the Governor or Chief Executive Officer and Attorney General or Chief Legal Officer of the

State or political subdivision involved, as well as to the State medical licensing board or other appropriate State agency; and

''(2) believes that such an action by the United States is in the public interest and necessary to secure substantial justice.

''§ 1533. Regulations.

''(a) FEDERAL REGULATIONS.—

''(1) IN GENERAL.—Not later than 60 days after the date of enactment of this chapter, the Secretary of Health and Human Services shall publish proposed regulations for the filing of certifications by physicians under this chapter.

''(2) REQUIREMENTS.—The regulations under paragraph (1) shall require that a certification filed under this chapter contain—

''(A) a certification by the physician performing the abortion, under threat of criminal prosecution under section 1746 of title 28, that, in his or her best medical judgment, the abortion performed was medically necessary pursuant to this chapter;

''(B) a description by the physician of the medical indications supporting his or her judgment;

''(C) a certification by an independent physician pursuant to section 1531(a)(2), under threat of criminal prosecution under section 1746 of title 28, that, in his or her best medical judgment, the abortion performed was medically necessary pursuant to this chapter; and

''(D) a certification by the physician performing an abortion under a medical emergency pursuant to section 1531(c), under threat of criminal prosecution under section 1746 of title 28, that, in his or her best medical judgment, a medical emergency existed, and the specific medical condition upon which the physician based his or her decision.

''(3) CONFIDENTIALITY.—The Secretary of Health and Human Services shall promulgate regulations to ensure that the identity of a mother described in section 1531(a)(1) is kept confidential, with respect to a certification filed by a physician under this chapter.

''(b) STATE REGULATIONS.—A State, and the medical licensing authority of the State, shall develop regulations and procedures for the revocation or suspension of the medical license of a physician upon a finding under section 1532 that the physician has violated a provision of this chapter. A State that fails to implement such procedures shall be subject to loss of funding under title XIX of the Social Security Act.

''§ 1534. State Law.

''(a) IN GENERAL.—The requirements of this chapter shall not apply with respect to post-viability abortions in a State if there is a State law in effect in that State that regulates, restricts, or prohibits such abortions to the extent permitted by the Constitution of the United States.

''(b) DEFINITION.—In subsection (a), the term 'State law' means all laws, decisions, rules, or regulations of any State, or any other State action, having the effect of law.

''§ 1535. Definitions.

''In this chapter:

''(1) GRIEVOUS INJURY.—

''(A) IN GENERAL.—The term 'grievous injury' means—

''(i) a severely debilitating disease or impairment specifically caused or exacerbated by the pregnancy; or

''(ii) an inability to provide necessary treatment for a life-threatening condition.

''(B) LIMITATION.—The term 'grievous injury' does not include any condition that is not medically diagnosable or any condition for which termination of the pregnancy is not medically indicated.

''(2) PHYSICIAN.—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, except that any individual who is not a physician or not otherwise legally authorized by the State to perform abortions, but who nevertheless directly performs an abortion in violation of section 1531 shall be subject to the provisions of this chapter.''.

(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. Ban on certain abortions ..... 1531.''.

BOXER AMENDMENT NO. 2320

Mrs. BOXER proposed an amendment to amendment No. 2319 proposed by Mr. DURBIN to the bill, S. 1692, supra; as follows:

At the end of the bill, add the following:

SEC. . SENSE OF CONGRESS.

It is the sense of the Congress that, consistent with the rulings of the Supreme Court, a woman's life and health must always be protected in any reproductive health legislation passed by Congress.

HARKIN AMENDMENT NO. 2321

Mr. HARKIN proposed an amendment to amendment No. 2320 proposed by Mrs. BOXER to the bill, S. 1692, supra; as follows:

At the appropriate place, insert the following:

SEC. ___. SENSE OF CONGRESS CONCERNING ROE V. WADE.

(a) FINDINGS.—Congress finds that—

(1) reproductive rights are central to the ability of women to exercise their full rights under Federal and State law;

(2) abortion has been a legal and constitutionally protected medical procedure throughout the United States since the Supreme Court decision in *Roe* v. *Wade* (410 U.S. 113 (1973));

(3) the 1973 Supreme Court decision in *Roe* v. *Wade* established constitutionally based limits on the power of States to restrict the right of a woman to choose to terminate a pregnancy; and

(4) women should not be forced into illegal and dangerous abortions as they often were prior to the *Roe* v. *Wade* decision.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) *Roe* v. *Wade* was an appropriate decision and secures an important constitutional right; and

(2) such decision should not be overturned.

SANTORUM AMENDMENT NO. 2322

Mr. SANTORUM proposed an amendment to the motion to recommit proposed by him to the bill, S. 1692, supra; as follows:

At the end of the instructions insert the following:

SEC. . SENSE OF CONGRESS CONCERNING ROE V. WADE AND PARTIAL BIRTH ABORTION BANS.

FINDINGS.—Congress finds that—

(1) Abortion has been a legal and constitutionally protected medical procedure throughout the United States since the Supreme Court decision in *Roe* v. *Wade* (410 U.S. 113 (1973));

(2) No partial birth abortion ban shall apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, illness, or injury.

SENSE OF CONGRESS.—It is the sense of the Congress that partial birth abortions are horrific and gruesome procedures that should be banned.

NOTICE OF HEARING

COMMITTEE ON SMALL BUSINESS

Mr. BOND. Mr. President, I wish to announce that the Committee on Small Business will hold a hearing entitled ''EPA Fails Small Businesses: EPA Fails to Consider Small Businesses During Recent Rulemaking.'' The hearing will be held on Thursday, October 28, 1999, beginning at 9:30 a.m. in room 428 Russell Senate Office Building.

For further information, please contact John Stoody or Marc Freedman at 224–5175.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. HUTCHINSON. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, October 20, 1999, at 9:30 a.m. on effects of performance enhancing drugs on the health of athletes and athletic competition in SD–106.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. HUTCHINSON. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, October 20, for purposes of conducting a Full Committee business meeting which is scheduled to begin at 9:30 a.m. The purpose of this business meeting is to consider pending calendar business.

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

COMMITTEE ON FINANCE

Mr. HUTCHINSON. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet on Wednesday, October 20, 1999 at 10 a.m. in Executive Session to mark up the Tax Extenders Bill.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. HUTCHINSON. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, October 20, 1999 at 2 p.m. to hold a hearing.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. HUTCHINSON. Mr. President, I ask unanimous consent that the Senate Committee on Indian Affairs be authorized to meet during the session of the Senate on Wednesday, October 20,

1999 at 9:30 a.m. to mark up pending legislation to be followed by a hearing on Indian Reservation Roads and the Transportation Equity Act in the 21st Century (TEA–21).

The hearing will be held in room 485, Russell Senate Building.

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

SUBCOMMITTEE ON THE JUDICIARY

Mr. HUTCHINSON. Mr. President, The Committee on the Judiciary requests unanimous consent to conduct a hearing on Wednesday, October 20, 1999 at 9 a.m. in Dirksen Room 226.

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

SUBCOMMITTEE ON RATES AND ADMINISTRATION

Mr. HUTCHINSON. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, October 20, 1999 at 9:30 a.m. to conduct an oversight hearing on the operations of the Architect of the Capitol.

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

SUBCOMMITTEE ON EMERGING THREATS AND CAPABILITIES

Mr. HUTCHINSON. Mr. President, I ask unanimous consent that the Subcommittee on Emerging Threats and Capabilities of the Committee on Armed Services be authorized to meet at 9:30 a.m. on Wednesday, October 20, 1999, in open session, to receive testimony on the efforts of the military services in implementing joint experimentation.

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

SUBCOMMITTEE ON WATER AND POWER

Mr. HUTCHINSON. Mr. President, I ask unanimous consent that the Subcommittee on Water and Power of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, October 20, for purposes of conducting a Water and Power Subcommittee hearing which is scheduled to begin at 2:30 p.m. The purpose of this hearing is to receive testimony on S. 1167, a bill to amend the Pacific Northwest Power Planning and Conservation Act to provide for expanding the scope of the Independent Scientific Review Panel; S. 1694, a bill to direct the Secretary of the Interior to conduct a study of the reclamation and reuse of water and wastewater in the State of Hawaii; S. 1612, a bill to direct the Secretary of the Interior to convey certain irrigation project property to certain irrigation and reclamation districts in the State of Nebraska; S. 1474, a bill providing conveyance of the Palmetto Band project to the State of Texas; S. 1697, a bill to authorize the Secretary of the Interior to refund certain collections received pursuant to the Reclamation Reform Act of 1982; S. 1178, a bill to direct the Secretary of the Interior to convey certain parcels of land acquired for the Blunt Reservoir and Pierre Canal features of the State of South Dakota for the purpose of mitigating lost wildlife habitat, on the condition that the current preferential leaseholders shall have an option to purchase from the Commission, and for other purposes; and S. 1723, a bill to establish a program to authorize the Secretary of the Interior to plan, design, and construct facilities to mitigate impacts associated with irrigation system water diversions by local governmental entities in the Pacific Ocean drainage of the States of Oregon, Washington, Montana, and Idaho.

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

ADDITIONAL STATEMENTS

NATIONAL WOMEN'S BUSINESS WEEK

• Mr. DURBIN. Mr. President, I rise today in recognition of the tremendous economic contributions made by women business owners in Illinois and to recognize the work of the Women's Business Development Center, a woman's business training and technical assistance center that has assisted over 30,000 women in realizing their dreams of business ownership.

The newest statistics from the National Foundation for Women's Business Ownership confirm that women entrepreneurs now make up more than 38 percent of all business and continue to be the most dynamic, fastest growing sector of our Nation's economy. I am proud to tell you that there are now 384,700 women-owned businesses in Illinois, employing 1.5 million workers and generating $195 billion in annual sales, a growth of 139 percent in 7 years.

Women business owners in Illinois area vibrant sector of our State economy and strong advocates for women's business ownership nationwide. Recently one of Illinois's own, Sheila G. Talton, president and CEO of Unisource Network Services, Inc., headquartered in Chicago, was appointed to serve on the National Women's Business Council. Unisource Network Services provides network interrogation consulting, including voice, data and multimedia consulting. Ms. Talton, who has 20 years of experience in the information systems and telecommunications field, formed the company in 1986 and sales are projected at $17 million this fiscal year. The company services an elite class of Fortune 500 companies, major educational and health care institutions and public agencies.

Unisource Network Services exemplifies the type of high-growth business that is attractive to investors in Illinois and around the country. In fact, Ms. Talton financed the growth of her technology company with venture capital investments. Unfortunately her story is usual; I'm told that most women entrepreneurs are having difficulties raising the capital they need to take their technology-based companies to the next level. Though women are starting high-growth business at unprecedented rates, they currently access less than 5 percent of all venture capital investments.

Mr. President, the strength of the economy of Illinois and the Nation depends upon the success of enterprises like Unisource. The opportunities to launch and grow businesses and the demand for training and capital have never been greater. In order for these new businesses to flourish, we must ensure that their access to capital and markets is unimpeded and that they have information and resources they need to compete at the speed of the Internet.•

IN RECOGNITION OF NATIONAL WOMEN'S BUSINESS WEEK

• Mrs. FEINSTEIN. Mr. President. I rise today in recognition of ''National Women's Business Week'' and of the vital role women business-owners play in our economy.

I would also like to recognize the appointment of Vivian L. Shimoyama to the National Women's Business Council. Ms. Shimoyama is the Founder and President of Breakthru Unlimited, a California company that designs and manufactures projects with a message: hand-made glass artwork of jewelry, executive gifts, limited editions, and custom awards. A brilliant sample of her work is her ''Breaking the Ceiling'' line of jewelry that has adorned the lapels of Hillary Clinton and Elizabeth Dole. Currently, she serves as the Chair of the National Association of Women Business Owners—Los Angeles. In 1999, she was honored as the Small Business Administration's ''Women Business Advocate of the Year''.

Ms. Shimoyama runs one of the 1.2 million women-owned businesses headquartered in California. According to a study by the National Foundation for Women Business Owners (NFWBO), these businesses employ 3.8 million workers and generate $548 billion in annual sales, a growth of 164 percent in seven years.

Without a doubt, women entrepreneurs have played a crucial part in the growth of our economy. NFWBO reports that between 1987 and 1999, the number of women-owned firms increased by 103 percent nationwide, employment increased by 320 percent, and sales increased by 436 percent. As of 1999, there are 9.1 million women-owned businesses in the U.S., which employ 27.5 million people and generate over $3.6 trillion in sales. To put the sales of these businesses into context, they are twice the size of the Federal budget, and greater than the Gross National Product of every country in the world but the United States and Japan.

An increasing number of these businesses have focused on emerging industries such as high technology. These businesses demand a greater access to capital and information resources than ever before.

Mr. President, I will do all I can to ensure that the women in my state and all over the country have access to the opportunities and resources they need to start new business ventures. However it is also imperative that we invest in the business development resources that will help women sustain and grow these new businesses. This small investment yields big returns in the form of job creation, revenues, and overall growth of the nation's economy.●

MEDICARE BENEFICIARY ACCESS TO QUALITY NURSING HOME CARE ACT OF 1999

● Mr. ABRAHAM. Mr. President, on the 13th of October, I was proud to cosponsor S. 1500, the Medicare Beneficiary Access to Quality Nursing Home Care Act of 1999. When Congress worked with the President to craft and pass the Balanced Budget Act of 1997, it included a number of desperately needed cost-saving measures to ensure that Medicare did not go bankrupt. At the time, Medicare was projected to be bankrupt by 2001 with annual costs rising at three times the rate of inflation.

However, the Health Care Financing Administration, which oversees the administration of Medicare, has far exceeded the scope of the Balanced Budget Act of 1997, and gone beyond the intent of Congress in scaling back health care provider reimbursements. Driven by a philosophy that the Federal Government knows best how to handle your health care decisions, this administration has uniformly adopted policies that limit Medicare beneficiary choice, obstruct critically needed market-based reforms, and relentlessly pursued a strategy of reducing payments to providers as the prime method to reduce outlays.

Sometimes such a ''Washington-knows-best'' strategy just doesn't work. The fact of the matter is, health care providers will bear costs that cannot be overlooked or undervalued simply because HCFA wishes to declare it so. This has been especially prevalent in the area of Skilled Nursing Facility care. The recently implemented Prospective Payment System (PPS) fails to account for the full range of services required by most Medicare beneficiaries provided care in these facilities.

Specifically, the PPS implemented by HCFA has a payment schedule called Resource Utilization Groups (RUGs) that are intended to account for the needs of individual beneficiaries. However, these RUGs have failed to account for the full range of needs of these beneficiaries, especially for the medically complex patient. While private market insurance is significantly better at recognizing the needs of the medically complex patient, the failure of this administration to allow for any type of market-based reform to move forward has forced us to rely upon the implementation of the PPS by HCFA, which, as I discussed before, seems to have a predisposition towards underpaying for necessary services.

The result, Mr. President, is that beneficiaries are increasingly denied access to lower-cost Skilled Nursing Facilities and are forced to continue care in higher-cost hospitals where they also may not be able to get the most appropriate level of rehabilitative care. S. 1500, introduced by Senator HATCH, attempts to address the overreaching of HCFA directly and swiftly. First, it would provide for payment ''add-ons'' for the provision of additional treatment in the care of the medically complex patient. Second, it restores one percentage point of the reductions to the annual inflation adjustor mandated by BBA–97. Although the inflation adjustment reduction was directly written in the BBA–97 language, it's revision provides Congress the most direct and simplest way to counteract the excesses of HCFA.

Mr. President, I am heartened that HCFA has recognized the flaws in the current PPS system and is undertaking a review of this system. However, that review will not be completed until next year. Our Skilled Nursing Facilities need these restorations now in order to continue to provide our Medicare beneficiaries continued and uninterrupted care. That is why I fully support this legislation, am cosponsoring it, and call on my colleagues to do the same as soon as possible.●

THIRD ANNUAL CAUCUS FOR POTOMAC HERITAGE NATIONAL SCENIC TRAIL

● Mr. ROBB. Mr. President, I rise to recognize the Third Annual Caucus for the Potomac Heritage National Scenic Trail, to be held on October 22, 1999.

Designated by Congress in 1983, the Potomac Heritage Trail is unlike any other trail in the National Trails System. The corridor which follows ''Our Nation's River'' includes both the boyhood home and Mt. Vernon estate of our first President, George Washington, significant greenways and parks, and nearby centers of commerce which are vital to the economic vitality of Virginia and the capital region.

I congratulate the National Park Service, the Potomac Heritage Partnership, the Northern Virginia Planning District Commission and other advocates of this National Scenic Trail in persevering in their efforts to increase opportunities for enhancing commerce, conservation and cultural initiatives along the Potomac River. I wish them continued success in the years to come.●

IN RECOGNITION OF DOUGLAS C. STRAIN

● Mr. WYDEN. Mr. President, I am pleased today to recognize the 55th anniversary of Electro Scientific Industries, Incorporated, ESI, and to honor the accomplishments of Mr. Douglas C. Strain, ESI's founder and first president and chairman of ESI's board.

Established in Portland in 1944, ESI was among the first high-technology companies in Oregon. Since that time, ESI has grown into a global leader in the manufacturer of precision laser trimmers and memory repair equipment, as well as a worldwide supplier of electronic production equipment. From humble beginnings, ESI has become a $200 million company, employing more than 900 individuals in Oregon and around the world, and helping to establish Oregon as one of this country's high-tech capitals.

Accomplishments such as these are often born of tough challenges. Having overcome a devastating fire in the 1950's, ESI had to rebuild itself from the ground up, and has had to re-invent itself on a number of occasions since that time. The company has proven itself adept at adapting to the fast-pace that characterizes the high-technology sector. From test and calibration equipment, electron microscopy, and analog computing to laser trimming, memory repair and vision, handling, packaging, and drilling technologies, ESI products have always been at the leading edge of technology developments.

I especially pay tribute to a remarkable Oregonian, Electro Scientific's founder, Mr. Douglas C. Strain. On October 24, Doug will celebrate both his 80th birthday and his retirement from ESI's board of directors. Mr. Strain's vision and perseverance have brought the company successfully to the end of this century, and I believe that ESI will continue on with equal success well into the next century. I congratulate Doug on his accomplishments and wish him the very best as he undertakes new challenges in his life.●

IN PRAISE OF METS OUTFIELDER BENNY AGBAYANI

● Mr. AKAKA. Mr. President, the boys of summer rarely disappoint us, and last night's final game of the National League playoffs once again confirmed that baseball is truly America's pastime. The series captivated television audiences as the Mets and Braves went head to head in extra innings in their last two games: Sunday's game was the longest in playoff history—lasting more than five hours, and last night's game was not decided until the bottom of the 11th—just past midnight.

I want to single out Hawaii's own, Benny Agbayani, the star New York outfielder, who proudly wears number 50 for the 50th state. Benny had an illustrious playoff season and proved he is an invaluable addition to the Mets starting lineup. After playing in Triple A since 1993, the Hawaii outfielder was called up by the Mets in early May to replace the injured Bobby Bonilla. He secured his slot by batting .400 and hitting 10 home runs by mid-June. The former St. Louis School and Hawaii

Pacific University all-state athlete has made Hawaii proud and has captured the nation's attention with his strength at bat, agility on the field, and grace in waiting for his place in baseball history.

My aloha to Benny, his recent bride Niela, and their families.●

CHANGE OF CONFEREE

Mr. SANTORUM. Mr. President, I ask unanimous consent that Senator DOMENICI be added as a conferee in lieu of Senator KYL to the conference to accompany the D.C. appropriations bill.

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

NATIONAL MEDAL OF HONOR SITES IN CALIFORNIA, INDIANA, AND SOUTH CAROLINA

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Armed Services Committee be discharged from further consideration of H.R. 1663, and the Senate now proceed to its consideration.

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

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 1663) to designate as a national memorial the memorial being built at the Riverside National Cemetery in Riverside, California, to honor recipients of the Medal of Honor.

There being no objection, the Senate proceeded to consider the bill.

Mr. SANTORUM. Mr. President, I ask unanimous consent that the bill be read a third time, and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The bill (H.R. 1663) was passed.

ORDERS FOR THURSDAY, OCTOBER 21, 1999

Mr. SANTORUM. Mr. President, I ask unanimous consent that when the Senate completes its business today it adjourn until the hour of 9:30 a.m. I further ask consent that on Thursday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and the Senate then resume debate on S. 1692, the partial-birth abortion bill.

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

PROGRAM

Mr. SANTORUM. For the information of all Senators, the Senate will resume consideration of the partial-birth abortion bill tomorrow morning. By a previous order, the Senate will proceed to a vote on the pending Harkin amendment after 2 hours of debate. Therefore, Senators can anticipate the first vote on Thursday at approximately 11:30 a.m. unless time is yielded back. Debate on the bill is expected to be completed during tomorrow's session of the Senate. Consequently, Senators can expect votes on amendments and final passage of the bill. The Senate may also consider any appropriations conference reports ready for action.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. SANTORUM. If there is no further business to come before the Senate, I now ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 10:30 p.m., adjourned until Thursday, October 21, 1999, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate October 20, 1999:

DEPARTMENT OF COMMERCE

LINDA J. BILMES, OF CALIFORNIA, TO BE AN ASSISTANT SECRETARY OF COMMERCE, VICE W. SCOTT GOULD, RESIGNED.

LINDA J. BILMES, OF CALIFORNIA, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF COMMERCE, VICE W. SCOTT GOULD, RESIGNED.

DEPARTMENT OF STATE

JAMES B. CUNNINGHAM, OF PENNSYLVANIA, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SESSIONS OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS DURING HIS TENURE OF SERVICE AS DEPUTY REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS.

DONALD STUART HAYS, OF VIRGINIA, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SESSIONS OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS DURING HIS TENURE OF SERVICE AS REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS FOR UN MANAGEMENT AND REFORM.

THE JUDICIARY

JAMES D. WHITTEMORE, OF FLORIDA, TO BE UNITED STATES DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF FLORIDA VICE WILLIAM TERRELL HODGES, RETIRED.

RICHARD C. TALLMAN, OF WASHINGTON, TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT, VICE BETTY BINNS FLETCHER, RETIRED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

GEN. JOHN P. JUMPER, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. GREGORY S. MARTIN, 0000.