

is totally separate from what we are discussing this evening.

Mr. SANTORUM. This is a banned medical procedure that affects the reproductive system of a woman. I argue that you can make the case and you will ban things you agree with, but you do not want to ban things you do not agree with. That does not mean the Congress does not have a right, when we find something to be abhorrent, that we believe is not in the best interest of the medical profession and women in this country and particularly, obviously, the child in the process of being born, to step forward and ban what we believe are harmful and destructive procedures. That is what we have done in this case.

The Senator from Washington spent 90 percent of the time talking about anything but this bill, which leads me to the old saw when I was a lawyer: If you cannot argue the facts, argue the law; if you cannot argue the law, pound the table. In this case, we are pounding the table.

The PRESIDING OFFICER. The Senator from California has 16 seconds.

Mrs. BOXER. Mr. President, we are talking about polls. I will give you a very late poll. This is an L.A. Times poll of the Nation: 45 percent think we ought to be working on strengthening the economy; 28 percent, fighting terrorism; 26 percent, dealing with health care costs; at that time, 25 percent dealing with Iraq; 18 percent, protecting Social Security; 7 percent dealing with tax cuts; and 7 percent dealing with late-term abortion.

The people are exactly where the Senator from Washington says, but we are willing to debate this and we are looking forward to a good debate.

I yield the floor.

EXECUTIVE SESSION

NOMINATION OF GREGORY L. FROST TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF OHIO

The PRESIDING OFFICER. All time having expired, under the previous order, the Senate will go into executive session and proceed to the consideration of Executive Calendar No. 39, which the clerk will report.

The legislative clerk read the nomination of Gregory L. Frost, of Ohio, to be United States District Judge for the Southern District of Ohio.

The Senator from Ohio.

Mr. DEWINE. Mr. President, in a moment we will be voting on the nomination of Judge Gregory Frost to be a United States District Court Judge for the Southern District of Ohio. I have had the opportunity of knowing Judge Frost for many years. He is a man of great honor and integrity, and I ask my colleagues to vote for this very fine man. Judge Frost has been on the Licking County bench for 19 years, 7 as municipal court judge and 12 as com-

mon pleas court judge. Judge Frost will make an excellent district court judge.

I thank my colleagues.

Mr. LEAHY. Mr. President, tonight the Senate will vote to confirm Judge Gregory Lynn Frost to the United States District Court for the Southern District of Ohio. This will be the 105th confirmation of a lifetime Federal judicial appointment by President George W. Bush, the fifth so far this year. He is also the second District Court nominee confirmed for Ohio this year, following the confirmation of Judge Adams to the District Court for the Northern District last month, and the third within the last year. Last May, the Senate also confirmed Judge Thomas Rose to the vacancy on the U.S. District Court for the Southern District of Ohio. With the confirmations of Judge Frost, we will have filled all of the vacancies on the Federal trial courts in Ohio.

Federal judicial vacancies remain under the level—67—that Senator Hatch termed “full employment” in the Federal courts during the years before 2000 when President Clinton’s nominees were being considered by the Republican majority in the Senate at a rate of 38 per year. Of course, last year the Democratic Senate majority proceeded to bring vacancies down by confirming 72 of President Bush’s nominations, a rate almost double that maintained when the roles were reversed.

Judge Frost currently serves the people of Ohio as a Licking County Court Judge in Newark, Ohio. Judge Frost is a graduate of Wittenberg University (B.A. 1971) and Ohio Northern University Law School (J.D. 1974). He is strongly supported by Senator DEWINE, who shepherded this nomination through the Judiciary Committee and now to the Senate floor for prompt consideration.

After graduating from law school, Frost was appointed to be an Assistant Prosecuting Attorney for the Licking County Prosecuting Attorney’s Office. In 1978, Frost joined the law firm of Schaller, Frost, Hostetter & Campbell in Newark, Ohio as a partner. He was appointed in 1979 by Mayor Chet Geller to be an Ohio Civil Service Commission clerk. In the early 1980’s, he was elected a Licking Counting Municipal Court Judge. In 1990, Judge Frost was elected to a 6-year term on the Licking County Common Pleas Court and has been re-elected twice, most recently in November 2002. According to this Senate Questionnaire, he has no experience in Federal court.

Judge Frost is a current or former member of numerous charitable, civic and social organizations. Judge Frost is also a current member of the Newark Elks Club, which currently bases membership on being “a citizen of the United States over the age of 21 who believes in God.” Judge Frost states in his Senate Questionnaire that, for four years, he had been a member of the Newark Elks Club, along with the New-

ark Moose Lodge and Newark Maennerchor, however, he states that, “when it became apparent that those organizations discriminated against women in their membership practices, I resigned. In 2000, I was asked to re-apply for membership in the Newark Elks Lodge. I advised that organization that I could not subscribe to their membership tenets as a result of their continued discrimination against women. In part, because of my position on this issue, I am proud to say that the Newark Elks Lodge has changed its practices and now permits women as full members.” Judge Frost belongs to the Moundbuilders Country Club, a private golf club that does not discriminate in its membership.

The Committee received a letter of support for Judge Frost from the Ohio Employment Lawyers Association, a nonprofit organization that represents individual employees concerning employment and labor matters. The Ohio Employment Lawyers Association writes that Judge Frost “is an example of how a jurist should set aside personal and partisan political beliefs to provide justice.” Supporters of Judge Frost’s nomination to the District Court also include the Ohio Academy of Trial Lawyers and Peter W. Hahn, a Democrat who has practiced before Judge Frost, writes that “Judge Frost has the unique ability and temperament to adjudicate complex cases while maintaining civil and professional decorum both inside the courtroom and in chambers.”

I congratulate Judge Frost and his wife on his confirmation.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Gregory L. Frost, of Ohio, to be United States District Judge for the Southern District of Ohio? The clerk will call the roll.

The bill clerk called the roll.

Mr. FRIST. I announce that the Senator from Kentucky (Mr. McCONNELL), the Senator from Alaska (Ms. MURKOWSKI), and the Senator from Oregon (Mr. SMITH) are necessarily absent.

Mr. REID. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from New Jersey (Mr. CORZINE), the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from New York (Mr. SCHUMER) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote “aye”.

The PRESIDING OFFICER (Mr. AL-EXANDER). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 91, nays 0, as follows:

[Rollcall Vote No. 44 Ex.]

YEAS—91

Akaka	Dodd	Lincoln
Alexander	Dole	Lott
Allard	Domenici	Lugar
Allen	Dorgan	McCain
Baucus	Durbin	Mikulski
Bayh	Edwards	Miller
Bennett	Ensign	Murray
Bingaman	Enzi	Nelson (FL)
Bond	Feingold	Nelson (NE)
Boxer	Feinstein	Nickles
Breaux	Fitzgerald	Pryor
Brownback	Frist	Reed
Bunning	Graham (SC)	Reid
Burns	Grassley	Roberts
Byrd	Gregg	Rockefeller
Campbell	Hagel	Santorum
Cantwell	Harkin	Sarbanes
Carper	Hatch	Sessions
Chafee	Hollings	Shelby
Chambliss	Hutchison	Snowe
Clinton	Inhofe	Specter
Cochran	Inouye	Stabenow
Coleman	Jeffords	Stevens
Collins	Johnson	Sununu
Conrad	Kennedy	Talent
Cornyn	Kohl	Thomas
Craig	Kyl	Thomas
Crapo	Landrieu	Voinovich
Daschle	Lautenberg	Warner
Dayton	Leahy	Wyden
DeWine	Levin	

NOT VOTING—9

Biden	Kerry	Murkowski
Corzine	Lieberman	Schumer
Graham (FL)	McConnell	Smith

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the President shall be immediately notified of the Senate's action.

The Senator from Nevada.

Mr. REID. Mr. President, I know the Senator from Ohio is here to make a statement. The Senator from Illinois wishes to make a unanimous consent request prior to the Senator from Ohio speaking.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, returning to Illinois this weekend, as I am sure my colleagues did in their home States, it is clear that we are in dire economic straits in America. It should be our highest priority, next to national defense and security, to put this economy back on track. I believe this is the moment to start the debate for an economic stimulus package that would create jobs and give businesses a chance.

Mr. REID. Mr. President, will the Senator withhold?

Mr. President, what is the parliamentary status of the Senate at this time?

The PRESIDING OFFICER. The Senate is in executive session.

Mr. REID. I am wondering if the Chair is about to announce that we are going to go back to the legislative matter that was before the Senate before the vote.

The PRESIDING OFFICER. There is no order to return to legislative session.

LEGISLATIVE SESSION

Mr. REID. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Is there objection?

Mrs. BOXER. Reserving the right to object, I want to ask my friend how long he intends to speak tonight? I will not object.

Mr. DEWINE. I had not intended to speak very long. I have about 15 minutes, approximately.

Mrs. BOXER. That is fine. I just wanted to know if we were going to be here for an hour or two. Thank you.

Mr. DEWINE. It might depend on how long my colleague speaks.

Mrs. BOXER. I will speak just as long as my friend speaks.

The PRESIDING OFFICER. Is there objection to the Senator's unanimous consent request?

Without objection, it is so ordered.

UNANIMOUS CONSENT REQUEST— S. 414

Mr. DURBIN. Mr. President, this last exchange shows that the Senate is alive and that a good samaritan never goes unpunished.

Having yielded for this exchange, I believe we are at a moment where I can make my unanimous consent request relevant to the economic stimulus.

I ask unanimous consent that the Senate begin consideration of Calendar No. 21, S. 414, a bill to provide for an economic stimulus package.

Mr. DEWINE. Objection.

The PRESIDING OFFICER. Is there objection? Objection is heard.

Mr. DURBIN. I thank the Chair.

PARTIAL-BIRTH ABORTION ACT OF 2003—Continued

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, let me return now to the debate in regard to the partial-birth abortion ban.

Let me thank my colleague from Pennsylvania, Senator SANTORUM, for his unending and unwavering and tireless efforts to put a permanent end to this horrific partial-birth abortion procedure. In the time we have served together in this body, he has never given up hope that Congress and this country would put an end to this barbaric procedure.

This Senate, this Congress, and this country must ban a procedure that is inhumane, that has absolutely no medical purpose, and that is, quite simply, morally reprehensible.

During the course of the debate on S. 3, the bill to ban partial-birth abortion, we will hear repeated descriptions of the barbaric nature of this procedure. I ask my colleagues, as difficult as it is, to listen to the description. There may be many arguments during this debate, but the description of what this procedure is will not be argued. There is no debate what it is. There is no debate about what takes place during a partial-birth abortion. I submit to my colleagues that the more you know about this procedure, the worse it is. The more you know about it, the easier it will be to vote to ban it.

We will hear repeated descriptions of this barbaric procedure. It is a procedure in which the abortionist pulls a living baby feet first out of the womb and into the birth canal except for the head which the abortionist purposely keeps lodged just inside the cervix. As Senator SANTORUM explained, the abortionist then punctures the base of the baby's skull with a long scissors-like surgical instrument and then inserts a tube into the wound removing the baby's brain with a powerful suction machine. This causes the skull to collapse, after which the abortionist completes the delivery of the now dead baby.

Mr. President and Members of the Senate, those are the essential facts. I can think of nothing more inhumane and indifferent to the human condition. Yet every year the tragic effect of this extreme indifference to human life becomes more and more apparent. It troubles me deeply that this is happening across this country and that it is happening in my home State of Ohio. In fact, it happens within 20 miles of my home.

I would like to take a few minutes now to talk about two particular partial-birth abortions that occurred in Ohio. They were two typical abortions—typical except for the way they turned out. These two tragedies that I am going to describe illustrate the gruesome facts and the evils of this procedure and show what can happen when it does not go according to the way the abortionist plans. Let me explain.

On April 6, 1999, in Dayton, OH, a woman entered the Dayton Medical Center to undergo a partial-birth abortion. This facility was and is operated by one Dr. Martin Haskell, one of the main providers of partial-birth abortion in the Nation. Usually the partial-birth abortion procedure takes place behind closed doors where it can be ignored—its morality left outside. In this particular case, the procedure was different. There was light shed upon it. This is what happened. This is why light was shown upon it.

This Dayton abortionist inserted a surgical instrument into the woman to dilate her cervix so the child could eventually be removed and then killed. This whole procedure usually takes 3 days.

The woman went home to Cincinnati expecting to return to Dayton for the completion of the procedure in 2 or 3 days. In this case, her cervix dilated too quickly, and as a result 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 the chances of survival were slim, and after 3 hours and 8 minutes the child died. The baby was named Hope.

Mr. President and Members of the Senate, on the death certificate, of course, is a space for cause of death—"Method of Death." There it was written in the case of Baby Hope, "Method