

the Marine Corps Birthday Commemoration, the Joint Services Reception, the Marine Corps Marathon, and several Marine Corps seasonal receptions.

On behalf of the Senate, I thank Colonel Skuta for his continued service to the Nation and the U.S. Marine Corps, and I thank his wife Jane for her steadfast support while he fulfilled this essential duty. We in the U.S. Senate, and I personally, wish them all the best as Phil departs to assume duties as Director of the Marine Corps' Strategic Initiatives Group at Headquarters, U.S. Marine Corps, Washington, DC.

Semper Fi!

#### HARRIS v. McRAE

Mr. HATCH. Mr. President, 30 years ago today, the Supreme Court of the United States announced its landmark decision in *Harris v. McRae*, 448 U.S. 297, upholding the constitutionality of the Hyde amendment, which prohibits Federal funding of abortions under the Medicaid Program. That decision made it possible for Congress, by annual enactment of the Hyde amendment, to protect American taxpayers from being forced to fund the destruction of innocent preborn human beings.

The majority opinion, written by Justice Potter Stewart, established three important principles. First, no matter what unwritten right to abortion may be said to exist in our written Constitution, "it simply does not follow that a woman's freedom of choice carries with it a constitutional entitlement to the financial resources to avail herself of the full range of protected choices." Second, the Court accepted in full the argument of Solicitor General Wade McCree that the Hyde amendment is rationally related to the interest we all have in preserving nascent human life and encouraging childbirth. Finally, the Court rejected the spurious claims of the Hyde amendment's opponents that the amendment violated the establishment clause of the first amendment because it somehow incorporated into federal law the religious doctrine of the Roman Catholic Church.

In our recent debate over healthcare reform, we often heard that because the Hyde amendment is already "settled law," there was no need for specific provisions to ban taxpayer subsidies for abortion through the health insurance exchanges or other features of the legislation. That argument, of course, was wrong. The Hyde amendment affects the appropriations that fund the Departments of Labor and of Health and Human Services. The vast health care bureaucracy created by this new legislation will exist outside of those departments. Time will tell whether those who argued so strongly that the Hyde amendment is settled and "good law" will nonetheless challenge it again in the future.

Let's be honest about a fundamental point: change in our health care system provides another opportunity for

abortion advocates to claim that abortion is health care that must be funded by the taxpayers. That claim must be resisted and defeated, just as it was resisted and defeated in *Harris v. McRae*.

Were he still among us, our dear and esteemed colleague Henry Hyde would have reminded our colleagues of this, with an eloquence we cannot muster. The amendment bearing his name, after all, did not become law by accident; nor did it survive other than by the heroic efforts of Henry Hyde and a small cadre of pro-life attorneys who persuaded the Department of Justice to make the very arguments critical to successfully defending the Hyde amendment in court.

Henry Hyde was vilified at the time for his amendment, and for his unwillingness to yield or compromise on its principles. Investigators for the plaintiffs in *Harris* followed the Congressman to Mass, and then argued to the Federal district court in Brooklyn that his amendment was motivated by his religion. What a scandal—that a Congressman's faith would motivate his work.

Henry, of course, did more than simply introduce and achieve passage of his amendment. That alone would have been heroic. But he also entered the litigation challenging his amendment as an intervening-defendant, joined by former Senator and now-Judge James L. Buckley, Senator Jesse Helms, and others, to ensure that the amendment would receive the most vigorous defense in court.

His New York lawyers, Lawrence Washburn and Gerald Bodell, were joined by the superb legal team at Americans United for Life Legal Defense Fund, a fledgling Chicago-based office that suddenly found itself in the biggest case in its short existence. The AUL lawyers, including Northwestern University law professor Victor G. Rosenblum, eminent Chicago trial lawyer Dennis Horan, and AUL staff attorneys Patrick Trueman and Thomas Marzen, were pivotal in framing the legal arguments that prevailed in *Harris*. They simultaneously represented intervening defendants in *Williams v. Zbaraz*, defending an Illinois version of the Hyde amendment. In *Williams*, named for AUL's clients Dr. Jasper F. Williams and Dr. Eugene F. Diamond, Professor Rosenblum eloquently argued to the Supreme Court that neither due process nor equal protection required government at any level to treat abortion on a par with the life-giving alternative of childbirth.

The victories in *Harris* and *Williams* remain the most significant pro-life legal victories of our lifetimes. But, until the Hyde amendment becomes a part of the United States Code rather than an annual appropriations amendment, so that it covers a government programs and expenditures, we must continue to make the same vigilant effort that made the victories in those cases possible. AUL was a key partner as I and others in Congress fought to

put true Hyde-type language in the health care legislation. Undaunted at the loss in Congress, AUL has turned its attention to the States, helping to draft legislation allowing States to "opt-out" of coverage for abortion through the insurance exchanges, and to take other steps to ensure that health care reform does not undermine the principles of the Hyde amendment.

Many of the courageous warriors who first defended those principles three decades ago have passed from our midst: my friends Henry Hyde and Jesse Helms, attorneys Dennis Horan and Tom Marzen, and Dr. Jasper Williams. Thankfully, some of the young lawyers who worked with them such as Carl Anderson, Robert Destro, and Paige Comstock Cunningham, remain active pro-life leaders today. Meanwhile, the ranks of young lawyers and students eager to follow in the footsteps of these legal pioneers continues to grow. That is what trailblazers do, they lead the way so that others may follow and continue the fight. May their efforts be blessed, and this Nation move swiftly to the day when the lives of the unborn receive full legal protection.

#### CLEAN AIR ACT AMENDMENTS OF 2010

Mr. CARDIN. Mr. President, today I rise to discuss my support for the Clean Air Act Amendments of 2010 and how I plan to continue to work with the sponsors to improve the bill to meet health standards for Maryland and the States of the Northeast.

First, I want to commend Senator CARPER for his years of hard work and dedication to clean air policy issues. I know these issues are very near and dear to Senator CARPER and his perseverance is admirable. I feel the same way about water quality protection in the Chesapeake Bay watershed. When this bill received a hearing in the Environment and Public Works Committee in March I expressed my support for the goals of the Clean Air Act Amendments of 2010 and what the bill aims to achieve. Because I believe this legislation is the right framework to protect public health, I have added my name as a cosponsor of this bill.

The strong limits the legislation sets on mercury emissions is important. Air pollution, primarily from powerplants, is the main source of the mercury that contaminates the fisheries of the Chesapeake Bay Mid-Atlantic. We have fish consumption advisories throughout Maryland because of the high levels of mercury found in fish tissue.

A large part of my motivation for restoring the Chesapeake Bay is to restore a healthy fishery for Maryland watermen to make a sound living on and for recreational anglers to enjoy. I am pleased with the effects this bill would have on the health of our fishery and the people who rely on healthy fish from a healthy bay.

The cap on sulfur dioxide, SO<sub>2</sub>, levels in the Clean Air Act Amendments of