

Mr. President, in the State of Minnesota, there are people who have been cut off already from utilities. There are people who do not have propane or fuel in their tanks. There are people who do not have any heat at all, and who are having to struggle to patch together help from friends, churches, the Salvation Army—anywhere they can get it.

There are elderly people who have closed off all but one room of their homes. That is all the heating they can afford. There are people who have the thermostat turned down to 50 degrees. What are we going to do about that in the U.S. Congress?

Mr. President, Clara Mager is a 73-year-old resident of a town on Minnesota's Iron Range. She receives \$675 per month in Social Security. She lives alone and raised six children on her own. She has just received her grant of \$222. She owed her fuel provider, Inter-City Oil, \$177, and on Monday had only 60 gallons left in the fuel tanks. She wonders what she is going to do at the end of December or in January or in February or in March.

In Blue Earth County, we have talked with a woman who is 90 years old. I will make a long story short. She is very worried about how she's going to heat her home, and she has now reached the conclusion, after having been self-reliant and self-sufficient her whole life, that she may have to move into a nursing home.

Mr. President, you can criticize the Low-Income Energy Assistance Program. There are imperfections in all our programs. But let me remind my colleagues that nationally, two-thirds of the energy households have an income of less than \$8,000 a year. More than half have incomes below \$6,000 a year. I tell my colleagues today, and I am going to speak about this over the next week: we have to do something now in this continuing resolution, we have to get adequate funding allocated to people who need it. The total cost of the Energy Assistance Program does not equal the cost of one B-2 bomber, and if we do not do anything, I say to my colleagues, Democrats and Republicans alike, I guarantee you that sooner or later there will be people in our country in the cold-weather States who will freeze to death. Then we will do something.

We should not wait. We should not wait. That would be wrong. We can do better. People expect more of us.

Nobody in 1994 voted for an elimination of an energy assistance program for the most vulnerable citizens in this country to make sure, whether they are elderly or whether they are children or whether people with disabilities or whether they are a working poor family, that they at least have this survival supplement. We cannot keep doing it this way. In my State of Minnesota, by now, we have just over \$9 million that we are getting out to people. It is 10 degrees. It is 8 degrees. In northern Minnesota, it will reach zero or below tonight. There is a wind-

chill below zero. People are cold, and we have to get this assistance out to those who need it.

I ask unanimous consent to have printed in the RECORD the text of a draft letter that is circulating among Senators, and that will soon be sent to Chairman HATFIELD, from the Northeast-Midwest Coalition. I was part of the effort, and urged that such a letter be done. Senator JEFFORDS from Vermont is co-chair of this coalition, and we have worked with him on the effort. It makes the case clearly for addressing the LIHEAP problem in the next CR.

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

U.S. SENATE,

Washington, DC, December 5, 1995.

Hon. MARK HATFIELD,
Appropriations Committee,
Washington, DC.

DEAR CHAIRMAN HATFIELD: We would like to call your attention to a serious problem with the interim funding for the Low Income Home Energy Assistance Program (LIHEAP). We believe that if we are to continue funding programs under the FY96 Labor/HHS Appropriations bill through a Continuing Resolution (CR), states must be allowed to draw down LIHEAP funds at a higher rate which takes into account their historical spending practices and which is sufficient to ensure the program's viability. Temperatures have dropped below freezing and there is snow on the ground in many parts of the country, but the language in both CRs that limits state draw downs to a proportional annual rate does not provide states sufficient funds to operate programs and meet the heating needs of their low income families.

In past years, states have drawn down a majority of their LIHEAP funds during the fall. This allows states to purchase fuel at lower rates, maintain continuity of service, avoid shut offs, and plan for the upcoming winter. Furthermore, nearly ninety percent of LIHEAP funds are used for heating assistance during the coldest months. The CR language requires that LIHEAP funds be spent out over a twelve month period. While this may leave funds for heating assistance in June, many low income families may not be able to heat their homes this winter.

We believe it is critical to safeguard this program which protects the elderly, the disabled, the working poor, and children. When it gets cold, these vulnerable Americans should not be forced to choose between heating and eating. Continuing delays in funding and limits on the payout rate will hamper states' ability to help the 5.6 million LIHEAP households survive the winter. We ask your assistance in ensuring that the bulk of LIHEAP funds can be spent during the cold weather months at a rate sufficient to meet the needs of low income families this winter. Thank you.

Sincerely,

JIM JEFFORDS.

Mr. WELLSTONE. Mr. President, I will be speaking about this in much more detail over the next week or so. We have to do something about this, I say to my colleagues.

On the last continuing resolution, finally I was able to get, and Senator JEFFORDS and others can talk about what's happening in their States, \$2 million more for my State. That is it. But that is a pittance. We have long

waiting lists of people who need the assistance, and adequate funds are not available. That's why people are having to go cold.

We have to get the funding out now, and we have to figure out a way in this continuing resolution to make sure that we do so; otherwise, Mr. President, there is no question that in the United States of America, this winter some people will likely freeze to death.

For God's sake, Democrats, Republicans, Independents, liberals, conservatives, and whatever other label you choose to call yourself or apply to yourself, let us try to do better, and let us try to make sure in this continuing resolution that we are able to get some of this funding out. We should not be freezing people on the installment plan. It is unconscionable. It is not right. We should not be doing this. We have to take some action.

I yield the floor.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDI- CIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1996—CON- FERENCE REPORT

The Senate continued with the consideration of the conference report.

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from New York [Mr. MOYNIHAN] is necessarily absent.

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

The result was announced—yeas 50, nays 48, as follows:

[Rollcall Vote No. 591 Leg.]

YEAS—50

Abraham	Faircloth	McConnell
Ashcroft	Frist	Murkowski
Bennett	Gorton	Nickles
Bond	Gramm	Pressler
Brown	Grams	Roth
Burns	Gregg	Santorum
Campbell	Hatch	Shelby
Chafee	Hatfield	Simpson
Coats	Helms	Smith
Cochran	Hutchison	Snowe
Cohen	Inhofe	Specter
Coverdell	Jeffords	Stevens
Craig	Kempthorne	Thomas
D'Amato	Kyl	Thompson
DeWine	Lott	Thurmond
Dole	Lugar	Warner
Domenici	Mack	

NAYS—48

Akaka	Exon	Kerrey
Baucus	Feingold	Kerry
Biden	Feinstein	Kohl
Bingaman	Ford	Lautenberg
Boxer	Glenn	Leahy
Bradley	Graham	Levin
Breaux	Grassley	Lieberman
Bryan	Harkin	McCain
Bumpers	Heflin	Mikulski
Byrd	Hollings	Moseley-Braun
Conrad	Inouye	Murray
Daschle	Johnston	Nunn
Dodd	Kassebaum	Pell
Dorgan	Kennedy	Pryor

Reid Rockefeller Simon
Robb Sarbanes Wellstone

NOT VOTING—1

Moynihan

So the conference report was agreed to.

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

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PARTIAL-BIRTH ABORTION BAN ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume the consideration of H.R. 1833, which the clerk will now report.

The legislative clerk read as follows:

A bill (H.R. 1833) to amend title 18, United States Code, to ban partial-birth abortions.

The Senate resumed the consideration of the bill.

Pending:

Smith amendment No. 3080, to provide a life-of-the-mother exception.

Dole amendment No. 3081 (to amendment No. 3080), of a perfecting nature.

Pryor amendment No. 3082, to clarify certain provisions of law with respect to the approval and marketing of certain prescription drugs.

Boxer amendment No. 3083 (to amendment No. 3082), to clarify the application of certain provisions with respect to abortions where necessary to preserve the life or health of the woman.

Brown amendment No. 3085, to limit the ability of dead beat fathers and those who consent to the mother receiving a partial-birth abortion to collect relief.

AMENDMENT NO. 3083 TO AMENDMENT NO. 3082, AND AMENDMENT NO. 3081 TO AMENDMENT NO. 3080

The PRESIDING OFFICER. Under the previous order, there will now be 60 minutes equally divided for debate on amendments by Senators DOLE and BOXER.

The Senate will be in order.

Who seeks recognition?

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I ask the Senator from California for 5 minutes, when the Senate is in order.

Mrs. BOXER. Mr. President, if you will bring the Senate to order?

The PRESIDING OFFICER. The Senator from Massachusetts has asked for 5 minutes from the Senator from California.

Mrs. BOXER. Yes, as soon as the Senate is in order. I do not believe we should start the clock running until the Senate is in order. Mr. President, this is a very serious difficult debate. Members on both sides feel very strongly. I will be happy to yield 5 minutes to the Senator from Massachusetts when the Chair believes the Senate is in order.

The PRESIDING OFFICER. The Senator will begin debate when there is order.

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President I yield myself 4 minutes and 15 second and ask to be notified at that time.

Mr. President, I oppose the pending bill and strongly support the Boxer amendment to protect the lives and health of women. I came away from the November 17 Judiciary Committee hearing more convinced than ever that this bill is an unwise, unconstitutional—

Mrs. BOXER. Mr. President, if I could ask the Senator to yield, the Senate is not in order.

The PRESIDING OFFICER. Will the Senators to the left of me take their conversations off the floor?

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I oppose the pending bill to outlaw medically necessary abortions, and I strongly support the Boxer amendment to protect the lives and health of women.

The Senate began to debate H.R. 1833 last month, a mere 6 days after the bill had passed the House. At first, the bill's Senate sponsors even refused the reasonable request that hearings be held. But a strong bipartisan majority of the Senate rejected that unacceptable approach. The bill was committed to the Judiciary Committee for a hearing. But there was no committee markup and the Senate does not have the benefit of a committee report.

The haste with which this bill is being pushed through the Senate is unseemly. Obviously, its proponents don't want their proposal examined too closely. They'd rather have the Senate vote on emotion, not on the facts.

I attended the November 17 hearing, and I came away from it more convinced than ever that this bill is an unwise, unconstitutional, and dangerous proposal.

The hallmark of good legislation is clarity. But the November 17 hearing revealed that this bill is unacceptable vague. In criminal legislation like this, that's unconstitutional, and it's quite likely that the courts will throw out this bill under the void for vagueness doctrine.

The problem is obvious. The Judiciary Committee heard from a panel of medical experts who could not even agree among themselves on the medical meaning of the legislative language, or on which procedures might be banned. Dr. Courtland Robinson of Johns Hopkins University called the language "vague, not medically substantiated, and just not medically correct . . . the name [partial-birth abortion] did not exist until someone who wanted to ban an abortion procedure made up this erroneous, inflammatory term."

The bill's very vagueness itself threatens the lives and health of American women. In the absence of a clear definition of what is outlawed, doctors will decline to perform any abortion that a prosecutor or jury might later find objectionable.

Prof. Louis Michael Seidman of Georgetown Law Center testified: "If I

were a lawyer advising a physician who performed abortions, I would tell him to stop, because there is just no way to tell whether the procedure will [violate this law]."

Dr. Robinson, who has practiced medicine for over 40 years, expressed the fear that if doctors are unwilling to perform needed abortions, women will resort to the back-alley methods that were used before safe, legal abortions became available. He testified:

In the 1950's in New York, I watched women die from abortions that were improperly done. By banning this technique, you would, in practice, ban most later abortions altogether by making them virtually unavailable. And that means that women will probably die. I know. I've seen it happen.

Despite the bill's apparently deliberate vagueness, the one activity it clearly bans is a procedure known as "intact dilation and extraction" or "D&E" surgery. There are perhaps 450 such operations performed in the United States each year, and they involve "wanted pregnancies gone tragically awry," according to Dr. Mary Campbell of Planned Parenthood, who testified at the hearing. Dr. Campbell explained that when emergency conditions threaten the life or health of the pregnant woman, this procedure is safer than any other abortion method, such as induced labor or caesarean section.

Depending upon the position of the fetus in the womb, a woman is 14 times as likely to die from a C-section as from a D&E, and twice as likely to die from induced labor as from a D&E, according to Dr. Campbell. C-sections create an increased risk of rupture of the uterus in future pregnancies.

The bill's supporters ignore this compelling medical testimony and the scholarly articles that support it. They rely instead on a single quotation from a single doctor to the effect that 80 percent of these abortions he performs are "elective." But proponents of the bill are grossly distorting what that doctor said. They never complete the quotation—the doctor stated that he is referring to abortions before the sixth month of pregnancy.

The Supreme Court has made plain that in the case of such pre-viability abortions, a woman may elect to terminate her pregnancy without the undue interference from the Government. After viability, of course, there are no elective abortions. As Dr. Campbell noted emphatically, "third trimester abortion for healthy babies is not available in this country.* * * Occasionally, someone comes to see me who thinks she is 10 weeks pregnant; it turns out she is 32 weeks pregnant. I don't say, 'where can we get you a third-trimester abortion.' I say, 'You will be having a baby.'"

The Judiciary Committee heard the facts about the D&E procedure from doctors. We also heard moving testimony from two women who needed and obtained this surgery to avoid serious health consequences.

Coreen Costello is a pro-life Republican. She learned that the fetus she