The PRESIDING OFFICER (Ms. SNOWE). Is there objection? Without objection, it is so ordered.

VALUJET

Mr. COVERDELL. Madam President, yesterday I came to the floor of the Senate to describe the predicament that faces a major corporation in my home State, ValuJet.

I will not repeat everything I said yesterday, but I pointed out we all have grieved over the tragedy, and we understand that safety in the air is a preeminent goal of the Federal Aviation Administration, and all of us. This corporation underwent the most exhaustive and thorough review possible and, in late August, was certified as flight-worthy by the FAA.

Subsequently, the airline had been confronted once again with bureaucratic delays and the like that are so typical of this city. Now it is the Department of Transportation.

I might point out that 4,000 families are not receiving their paychecks and can't make their mortgage payments. They can't make their car payments. They have been pushed out on the street. And we are about to fire 400 more even though the airline is now certified as worthy to fly.

Yesterday, I received a phone call—I want to add this to the RECORD—from Mr. Kent Sherman, who owns a company called Sky Clean, in College Park, right near the airport. This story illustrates and brings home the impact of this shutdown and how it goes beyond ValuJet itself. Sky Clean provides a cleaning service for airplanes cleaning the interior and exterior, and the largest client was ValuJet. If ValuJet is not in the air, this company will close and all of their employees are also put out on the street.

So there are peripheral companies that surround this corporation, all of whom are facing shutdowns and layoffs. This is an interesting story. It was founded 4½ years ago with $122. They spent most of it on fliers and business cards, and had $15 left to buy cleaning chemicals. They put their profits into more chemicals and rags and brushes, and went in there, and eventually had enough to buy a pressure washer. One year ago they got the breakthrough. They got a contract with ValuJet. Their motto is ''Just Plane Spotless.''

Today, they have 28 employees. Last year, they had $740,000 in revenues, up from $40,000 3 years ago. He said, ''We have been incredibly blessed. This has been the dream of a lifetime.''

In June, the company had $3 shy of $100,000 in their savings account. There are no savings today. They met their last payroll. If ValuJet shuts its doors, Sky Clean is finished.

It is absolute nonsense, Madam President. FAA has gone through that thing with a microscope. The airline is ready to fly. It is ready to get the paychecks going to those 4,000 families and, yes, to this small company in College Park, GA. It is time for the bureaucrats and their 9-to-5 attitude to get this job done and get that airline in the air.

I yield back whatever time I have.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Ms. SNOWE). The time for morning business has expired.

PARTIAL-BIRTH ABORTION BAN ACT OF 1995—VETO

The PRESIDING OFFICER. Who yields time?

Mr. SANTORUM. Madam President, I yield 7 minutes to the Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. Thank you, Madam President. I thank the Senator from Pennsylvania, who has been doing an outstanding job helping us to have an opportunity to express our views on the partial-birth abortion override measure which is before us. It is pretty important for us to understand this isn't a pro-choice or pro-life measure. This is not an argument against abortions generally. It is not even an argument against late-term abortions. It is merely an argument against the brutality which takes place in a specific type of abortion, which has been described adequately here on the floor of the Senate. But it is one of those things which, obviously, is uncomfortable for people to talk about.

It is a brutality that results when a child which is all but born is being killed in the process of birth. And there has been the side issue raised here, that somehow this has to do with the health of the mother, and that if we didn't kill the child at this point, the mother's health would be impaired.

This has been contradicted by the best medical experts—not the least of which is C. Everett Koop, the former Surgeon General of the United States, who basically says medical necessity does not come into these cases. Since the child is already born, really, we are talking about what happens to the child—virtually already born—not what happens to the mother.

But I would like to add something to the debate. I would like to a add a few questions that I think we ought to ask ourselves. One question is: What are we signaling? What are we telling the rest of the world when we say that we as a people are indifferent to this kind of brutality toward a child that is all but born, except for the last, say, 3 inches of its body? That since it has technically part of its body still in the mother, that it is subject to being killed? It is very difficult for me to understand what we are saying to the rest of the world when we are allowing this type of gruesome procedure to occur in this country.

What do we say to China when we try to shape their human rights policy? We say that you ought to have a high regard for your citizens; that you should not be oppressive; that you should not abuse people; that you should not persist in practices which are against human dignity. How do we say that to China when we enshrine or institutionalize this procedure and decide that the brutalization of children in this way is still acceptable when there are clear alternatives? How can we question the practice of child slavery in other nations around the world when our own Nation's lawmakers cast cavalier votes that really result in brutality?

Let me be clear. The signals we send as a world leader do not trouble me as much as the signals that we are sending to our young people. In our society, the biggest crime problem we have is violent crime among young people who seem to have no regard for the lives of victims, who seem to view dismemberment or brutality as a matter-of-fact thing. What are we telling our own youngsters? What values are we teaching them when we say that the difference between a partial-birth abortion and a homicide is merely whether the head is all the way out or just part of the way out? We have said that it is OK to be involved in a partial-birth abortion because the child isn't totally born, but if there were just another 3 or 4 seconds of process, the child would be born and then it would be homicide.

I do not think we are sending the right signals to our young people about tomorrow. What values do we send the young people when we suggest that there is more concern to be shown for animals and our environment than there is for young people?

For example, H.R. 3918 was introduced by a Member of this body when that Member was in the U.S. House of Representatives. The bill protects animals from acute toxic tests in laboratories. What are we saying when we are concerned about protecting animals from toxic tests designed to save lives and we are not willing to protect children from a brutal procedure designed to end their life?

What are we saying when another Member of this body introduces a measure which prescribes criminal penalties for the use of steel jaw leghold traps on animals, saying that it is brutal to catch an animal with a trap that clamps down on the leg of the animal? A sponsor of the bill stated in the Chamber, ''While this bill does not prohibit trapping, it does outlaw a particularly savage method of trapping.''

If we are willing to do that to protect animals from a kind of brutality and abuse, I have to ask myself, have we not missed something if we are unwilling to take a step to prohibit a kind of brutality against children that medical experts acknowledge is a brutality which is totally unnecessary?

There seems to be a blind spot in the Senate's conscience when it comes to things that are abortion related, but we cannot let the debate over abortion

generally obscure the fact that what we are trying to do here is just what the Senator from Rhode Island said he was trying to do with steel jaw traps. He was trying not to prohibit trapping but to prohibit a particularly savage method of trapping. This is not a bill to outlaw abortion, but it is a bill to curtail a practice of brutality committed against children under the guise of abortion, and abortions would still persist even if the bill were passed or if the override were to be undertaken.

This takes me back to the beginning. The emotion and strife of the abortion debate are blinding and confusing some of us as Members. The choice for us is clear. This is not a choice of pro-life or pro-choice. This is a choice about whether or not we as a culture are willing to say that we will be against brutality of infants in the same measure we have been against brutality of animals for experimentation, that we will have a kind of culture which we can recommend around the world and to our own children. That we will have respect for life and that brutality, especially when it is unnecessary, we will not tolerate.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. I yield 3 minutes to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. I thank the Chair.

Madam President, when President Clinton vetoed the Partial-Birth Abortion Ban Act on April 10, he said there are ''rare and tragic situations that can occur in a woman's pregnancy in which, in a doctor's medical judgment, the use of this procedure may be necessary to save a woman's life or to protect her against serious injury to her health.''

The former Surgeon General of the United States, Dr. C. Everett Koop—a man who President Clinton singled out for praise on August 23 as someone trying ''to bring some sanity into the health policy of this country''—has said that ''partial-birth abortion is never medically necessary to protect a mother's health or future fertility.'' Let me say that again: it is never necessary.

That is consistent with testimony that the Judiciary Committee received from other medical experts last fall. Dr. Nancy Romer, a practicing OB-GYN from Ohio, testified that in her 13 years of experience, she has never felt compelled to recommend this procedure to save a woman's life. ''In fact,'' she said, ''if a woman has a serious, life threatening, medical condition this procedure has a significant disadvantage in that it takes 3 days.''

Dr. Pamela Smith asked during her testimony before the Committee:

> Why would a procedure that is considered to impose a significant risk to maternal health when it is used to deliver a baby alive, suddenly become the ''safe method of choice'' when the goal is to kill the baby? And if abortion providers wanted to demonstrate that somehow this procedure would be safe in later-pregnancy abortions, even though its use has routinely been discouraged in modern obstetrics, why didn't they go before institutional review boards, obtain consent to perform what amounts to human experimentation, and conduct adequately controlled, appropriately supervised studies that would insure accurate, informed consent of patients and the production of valid scientific information for the medical community?

Even Dr. Warren Hern, the author of the Nation's most widely used textbook on abortion standards and procedures, is quoted in the November 20, 1995 edition of American Medical News as saying that he would ''dispute any statement that this is the safest procedure to use.'' He called it ''potentially dangerous'' to a woman to turn a fetus to a breech position, as occurs during a partial-birth abortion.

Defending the indefensible is an understandably difficult task for President Clinton and other defenders of this procedure. What decent person does not get a shiver up the spine upon hearing a description of a partial-birth abortion, a procedure that was characterized by a member of the American Medical Association's legislative council as ''basically repulsive'' and ''not a recognized medical technique.'' I suspect that was why the council went on to vote unanimously to endorse the partial-birth abortion ban just over a year ago.

It is because the procedure is so difficult to defend that some have tried to suggest that it is used only in cases that threaten a mother's life or health. Let me note, then, the words of Dr. Martin Haskell, who authored a paper on the subject for the National Abortion Federation. In an interview with American Medical News, Dr. Haskell said, ''in my particular case, probably 20 percent (of the instances of this procedure) are for genetic reasons. And the other 80 percent are purely elective.'' Eighty percent are elective—not medically necessary—but elective.

Another doctor, Dr. James McMahon, who performed at least 2,000 of these procedures, told American Medical News that he used the method to perform elective abortions up to 26 weeks and non-elective abortions up to 40 weeks. His definition of ''non-elective'' was expansive, including ''depression'' as a maternal indication for the procedure. More than half of the partial-birth abortions he performed were on healthy babies.

And what did the Record of Bergen County, NJ, find when it published an investigative report on the issue just last week? It reported that in New Jersey alone, at least 1,500 partial-birth abortions are performed each year, far more than the 450 to 500 such abortions that the National Abortion Federation claims occur across the entire country.

According to the Record, doctors it interviewed said that only a ''minuscule amount'' of these abortions are performed for medical reasons.

The medical experts tell us that this procedure is neither necessary nor safe. It is not done out of medical necessity, but largely for elective reasons. That is why so many people around this country are opposed to this procedure, and why even its most ardent defenders are uncomfortable discussing it.

In his recent book, Judge Robert Bork wrote about the squandering of our common cultural inheritance in the name of radical individualism. What could be more radical than suggesting that individuals can interrupt the birth process and suction the brains out of a healthy viable child, all in the name of free choice? Does not sanctioning the death of a child for no reason other than convenience denigrate the idea that there is inherrent value in every person?

Judge Bork wrote that ''security has become a religion.'' ''We demand it not only from government,'' he said, ''but from schools and employers. We demand to be protected, he goes on to say, ''not only from major catastrophe but from minor inconvenience.''

There are striking parallels here with the procedure we are discussing. In its report on partial-birth abortion, the New Jersey RECORD found that the procedure was performed mostly on people ''who didn't realize, or didn't care, how far along they were.'' Is choice, free of consequence or responsibility, truly free? Or are we simply putting government more in charge of our choice and freedom by protecting us from the consequences of our own actions?

It seems to me that people of good faith can debate when, during a pregnancy, life begins—whether it is at conception, at the end of the first trimester, or at some other point. But I think it is very difficult to make the case that life has not begun once a pregnancy is well along when a baby can be delivered either to be saved and live, or just before completely born to be brutally killed. If a doctor performing a partial-birth abortion happened to allow the child to completely clear the mother's body, it would have the same protections under our Constitution that any other human being would have. The difference between life and death here is literally a matter of inches. The hands and feet are in this world and are living and moving. The chest is visibly breathing. Only the head remains in the birth canal; and it is dismembered in this procedure.

Madam President, President Clinton has taken the position that abortion is justified for any reason, under any circumstance, no matter how far along the pregnancy. I intend to vote to override the veto. I encourage my colleagues to do the same, and put an end to this cruel and barbaric procedure.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mrs. BOXER. May I ask the Senator how much time he would like to have?

Mr. FEINGOLD. I ask the Senator from California to yield me up to 10 minutes.

Mrs. BOXER. The Senator is yielded 10 minutes, immediately followed by, if it is all right with my colleague, Senator ROBB for 15 minutes.

The PRESIDING OFFICER. Is there any objection?

Mrs. BOXER. I would amend that. Senator COVERDELL would like 2 minutes in between the two speakers on my side.

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

The Senator from Wisconsin.

Mr. FEINGOLD. Madam President, this is a difficult issue for everyone concerned. No one likes abortions, whatever procedure is used.

It is a difficult subject to discuss, perhaps most difficult for those who have had abortions or have had to face the choice of an abortion.

Madam President, I will vote to sustain the President's veto because I believe, fundamentally, that the decision about whether to choose an abortion should remain a personal, private decision by the woman involved, and the decision about what procedure is necessary to protect the health and life of a woman is one that should be made between the woman and her physician, not by the Federal Government.

Before I briefly address the specifics of this bill, I wish to take a moment to pay tribute to the Senator from California [Mrs. BOXER], who has been such a courageous leader on this issue, as have a number of other Members of the Senate.

I also praise the Senator from Washington [Mrs. MURRAY], who this morning expressed her outrage at the tenor of this debate where individual Senators talked about the joy of being in the delivery room with their wives, as if that gave them the authority to dictate to the women of this country what options should be available to them in a time of distress and urgency. I share that concern.

For that reason, I come to the floor this afternoon to take a little time to underscore why this legislation is wrong and why President Clinton was courageous and correct in his decision to veto it.

Madam President, let me say again, no one likes abortion. No one wants to talk about abortion or the procedure. We ought to clearly understand what the effort behind this legislation is. It is to ban abortions entirely, not just this one particular procedure. I know this firsthand from the Judiciary hearings on this bill where I had a chance to ask one of the proponents what the position of her organization was on a variety of other abortion procedures.

The response I received was very clear. The witness admitted that their goal was to outlaw and criminalize every single kind of procedure. That is why the underlying push behind this legislation is clear. It is not, and I repeat not, to ban just one form of abortion. It is to outlaw all forms of abortion, from taking a pill such as RU–486 within the first several weeks after conception to this rarely used procedure, the late-term abortion.

If proponents of this legislation wanted to ban only this form of abortion, they could have done so by accepting the amendment of the Senator from California which would allow a physician to use this technique only if necessary to protect the life of a woman or to avoid serious adverse health consequences to the woman.

The President said in his veto message that he was vetoing the bill because it ''does not allow women to protect themselves from serious threats to their health'' and because it refuses ''to permit women, in reliance on their doctor's best medical judgement, to use this procedure when their lives are threatened or when their health is put in serious jeopardy.''

The amendment offered by my friend from California, Senator BOXER, would actually impose an even stronger standard than contained in Roe versus Wade, which speaks only to the health of a woman. The Boxer amendment would have allowed this procedure to be banned unless it was necessary to avoid a serious adverse health consequence to the woman.

If the proponents of this legislation would accept that amendment, this bill could be passed and sent to the President, as the Senator from California has said, within hours, and he would sign it into law.

The fact that the proponents of this legislation refuse to accept an amendment to allow a physician to use this procedure if necessary to avoid a serious adverse health consequence reveals what this debate is really about: it is about scoring political points, confusing the public, and beginning a process aimed at outlawing all forms of abortion.

I want to respond briefly to the claims made that this procedure is never medically necessary.

I attended the Judiciary Committee hearings and what I heard was that different physicians have different opinions about whether this procedure is more or less safe for a woman than other procedures, whether the procedure may be necessary in a particular situation to protect a woman's future ability to bear children, and precisely what the procedure is that would be banned under this legislation.

So, what I heard was a professional disagreement among members of the medical community on the efficacy and risks associated with various abortion procedures.

Each side of this debate can quote from the medical expert they prefer as to the safety or necessity of the particular procedure. That medical professionals have different opinions on these issues is both understandable and expected.

But that, Mr. President, is precisely why trained physicians and their patients, not Members of Congress, should make the decisions about what course of treatment is appropriate in an individual situation.

Without going through a detailed description of the different opinions, some physicians told the committee that there were a number of situations where alternative abortion procedures had a higher risk to the woman.

For example, testimony was presented indicating that a woman was 14 times as likely to die from a cesarean hysterotomy than from a D&E procedure.

There was also testimony about certain alternative procedures that can cause a traumatic stretching of the cervix that increases a woman's chances for infertility in the future. Others disagreed.

Again, what this debate told me is that there is room for disagreement between physicians about specific medical procedures.

It should not be the role of Congress to decide or determine which side of this debate is right or wrong. These are medical questions that ought to be decided by medical professionals, not Members of Congress.

One woman who had made the difficult choice of choosing this procedure when a much wanted pregnancy had turned into a tragedy told our committee, as follows:

> It deeply saddens me that you are making a decision having never walked in our shoes. When families like ours are given this kind of tragic news, the last people we want to seek advice from are politicians. We talk to our doctors, lots of doctors. We talk to our families and other loved ones, and we ponder long and hard into the night with God.

We ought to listen to those words. These decisions are private, personal, painful decisions to be made by the families involved, guided by their physicians.

Congress ought to leave these decisions with the people involved.

To tell a woman and her family that Congress will not allow her doctor to use a procedure which will allow her a greater chance to be able to have another pregnancy and bear a child in the future is cruel and unconscionable.

To tell a woman and her family that Congress will not allow a physician to use this procedure if necessary to protect her from serious, adverse health consequences is just wrong.

Let me say one more time: If the aim of this legislation was simply to restrict the use of this particular procedure, they would have accepted the Boxer amendment.

But this is not the goal of the proponents of this bill.

The goal is to outlaw each and every abortion procedure, one by one. That is what is at stake. The President's veto should be sustained.

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

Mr. FEINGOLD. I will.

Mr. SANTORUM. The Senator from Wisconsin says that this decision

should be left up to the mother and doctor, as if there is absolutely no limit that can be placed on what decision they make with respect to that.

The Senator from California is going to go up to advise you of what my question is going to be, and I will ask it anyway. My question is this: If that baby were delivered breech style and the head—everything was delivered except for the head, and for some reason that that baby's head would slip out so that the baby was completely delivered, would it then still be up to the doctor and the mother to decide whether to kill that baby?

Mr. FEINGOLD. I would simply answer the question by saying under the Boxer amendment the standard of saying it has to be a determination, by a doctor, of health of the mother, is a sufficient standard that would apply to the situation covered by this bill. That would be an adequate standard.

Mr. SANTORUM. That doesn't answer the question. Let's assume the procedure is being performed for the reason you stated.

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

Mr. SANTORUM. Would you allow the doctor to kill the baby?

Mr. FEINGOLD. That's not the question. What this bill is about is a question that should be answered by a doctor and the woman who receives the advice of the doctor. Neither I nor is the Senator from Pennsylvania is truly competent to answer those questions. That is why we should not be making those decisions here on the floor of the Senate.

The PRESIDING OFFICER. The 10 minutes of the Senator has expired.

The Senator from Georgia is recognized.

Mr. COVERDELL. Madam President, the Senator from Wisconsin has asserted that proponents of this legislation are simply trying to ban every form of abortion. I rise as a classic example of that not being the case. I support Georgia law, which grants broad latitude in the first trimester, subject to changes in conditions as we go on through, and I supported that law.

I find this medical procedure repugnant almost to the point of unbelievable—I cannot even believe we are debating whether it should occur, here.

However, after learning about it, I did call a prominent doctor in my State, familiar with this aspect of medicine, and asked her. I gave her my instinct, but I said, ''Give me your professional judgment.'' I will report that for the debate before the Senate. She says:

> It is never necessary to do a partial-birth abortion of a live fetus. In the extremely rare case of a severe fetal abnormality which mechanically precludes normal vaginal delivery, the partial-birth method is justifiable but certainly not necessary, as C-section can be employed. Even when the life of the mother is endangered, the partial-birth method should not be used—

This is an exception, incidentally, to the partial-birth abortion ban—life of the mother.

> Because, if the mother's life is in danger you would want to deliver the baby as soon as possible. It does not make sense to use the more time consuming partial-birth abortion procedure when you can use a C-section to remove the infant quickly.

The PRESIDING OFFICER. The 2 minutes of the Senator has expired.

Mr. COVERDELL. I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia is recognized for 15 minutes.

Mr. ROBB. Madam President, I will yield to the Senator from California for 1 minute.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I thank my friend for coming over to participate in this debate. I am looking forward to his remarks. I know he has given extensive thought to this.

I thank my friend, Senator FEINGOLD, for coming over to participate in this debate. We sent this issue to the Judiciary Committee, where he sat and listened intently to all of the testimony.

It is important to note that I made a unanimous-consent request—I will do so again—to ban this procedure except where the woman's life is at stake or if she faces serious adverse health consequences. The Senator from Pennsylvania said no.

We could walk down the aisle together, ban this procedure but for those circumstances. But I think what is behind all this is not the life of a woman, a woman like Vikki Stella, who could have been rendered sterile and not been able to have her latest little child, Nicholas, if this procedure was not available to her. We are putting a woman's face, a family's face on this issue.

We have drawings of parts of a woman's body that we have seen here before in the debate. We may see it again. Some of us find it offensive. We want to show the faces of the families who are in these very difficult situations. I thank my friend for partaking in this debate.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Virginia.

Mr. ROBB. Mr. President, the argument I'm about to make is not directed toward those who consistently vote what they believe to be the pro-life position on issues affecting reproductive rights. This is an easy vote for them—even though it might not be if they focused on the implications of the actual bill language rather than the emotions it has stirred. Instead, my argument is directed to those who had the courage to oppose this legislation originally, but have since been subjected to enormous pressure to change their vote and override the President's veto.

I know how tough this vote is for pro-choice Senators and I can't promise anyone there won't be a political price to pay. This issue was designed from the start to fracture the pro-choice coalition and undermine support for a woman's right to reproductive freedom. To that end, this veto override attempt was deliberately delayed until today for maximum voter impact before the election. But I urge you not to succumb. Our Forefathers envisioned a Senate with enough backbone to withstand the passions of the moment—and of the other body—and on this vote we're being put to the test.

Mr. President, let's be clear as to what this attempt to override the President's veto of the so-called partial birth abortion ban is all about—and what it's not about. It's not about whether to have an abortion. It's not about when to have an abortion. It's only about how to have an abortion—and whether the Government ought to intervene and restrict a physician's professional judgment.

As noted in yesterday's Philadelphia Inquirer, one critic of the bill, Georgetown University law professor Louis Michael Seidman, told the Senate Judiciary Committee last fall that the proposed law ''does nothing to discourage abortion per se. It does nothing to protect the rights of fetuses, nothing to protect potential life, and nothing to protect actual life.'' As long as there are other legal methods to obtain an abortion, Dr. Seidman says that the bill's only effect is to force women ''to choose a more risky abortion procedure over a less risky one.''

Even proponents ought to be troubled by the fact that nothing in this bill would prevent a woman from having an abortion. It wouldn't even prevent a woman from having a third trimester abortion. All it would do is prevent a doctor from using a procedure that might be necessary to protect the woman's health or future reproductive capacity. And I don't believe the Government ought to intervene in that decision, Mr. President. To me, decisions on how best to protect a woman's health are better left to physicians.

And while I strongly oppose third trimester abortions except to protect the life or health of the mother, this bill would make no exceptions for the health of the mother. In fact, the bill's proponents defeated an amendment to grant an exception to protect the health of the mother, claiming it would gut the bill. They did it knowing it would have made the bill acceptable to many more Members of this body—and to the President—therefore eliminating the bill's potency as a political issue. Pulitzer Prize winning author David Garrow made this point in yesterday's' Philadelphia Enquirer when he wrote: ''How could adding a 'serious health risks' exception 'gut' a measure intended to curtail supposedly 'elective' or unnecessary procedures?''

Mr. President, I have always been pro-choice, but I have never been pro-abortion. As far as I'm concerned, abortions ought to be safe, legal, and rare. While this bill wouldn't make late term abortions more rare—in fact, there's no evidence they constitute more than an infinitesimal percentage of abortions actually performed in the

United States—it could make them significantly less safe.

Mr. President, I respect the convictions of those who believe we ought to choose life over abortion, and I applaud those who remind us, lawfully and peacefully, of the consequences of our choice. And like the vast majority of our fellow citizens I find the graphics used to depict the procedure in question repulsive. But I doubt that many of us would find an explicit portrayal of any procedure to terminate a pregnancy any less disturbing.

I was not comfortable voting against this bill originally, because I don't want to encourage abortions at any stage of a pregnancy and I'd like to eliminate them altogether in the third trimester—except when the life or health of the mother is threatened. But this bill wouldn't prohibit a single abortion from taking place, even in the third trimester. It would only increase the risks for women who already have difficult and sometimes tragic circumstances to deal with—and I believe that when faced with those circumstances, the woman and not the Government should decide. On this bill, the President made a gutsy call, but he made the right call and I hope at least 34 of us have the courage to stick with him and uphold his veto.

With that, Madam President, I yield whatever time I have remaining back to the Senator from California.

Mrs. BOXER. Thank you.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. How much time is left in Senator ROBB's time?

The PRESIDING OFFICER. The Senator has 30 minutes, 30 seconds.

Mrs. BOXER. In Senator ROBB's 15 minutes, how much time is remaining?

The PRESIDING OFFICER. Eight minutes.

Mrs. BOXER. Madam President, I shall not take the 8 minutes. But before the Senator from West Virginia leaves, I want to thank him. I applaud him for his real courage, for him coming to this floor and saying the real truth, which is this: There is no reason that we are taking this bill up today in the last week of the session, or the last few days of the session, other than for strictly political reasons.

There is no reason why this Congress sat on this issue for 5 long months. If we had sat down and worked it out and the amendment which I offered, which got 47 votes in our last debate, could be worked on, we could have a bill, as my friend said, that we could all vote for, that would outlaw this procedure except where the woman's life is at stake or she faced serious adverse health consequences. The Senator would join me in that bill. The President would sign that bill.

I just want to say to my friend, it takes courage to come here and speak the truth. You have done so, and I thank you very much.

Further, I would like to say, again, that the President, before he wrote his veto message, thought long and hard about it. This is a President who will sign a law that outlaws late-term abortion except for cases where the life and health of the mother are endangered. This is a President who wants to sign a bill that would, in fact, outlaw this procedure except for those rare, tragic circumstances, circumstances like the one of Vikki Stella.

I want to point out, as we put the woman's face on this issue and we put the family face on this issue, Madam President—and I know you are aware of the face that we tried to put on this issue—we find out that these women and their families are not political people. For them it is not a partisan issue. Some are Republican, some are Democrat, some are pro-choice, some are anti-choice, some really never thought about it much.

They are American families. They want their babies. They find out in the end something went drastically wrong, and the shock and the pain and the horror of that seems to be overlooked by those who would look at this woman and say to her, say to her husband and say to her children, ''You know, it really doesn't matter about you. It doesn't matter about you.'' I do not understand how those holding that position can really look at this woman, in her eyes, and tell her that she did the wrong thing to follow her doctor's advice, to follow her God, to discuss it with her family, to preserve her life, her fertility, her health. I do not know how Senators could do it.

So now what we have here is, every time one of these stories is told, a Senator stands up and says, ''Oh, but not her. We didn't mean her. She didn't have that procedure.'' Then we have the letters from the women saying, ''Wrong, Senator. You don't know everything. I did have this procedure. I know the procedure I had.''

To me, Madam President, it is a portrayal—I do not know how else to put it—of arrogance. If I put the best light on it, I will call it well-meaning, but even that I wonder about, because why wait until the last week to make this point?

I share the feelings of Senator PATTY MURRAY, and I urge my colleagues, if they did not hear her, to talk to her, because I honestly feel that there is a certain arrogance in this debate, arrogance on the part of Senators who think they know more than doctors, arrogance on the part of Senators who think they know more than Vikki Stella and her husband and her kids.

We even had one case of a woman who consulted with her priest on the issue of what she and her husband should do. Her parish priest supported her decision to terminate the pregnancy. The priest told her to follow the advice of her physician, so she could live for her family and for her children.

So I just cannot understand how colleagues feel that they can outlaw a procedure, make no true life exception, as the New York Times said today, so narrow it could never be used, make absolutely no health exception, and think they are doing something to help life. It is not helping life if a woman like this dies in the prime of her life. These pregnancies are fatally flawed. They are dangerous to the women. If these babies were to survive, we know from testimony they would live moments, maybe seconds in agony.

So I think, my colleagues, as we come down to this vote and all its implications, we need to decide what is the role of a U.S. Senator? Is it to be a doctor? Is it to be God? What is it to be? I think there are certain things that are best left to these families in their anguish, to these doctors who know the facts. I hope and I do believe we will have enough colleagues to stand for these women and for their families.

Madam President, I ask unanimous consent that following the next Republican speaker, Senator LIEBERMAN be recognized to speak.

The PRESIDING OFFICER. Is there any objection? Without objection, it is so ordered.

Mrs. BOXER. I yield the floor.

Mr. SANTORUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Madam President, I ask unanimous consent to have printed in the RECORD a letter from Dr. Pamela Smith describing Ms. Stella's condition as she knows it, and suggesting that this procedure was not appropriate for her to go through, that there was a safer medical procedure, and also to have printed in the RECORD a copy of ''Williams Obstetrics'' which is the authority on obstetrics, also describing what is medically recommended in cases where Mrs. Stella had her procedure. There were alternatives, safe alternatives, safer alternatives for her to go through.

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 SENATOR SANTORUM: My name is Dr. Pamela E. Smith. I am 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 in 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 maternal 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 medically 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 had 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 a consideration.

Sincerely,

PAMELA SMITH, M.D.,
Department of Obstetrics and Gynecology,
Mt. Sinai Medical Center, Chicago, IL.

EXCERPT FROM WILLIAMS OBSTETRICS, 19TH EDITION

Method of Delivery. In the diabetic woman with an A or B White classification, cesarean section has commonly been used to avoid traumatic delivery of a large infant at or near term. In women with advanced classes of diabetes, especially those associated with vascular disease, the reduced likelihood of inducing labor safety, remote from term also has contributed appreciably to an increased cesarean delivery rate. Labor induction may be attempted when the fetus is not excessively large, and the cervix is considered favorable for induction. In the reports cited above with low perinatal mortality, the cesarean section rate was more than 50 percent in Melbourne (Martin and colleagues, 1987), 55 percent in Los Angeles (Gabbe and colleagues, 1977), 69 percent in Boston (Kitzmiller and associates, 1978), 70 percent in a midwestern multicenter study (Schneider and co-workers, 1980), and 81 percent in Dallas (Leveno and associates, 1979). At Parkland Hospital, the cesarean delivery rate for all diabetic women, including class A, was 45 percent from 1988 through 1991, but for overtly diabetic women, it has remained at about 80 percent for the past 20 years.

Mr. SANTORUM. Madam President, I also ask unanimous consent to have printed in the RECORD a letter from Bill and Teresa Heineman who had children who had severe abnormalities, fetal abnormalities, went through and had the children with abnormalities similar to the ones discussed here, and did so healthily and able to have children afterward.

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

WILLIAM J. & TERESA M. HEINEMAN,
Rockville, MD.

We have noted with concern statements made by several couples suggesting, from their very personal and very tragic experiences, that the partial birth abortion is the only procedure available to a woman when the child she is carrying is diagnosed with a severe abnormality.

We have had experiences that were very similar and yet so very different. We have had three children biologically and have adopted three more. Two of our children were born with a genetic abnormality—5-p Trisomy. One also had hydrocephalus. The medical prognosis for these children was that they would have at best a short life with minimal development. Some medical professionals recommended abortion; others were ready to help support their lives. We chose life. That decision carried some hardships. However, God blessed us immeasurably through their short lives.

Our first child, Elizabeth, was diagnosed after her birth. We were deeply saddened but desired to give her the best life we could. Though she never could say a word and could not sit up on her own, she clearly knew us. She learned to smile, laugh, and clap her hands. She was a joy to us for two and one half years. We clearly saw how many lives she had touched with over 200 people attended her Memorial Mass! One child was touched in a very personal way when he received Elizabeth's donated liver. Two others received sight through her eyes.

Our third child, Mary Ann, had been diagnosed with hydrocephalus in utero and shortly after birth with the same genetic abnormality that our oldest daughter had. (We could have known this during pregnancy via amniocentesis, but refused the procedure due to the risk to the baby). Terry's obstetrician said that we were fortunate, though, that Mary Ann would have the chance to go home with us. We learned to feed her through a gavage tube as she was unable to suck to receive nourishment. Our son, Andrew, developed a special bond with his sister. We spend the next five months as a family, learning, growing and caring for our children. When our precious daughter died, we celebrated her life at a Memorial Mass with family and friends.

Our belief in Jesus Christ and His gift of salvation provided comfort for us as our daughters entered their new home in heaven. They remain a part of our family and are always in our hearts. They enriched our lives and touched the lives of many others. Our Creator sent these children to us and we were privileged to love and care for them. What a tremendous loss to all of us who know them to terminate their lives because they were not physically perfect. We look forward to a joyous reunion with them in heaven.

It is so easy to see the half of the glass that is empty when we face difficult problems; will we have the courage to allow our children to have the half of the glass that is full? We pray for other mothers and fathers who are faced with agonizing decisions that they will remain open to the gift being entrusted to them. God's love is ever-present during our times of joy and sadness. He is with us now as well are parents to Andrew, now nine years old, and three children: Maria, Christina, and Joseph; ages 11, 9 and 7, who joined our family through adoption.

Mr. SANTORUM. I yield to the Senator from Michigan 3 minutes.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. I thank the Senator from Pennsylvania.

I had hoped there would be a little more time today for me to address the Senate on this issue, but we have so many speakers we are all going to have to condense our remarks. I thought I would just highlight more of a personal experience of my own and my family's trying to put this in perspective and at least outline where my views are on this issue.

I have sort of an interesting distinction in that of all of the Members of this body, I am the parent with the youngest child as of this moment, a 3-week-old son who, of course, we are very excited about and love very much. He was born 3 weeks ago today. I was there for the delivery. While it was happening, my wife and I both thought a lot about the birth of our twin daughters who were born 3 years and 3 months ago.

They were born prematurely. They had to stay in a hospital for several weeks in a neonatal intensive care unit. We experienced firsthand the kinds of miracles that go on today all across this country with the births, at very early stages, of babies who survive. In that neonatal unit there were children who were born weeks and weeks, including months, early and had been born with birth weights slightly over a pound who were in the hospital for many months who survived.

The fact is, those were babies exactly like the babies who, in a partial-birth abortion, do not survive. We, I think, came away from that experience even more committed than ever before, both

my wife and I, to the notion that we cannot allow practices like the partial-birth abortion to occur in this country. It is a deplorable, deplorable practice. It seems to me that we have to take a stand as a matter of our moral faith and beliefs as a nation in opposition to it.

I have heard a lot of talk from people on all sides of this issue, none of which persuaded me in any sense that I should change the vote I cast some months ago.

I also say this in conclusion. For a lot of people who say they believe in the pro-choice side of this debate but also are not pro-abortion, I believe they are sincere in that feeling. But I also hear them say so often they want to make abortion rare. I cannot believe that if that is the case, if you truly want to make abortion rare, that you would stand in the way of this legislation. If you truly believe that there should be fewer abortions, it seems to me you begin with the ones that are the most deplorable and the least justifiable. Certainly partial-birth abortion is the exact definition of that category.

I hope our colleagues will join us today in overriding this veto. I thank you very much. I yield the floor.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Madam President, before I yield to Senator LIEBERMAN, I ask for one moment, 1 minute.

The Senator from Pennsylvania placed in the RECORD an analysis of a doctor's opinion on Vikki Stella's procedure. I really take offense at this. That doctor has never seen Vikki Stella's medical records. Vikki Stella never granted permission for her medical records to be seen by anyone other than her family and her physician.

Mr. DEWINE. Will the Senator yield?

Mr. SANTORUM. Yet you are to base your decision on this? You can't have it both ways. You can't argue with any——

Mrs. BOXER. I will not yield.

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

Mrs. BOXER. Thank you, Madam President.

Not one of these women who have courageously come forward to tell her story——

Mr. SANTORUM. Is a doctor.

Mrs. BOXER. To my knowledge, not one of these women who has come forward to tell her story has shared her medical records detailing one of the greatest tragedies that her family has ever faced with anyone other than her family, her God, and her own personal physician. I believe that to place in the RECORD testimony of a physician who never saw those records, which implies in many ways that these women are not telling the truth about——

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

Mrs. BOXER. No. I will not yield at this time.

Madam President, we have been debating this for a very long time. I think we have kept our emotions under control. I can personally tell you that there are emotions on both sides. I hope that we can respect each other. We have had hours of debate. We agreed to have hours of debate.

There were days when my colleagues were down here presenting what they said was my position, and that was not proper. I did not complain, I only asked them to stop it. I would like to make a point and then turn to my colleague from Connecticut.

My point is this, the women who have come forward from all over this great Nation of ours to tell their stories are reliving the most painful moments of their lives. To place into the RECORD medical opinions of doctors who never saw the women's medical records, I happen to think is absolutely wrong. It is one Senator's opinion and I just wanted to so state it.

The important thing, it seems to me, is this: All of us today could have a bill, we could have a bill, if we had a true life exception and a narrowly drawn health exception. We could pass a bill, we could send it to this President, who signed a law in Arkansas to outlaw late-term abortions with an exception only for endangerment to the life or health of the woman. We could do this together. I hope we would refrain from casting aspersions on the character and the truthfulness and the integrity of American families like this.

I yield to my colleague and I appreciate his forbearing.

Mr. LIEBERMAN. I thank my friend and colleague from California.

Madam President, the bill which is the subject of the Presidential veto that is before the Senate is limited to a particular medical procedure, but for me, and I guess for many other Members of the Senate, it raises once again the most difficult issues in the debate over abortion.

The opponents of this medical procedure have raised facts that all of us, whether generally pro-life or generally pro-choice, must acknowledge as relevant and troubling.

In protecting a woman's right to choose, a constitutionally protected woman's right to choose, we are for the most part presenting the right to have an abortion early in pregnancy. The fact is that over 90 percent of abortions are performed by the end of the first 12 weeks of pregnancy. A small portion of abortions, estimated by at least one authority as less than one-half of 1 percent, occur after 26 weeks of gestation.

This debate on this veto of this bill, H.R. 1833, involves an abortion procedure that is used later in pregnancies. Questions that are settled for the bulk of early-performed abortions, to me, are less clear for this small minority of later abortions.

In particular, I must say since the Senate adopted this legislation earlier, I have been reading a number of commentaries, studies, and articles, particularly one very long and thoughtful article by David Brown, of the Washington Post, who, I gather, is a doctor. Together, they call into question such basic facts as the number, timing, and motivations for abortions performed using this procedure.

The controversy over this matter has, of course, not been confined to the press. Like most of my colleagues in the Chamber, I have heard from many—including many constituents—who have said to me that partial-birth abortions are only performed in very rare situations where a woman's life is in danger. Others have said literally thousands of late-term partial-birth abortions are performed on a purely elective basis without medical necessity. The medical community itself has expressed conflicting opinions about the quantity, safety, and efficacy of this particular abortion procedure.

Madam President, these conflicting opinions and questions are crucial to our determination of whether and how we should legislate regarding late-term abortions. I, for one, believe, the record before the Senate raises sufficient concerns to compel not only further study but another attempt to legislate. I know that this effort will not be easy because it raises the various difficult questions of whether there are any limitations that we believe should be put on late-term abortions.

In Doe versus Bolton, which was decided together with Roe versus Wade, the Supreme Court acknowledged the right of the States to ''readjust its views and emphases in the light of the advanced knowledge and techniques of the day.'' These two historic Supreme Court decisions, Doe versus Bolton and Roe versus Wade, together, effectively prevented the States from limiting a woman's right to choose before fetal viability, but as I read them, permitted State intervention after viability.

The question, then, is whether and how we as lawmakers and our colleagues in State legislatures choose to intervene. Procedures that involve abortions, late into pregnancy, put our concern with the health and freedom of choice of the mother in conflict with the viability of the fetus which advances in medical science continue to move earlier in pregnancy.

Madam President, the evidence that some partial-birth abortions are being performed not only late in pregnancy but electively—which is to say, without medical necessity, let alone without life-threatening circumstances to the mother—make a hard case ultimately and profoundly unacceptable.

In the context of these very difficult questions that demand careful balancing and the most thoughtful and well-defined legislating, I continue to find the wording of the bill before the Senate much too broad, particularly since it imposes criminal penalties. It would subject doctors to jail for medical decisions they make. It would criminalize abortions performed using

this medical procedure at any time in a pregnancy under all circumstances except, ''When a partial-birth abortion * * * is necessary to save the life of a mother whose life is endangered by a physical disorder, illness, or injury.''

Madam President, I repeat, I find that language too broad and too absolute to justify criminal penalties in the very difficult and complicated circumstances that reality provides in this case.

I will therefore vote to sustain the President's veto of H.R. 1833, the Partial-Birth Abortion Act of 1995.

However, I will do so with a growing personal anxiety that I know I share with Members of the Senate that something very wrong is happening in our country, that there are abortions being performed later in pregnancies that are not medically necessary, and that we all have an interest in working together, through the law, to stop this.

Whether we are pro-choice or pro-life, on this one I think we have to all reach for a common ground in the weeks and months ahead where we will lower our voices, find our common values and raise our sights so that we can find a way to better protect fetal life in the latter stages of pregnancy without unfairly denying the constitutional rights of pregnant women to choose.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mrs. BOXER. Madam President, I yield 2 minutes to the Senator from Illinois. And then, after that, I will ask the Senator from Pennsylvania to use up as much time as he would like.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. I thank the Senator from California. I rise really on a point of personal privileges. Vikki Stella, the person in this picture, is a constituent of mine. She is in Illinois. I spoke of her situation and the trauma that she experienced in having a late-term abortion of a child that she very much wanted to have and the trauma that it caused her. She, as well as her family, was traumatized. But the fact that she was able to preserve her fertility gave them a new baby in that family.

A point I touched on in my remarks this morning had to do with the issue of personal liberty and, as a subset of that, one's personal privacy. Here we have Vikki Stella, who expressed her own personal circumstance, something that happened in real life to her, something that wasn't theoretical, hypothetical, or conjecture, it was very real and traumatic for her and her family. Yet, we find, as part of this debate, her testimony and the privacy around her own health being debated by physicians who have never met her or saw her, never examined her, and her medical records being challenged on the floor of the U.S. Senate. I think that is extraordinary.

I, frankly, call attention to this notion. As we look at this debate, ask yourself if you really want to have the Government going as far as to a debate about your own personal medical records, in something as traumatic as, no doubt, this situation was for Vikki Stella and her family. If there is one thing about which we can have a consensus—and I refer to the statement of my colleague from Connecticut—I believe there is consensus that one's medical record and condition is about as private as you are going to get. That falls within the zone of privacy that is constitutionally protected for every American.

Yet, we have a letter introduced, as I understand it, into the RECORD today taking issue with the medical records and the medical history of Vikki Stella. I think that is extraordinary, and I think it falls outside of the purview of accepted practice and certainly outside the purview of the debate that should be taking place in this Senate.

I thank the Chair and I thank the Senator from California.

Mrs. BOXER. I thank my colleague.

Mr. SANTORUM. I yield the Senator from Idaho 2 minutes.

Mr. KEMPTHORNE. Madam President, a partial-birth abortion is exactly what its name implies—a baby that is inches from being born has its life terminated.

Many of the colleagues on the floor have said that in listening to the details of how the procedure is rendered, seeing the graphics, they find it offensive and grotesque. I agree, but, unfortunately, that is the procedure.

It is hard to recite these facts. I believe this statement made by Senator PATRICK MOYNIHAN perfectly reflects my own thinking:

> I think this is just too close to infanticide. A child has been born and it has exited the uterus, and what on Earth is this procedure?

''Just too close to infanticide.'' The truth is that a victim of this procedure is a baby who is mere inches, and literally seconds away from being born and, if born, would be entitled to all of the legal protections that govern the taking of human life.

What is this procedure and why would it ever be used? Proponents claim that it may be needed to protect the life and health of the mother. Proponents say that the bill's life-of-the-mother exception does not go far enough to protect the health of the mother. On this point I found persuasive the views of 300 physicians, most of whom are obstetricians, gynecologists, and pediatricians who wrote in their September 18 letter to Congress the following:

> There are simply no obstetrical situations which require a partially delivered human fetus to be destroyed to protect the life, health, or future fertility of the mother. The partial birth abortion procedure itself can pose both an immediate and significant risk to a woman's health.

It is also persuasive to me that those who are pro-choice and early supporters of partial birth abortions have now reversed their view. After reviewing additional facts made available, Washington Post Columnist Richard Cohen changed his mind and now urges the Senate to override the President's veto. Here is what he now says:

> I was led to believe that these late-term abortions were extremely rare and performed only when the life of the mother was in danger or the fetus irreparably deformed. I was wrong, my Washington Post colleague, David Brown—a physician himself—after interviewing doctors who performed late-term abortions and surveying the literature, wrote: ''These doctors say that while a significant number of their patients have late abortions for medical reasons, many others—perhaps the majority—do not.''

Richard Cohen concludes with this statement: ''Society has certain rights, too, and one of them is to insist that late term abortions—what seems pretty close to infanticide—are severely restricted.''

We vote on this issue because majorities of the House and Senate approved this legislation. President Clinton vetoed it. The House of Representatives voted to override the President's veto.

The Senate will decide today whether this bill becomes law. The Senate will decide if this procedure is ''just too close to infanticide'' and should be restricted.

Because it is ''just too close to infanticide'' I will vote to override this veto. I will vote to restrict partial birth abortions out of concern that this procedure may adversely affect the health of women and out of conviction that we must protect innocent infants whose births are and should be imminent. Not their deaths. Death should not come seconds before birth.

On many issues all of us in the Senate must vote on issues of where to draw the line, of what is legally and morally right or wrong. In this case, my view is this bill draws the line where it should be. My vote will be to override the President's veto. My prayer will be for this bill to become law.

Mr. SANTORUM. Madam President, I yield 2 minutes to the Senator from Missouri.

Mr. BOND. Madam President, I rise today to express my strong support for the override of President Bill Clinton's veto of the partial-birth abortion bill. Rarely have we seen a President so willing to ignore the wishes of the overwhelming majority of the American people. Having talked to and listened to the people of Missouri over the last few weeks, I can say that there is an overwhelming majority opposed to this heinous procedure.

The President has told us that the procedure is rare and only done to save the life of the mother. But that is not true. Surveys of practitioners of abortion in several States show that the procedure is often elective, not essential. Right in the bill is a provision that the procedure can be performed to save the life of the mother. So President Clinton cannot hide behind this reason in choosing to veto this bill.

Many reporters have asked me why we are holding a vote on this issue in

the Senate today when we are, unfortunately, likely to fall short of what is needed to override the veto.

Here is the reason: The American people are asking us to override the veto.

I have been home in Missouri these past weekends, and there is no issue I have heard more about where the feelings are strong. Since July, I have received more than 27,000 cards and letters from Missourians who are strongly opposed to this. So we are holding this vote because the President made a terrible mistake in vetoing this bill, and it is up to Congress, representing the people, to reverse it.

As has been stated, several Senators who have studied this issue since we first voted have already had a change of heart. The people want this bad decision by the President overturned. Now is the time to do it. It has to be done.

I yield the floor.

Mrs. FEINSTEIN. Mr. President, I oppose the override of the veto of H.R. 1833, a bill banning emergency late-term abortions.

This bill is unnecessary. It is an unprecedented intrusion by the Federal Government into medical decision-making and it represents a direct constitutional challenge to safe and legal abortion as protected under the Roe versus Wade Supreme Court decision which has been the law of the land for 23 years.

There are several reasons why this is a flawed bill.

First, this bill attempts to ban a specific medical procedure, called by opponents, partial-birth abortion, but there is no medical definition of ''partial-birth abortion.''

Second, the language in this bill is so vague that it could affect far more than the one particular procedure it seeks to ban. As such, it undermines Roe versus Wade.

Third, there is no exception to protect the health of the woman. This bill would be a blanket ban on the use of a type of medical procedure regardless of whether it is the safest procedure under a particular set of circumstances.

Fourth, this bill presumes guilt on the part of the doctor and forces physicians to prove that they did not violate the law.

Fifth, this bill is unnecessary Federal regulation, since 41 States have already outlawed postviability abortions except to save a woman's life or health.

Sixth, this is an ineffective bill because most cases not affected by it.

NO MEDICAL TERM FOR PARTIAL-BIRTH ABORTION; DOCTORS VULNERABLE TO PROSECUTION

H.R. 1833 seeks to outlaw a medical procedure called, by the bill, partial-birth abortion. This procedure does not appear in medical textbooks. It does not appear in the medical records of doctors who are said to have performed this procedure.

The doctors who testified before the Senate Judiciary Committee could not identify, with any degree of certainty or consistency, what medical procedure this legislation refers to.

For example, when asked to describe in medical terms what a ''partial-birth abortion'' is, Dr. Pamela Smith, director of ob/gyn medical education at Mt. Sinai Hospital in Chicago called it ''* * * a perversion of a breech extraction.''

Dr. Nancy Romer, a practicing ob/gyn and assistant professor at Wright State University School of Medicine, who said the doctors at her hospital had never performed the procedure, had to quote another doctor in describing it as ''a Dilation and Extraction, distinguished from dismemberment-type D&Es.''

When the same question was posed to legal experts in the Judiciary Committee hearings—to define exactly what medical procedure would be outlawed by this legislation—the responses were equally vague.

The vagueness of exactly what medical procedures would be criminalized under this bill is striking and it may be vague for very deliberate reasons.

By leaving the language vague every doctor that performs even a second trimester abortion could face the possibility of prosecution under this law.

Senator HATCH said in our previous debate that every woman testifying in the committee who thought they were testifying about a ''partial birth abortion,'' were not affected by this legislation.

This is evidence of the confusing and nonspecific nature of this so-called partial birth procedure.

THIS BILL COULD AFFECT OTHER LEGAL PROCEDURES

The language in this bill is so vague that, far from outlawing just one, particular abortion procedure, the way this bill is written virtually any abortion procedure could fall within its scope.

I asked the legal and medical experts who testified at the Judiciary Committee hearing if this legislation could affect abortion—not just late-term abortions—but earlier abortions of nonviable fetuses as well.

Dr. Louis Seidman, professor of law from Georgetown University, gave the following answer:

> As I read the language, in a second trimester pre-viability abortion where the fetus will in any event die, if any portion of the fetus enters the birth canal prior to the technical death of the fetus, then the physician is guilty of a crime and goes to prison for 2 years.

Dr. Seidman continued his testimony concluding that:

> 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 eventuate in some portion of the fetus entering the birth canal before the fetus is technically dead, much less being able to demonstrate that after the fact.

Dr. Courtland Richardson, associate professor of gynecology and obstetrics at Johns Hopkins University School of Medicine, in testimony before a House committee, said,

> [the language] ''partially vaginally delivers'' is vague, not medically oriented, and just not correct.
>
> In any normal 2nd trimester abortion procedure by any method, you may have a point at which a part, a one inch piece of [umbilical] cord for example, of the fetus passes out of the cervical [opening] before fetal demise has occurred.

So, contrary to proponents' claims, this bill could affect far more than just the few abortions performed in the third trimester, and far more than just the one procedure being described.

PRESUMES GUILT; AFFIRMATIVE DEFENSE

Another troubling aspect of this legislation to me is that it violates a fundamental tenet of our legal system—the presumption of innocence. This bill does exactly the opposite—it presumes guilt.

This legislation provides what is known as affirmative defense—whereby an accused physician could escape liability only by proving that he or she ''reasonably believed'' that the banned procedure—whatever that procedure proves to be—was necessary to save the woman's life and that no other procedure would have sufficed.

It also opens the door to prosecution of doctors for almost any abortion by forcing them to prove they did not violate a law that can be interpreted in many, many different ways.

NO HEALTH EXCEPTION

This legislation has no exemption or protection for the health of the mother and, as such, would directly eliminate that protection provided by the Supreme Court in Roe versus Wade and Planned Parenthood versus Casey.

If this legislation were law, a pregnant woman seriously ill with diabetes, cardiovascular problems, cancer, stroke, or other health-threatening illnesses would be forced to carry the pregnancy to term or run the risk that the physician could be challenged and have to prove in court what procedure he used, and whether or not the abortion ''partially vaginally-delivered'' a living fetus before death of that fetus.

It is also important to point out that, on the extremely rare occasions when a third trimester abortion is performed, it is virtually always in cases where there is severe fetal abnormality or a major health threat to the mother. This procedure is less risky for the mother than other procedures—such as a cesarean delivery, induced labor, or a saline abortion—because there is less maternal blood loss, less risk of uterine perforation, less operating time—thus cutting anesthesia needs—and less trauma to the mother. Trauma, for example, can lead to an incompetent cervix which can cause repeated pregnancy loss.

The sad fact is, while our technology allows many genetic disorders to be detected early in pregnancies, all cannot be detected.

While many women undergo sonograms and other routine medical examinations in the earliest weeks of pregnancy to monitor fetal development, and, if a woman is over 35 years

of age, she may undergo amniocentesis, these tests are not routine for women under 35 because of the potential risk to the fetus with amniocentesis, plus the additional cost involved.

Ultrasound testing would provide further early detection of fetal anomalies, but these tests also are not routinely used until late pregnancy. As a result, some women carry fetuses with severe birth defects late into the pregnancy without knowing it.

According to obstetricians, some of the severe fetal anomalies that would cause a woman to end a pregnancy at this late stage are tragic: Cases where the brain forms outside the skull; cases where the stomach and intestines form outside the body or do not form at all; fetuses with no eyes, ears, mouths, legs, or kidneys—sometimes, tragically, unrecognizable as human at all.

But even with advanced technology, many serious birth defects can only be identified later, often in the third trimester or when the fetus reaches a certain size.

Anomalies such as hydrocephaly may not even be detected with an early ultrasound examination.

Other abnormalities such as polyhydramnios—too much amniotic fluid—does not occur until the third trimester—and may require an abortion.

The delivery of these babies can often endanger the mother's life.

The families who face these unexpected tragedies do not make hasty or careless decisions about their options.

In addition to the obstetrician, they seek second and third opinions, often consulting specialists, including perinatalogists, genetic counselors, pediatric cardiologists, and pediatric neurosurgeons—who explore every available option to save this baby that they very much want.

The Federal Government has no place interfering, making this tragic situation any more difficult or complicated for these families.

ROE VERSUS WADE ALREADY ALLOWS STATES TO BAN LATE-TERM ABORTIONS

Why is this legislation even necessary?

Roe versus Wade unequivocally allows States to ban all postviability abortions unless they are necessary to protect a woman's life or health. Forty-one States have already done so.

The whole focus of this Congress has been to give power and control back to the States and getting the Federal Government out of people's lives.

Surely anyone who believes in States' rights must question the logic of imposing new Federal regulation on States in a case such as this, in areas where States have already legislated.

MOST CASES NOT AFFECTED

As drafted, this bill is meaningless under the Constitution's commerce clause, because it would only apply to patients or doctors who cross State lines in order to perform an abortion under these circumstances.

The vast majority of cases would even be affected by this law. So what is the point?

The point is that this legislation has little or nothing to do with stopping the use of some horrific and unnecessary medical procedure being performed by evil or inhumane doctors.

If that were the case we would all be opposed.

CONCLUSION

This is a vague, poorly constructed, badly intended bill.

It attempts to ban a medical procedure without properly identifying that procedure in medical terms.

It is so vague that it could affect far more than the procedure it seeks to ban.

It presumes guilt on the part of the doctor.

And it ignores the vital health interests of women who face tragic complications in their pregnancies.

But the strongest reason to vote against this bill, in my view, is that it is not the role of the Federal Government to make medical decisions.

I urge my colleagues to vote to sustain the President's veto.

Mr. SPECTER. Mr. President, this is among the most difficult of the 6,003 votes I have cast in the Senate because it involves a decision of life and death on the line between when a woman may choose abortion and what constitutes infanticide.

In my legal judgment, the issue is not over a woman's right to chose within the constitutional context of Roe versus Wade or Planned Parenthood versus Casey. If it were, Congress could not legislate. Congress is neither competent to micromanage doctors' decisions nor constitutionally permitted to legislate where the life or health of the mother is involved in an abortion.

In my legal judgment, the medical act or acts of commission or omission in interfering with, or not facilitating the completion of a live birth after a child is partially out of the mother's womb constitute infanticide. The line of the law is drawn, in my legal judgment, when the child is partially out of the womb of the mother. It is no longer abortion; it is infanticide.

This vote does not affect my basic views on the pro-choice/pro-life issue. While I am personally opposed to abortion, I do not believe it can be controlled by the Government. It is a matter for women and families with guidance from ministers, priests, and rabbis.

Having stated my core rationale, I think it appropriate to make a few related observations:

Regrettably, the issue has been badly politicized. It was first placed on the calendar for a vote without any hearing and now the vote on overriding the President's veto has been delayed until the final stages of the Presidential campaign.

We had only one hearing which was insufficient for consideration of the complex issues. After considerable study and reflection on many factors including the status of the child partly out of the womb, I have decided to vote for the bill and to override the President's veto. As I view it, it would have been vastly preferable to have scheduled the vote in the regular course of the Senate's business without delaying it as close to the election as possible.

From mail, town meetings and personal contacts, I have found widespread revulsion on the procedure on partial-birth abortions. This has been voiced by those who are pro-choice as well as pro-life. Whatever the specifics of the procedure, if it is permitted to continue, it may be sufficiently repugnant to create sufficient public pressure to pass a constitutional amendment to reverse Roe.

It has been hard to make a factual determination because of the conflicting medical claims on both sides of the issue.

Solomon would be hard pressed to decide between two beautiful children: First one whose mother had a prior partial-birth abortion and says that otherwise she would have been rendered sterile without the capability to have her later child; second, one born with a correctable birth defect where the mother had been counseled to abort because of indications of major abnormalities. Human judgment is incapable of saying which is right. We do see many children with significant birth defects surviving with a lesser quality and length of life, but with much love and affection between parents and children and much meaning and value to that life. No one can say how many children are on each side of that equation.

If partial-birth abortions are banned, women will retain the right to choose during most of pregnancy and doctors will retain the right to act to save the life of the mother.

After being deeply involved in the pro-life/pro-choice controversy for three decades as a district attorney and Senator, I believe we should find a better way to resolve these issues than through this legislative process.

Ms. MIKULSKI. Mr. President, I will vote to sustain the President's veto of H.R. 1833, the late term abortion ban bill. I do so recognizing the gravity of the issue.

I do so for a very basic reason. I believe that women, in consultation with their physicians, must make decisions on what is medically necessary in reproductive matters. It must be a medical decision not a political decision.

At the very core of this vote is a very basic question. Who decides? Who decides whether a difficult pregnancy threatens a woman's life? Who decides whether a woman's physical health will be seriously harmed if a pregnancy is continued? Who decides what is medically necessary for a particular woman in her unique circumstances? Who decides?

The answer must be that doctors decide. Doctors, not politicians, must make these decisions. The women

themselves must decide. But politicians should not be making these medical decisions.

If this bill is enacted, Congress will be shackling physicians. As one witness on this bill testified, Congress will be ''legislating malpractice.''

Doctors will be faced with an impossible choice. They can deny to their patients a procedure that they believe to be medically necessary. Or they will face criminal prosecution. We should not make criminals out of doctors acting in the best interests of their patients.

There are some significant misunderstandings about what this bill provides. Let me speak about two of them.

First of all, this bill does not provide a true exception for cases where the woman's life is endangered. It is not like the Hyde amendment, with which most of us are familiar.

The Hyde amendment, which deals with Federal funding of abortion, provides an exception where the life of the woman would be threatened if the fetus were carried to term. That is not what this bill does.

This bill provides an exception only when a woman's life is threatened by a physical disorder, illness or injury and no other medical procedure would suffice to save the woman's life.

In other words, where there is a preexisting condition which the pregnancy would aggravate. It does not provide a life exception when it is the very pregnancy itself that threatens the woman's life.

Let me name a few of those conditions. If carrying the fetus to term would result in a ruptured cervix, severe hemorrhaging, or the release of toxins from the dead fetus, the life exception in this bill would not apply.

But even in the case of a preexisting condition, the life exception only applies if no other medical procedure would suffice. This would require a physician to use an alternative procedure, so long as the woman would survive. Even though a safer procedure—the procedure this bill seeks to ban—might be the better medical decision.

Let me talk about a second misunderstanding about this bill. This bill provides no exception for cases where the woman's health would be seriously impaired by carrying the fetus to term.

A health amendment was offered during our debate. It provided an exception in cases where the physician acts to avert serious, adverse health consequences to the woman. That amendment was rejected.

And that is a shame. Many of us who oppose this bill would have supported it if there were a true life and health exception. President Clinton would have signed such a bill.

We would not be here today debating this if this health exception had been adopted. It is too bad that some decided they would rather have a political issue than a signable bill.

Why is this health exception so important? Because there are cases where women will suffer serious, long-term, dire consequences to their health if the procedure banned by this bill is not available to them.

Women with diabetes or other kidney related diseases could see their condition escalated by being denied the procedure that is medically necessary in their case. Women could suffer debilitating impairments of their reproductive systems, or the loss of their future fertility.

These are not minor medical considerations. These are not whims. These are cases where a woman's future physical well-being is seriously threatened. Where her life could be shortened because a serious medical condition like diabetes has been aggravated. The lack of a health exception in this bill for these women is unacceptable to me.

Mr. President, let me speak for a moment about the larger issue of abortion. Let me say plainly that I am appalled that there are some 1.5 million abortions every year. This troubles me. It should trouble every Member of this body.

We have to do a better job in preventing unplanned pregnancies. We can do better in educating young people and in teaching them about the importance of abstinence. We need to do more to give them a sense of hope for their futures, and an understanding of how a teenage pregnancy robs them of that future.

So yes, we should be appalled that there are over a million abortions every year. And each of us has an obligation to address that.

But let me get back to my original point and my original question. Who decides? Women, in consultation with their physicians, must make the decisions on reproductive matters. Physicians must be free to determine what is medically necessary. And politicians should not prevent them from acting in the best interests of their patients.

So I will vote to uphold the President's veto of this legislation.

Mr. MOYNIHAN. Mr. President, it happens I was ill on December 7, 1995, when the measure before us now was first voted on by the Senate. Had I been present, I would have voted in favor of the bill, and today I will vote to override the President's veto.

Some while later, I was asked about the matter. I referred to the particulars of the medical procedure, as best I understood them. In an article in this morning's New York Times, our former Surgeon General C. Everett Koop writes:

> In this procedure, a doctor pulls out the baby's feet first, until the baby's head is lodged in the birth canal. Then, the doctor forces scissors through the base of the baby's skull, suctions out the brain, and crushes the skull to make extraction easier. Even some pro-choice advocates wince at this, as when Senator Daniel Patrick Moynihan termed it ''close to infanticide.''

It is the terrible fact of our national debate over abortion that there has seemed no possibility of compromise as between opposing views; as if we are consigned to unceasing conflict. More than two centuries ago—270 years, to be precise—Dean Swift saw this as the condition of certain societies—that of the ''Big-Endians'' and the ''Little-Endians'' engaged in ''a most obstinate War for six and thirty Moons past''—and woe it was to them. Dr. Koop, however, argues that there are points that those of opposing views can concede without surrender of principle, and that there are measures which lend credence to those principles which are too often slighted. He writes:

> Both sides in the controversy need to straighten out their stance. The pro-life forces have done little to help prevent unwanted pregnancies, even though that is why most abortions are performed. They have also done little to provide for pregnant women in need.

I would suggest, for example, that there could be few measures more likely to encourage abortion than our decision just last month to impose severe time limits on eligibility for what had been title IV–A of the Social Security Act, aid to families with dependent children. Indeed, we repealed AFDC. It is the sorry fact, then, that of the 285 Members of the House of Representatives who voted to override the President's veto of H.R. 1833, all but 23 also voted to repeal aid to families with dependent children.

Once again, in my view, the honorable stance has been that of religious leaders who opposed both the welfare bill we have enacted and the procedure that we now seek to ban.

One notes that the present bill ''shall not apply to a partial-birth abortion that is necessary to save the life of a mother * * *.'' That said, however, the fact is that we are providing by statute for the possible imprisonment of medical doctors. This, surely, is deplorable. In a great age of medical discovery, far beyond the comprehension of all but a very few Members of Congress, it is supremely presumptuous of lawmakers to impose their divided judgment on the practice of a sworn profession whose first commitment is to preserve life. Can we not stop this ugliness before it begins to show on the national countenance? Is there no better way to resolve these issues? Surely, this wrenching experience should encourage us to seek one—or many.

Mr. FAIRCLOTH. Mr. President, I rise to urge my colleagues to vote to override President Clinton's veto of the Partial-Birth Abortion Ban. I do not believe this is simply an issue of a woman's right to choose whether or not to have a child. It is also an issue of protecting the life of an unborn child. It seems to me that, however much we may disagree about the issue of when life begins, when it comes to late-term abortions, we are clearly talking about a baby. And it is entirely reasonable to place restrictions on such abortions, especially when the procedure in question is as barbaric as

this one. I agree with my colleague from Pennsylvania that partial-birth abortion is infanticide.

The lead editorial in today's Wall Street Journal points out:

''Up till now the abortion debate, if you'll pardon the metaphor, has managed to ignore the 800-pound gorilla in the room. For the first time, people are also talking about the fetus, not about women alone. A fetus may or may not be human, but on the other hand, it's not nothing. At 20 weeks of gestation, when the partial-birth abortion debate begins, a fetus is about nine inches long and is clearly becoming human.''

Opposition to the effort to ban this procedure has been based largely on false claims about the relative safety and medical necessity of this procedure. Even former Surgeon General Everett Koop, an authority on the subject of fetal abnormalities, has stated in today's New York Times that, ''With all that modern medicine has to offer, partial-birth abortions are not needed to save the life of the mother * * *.''

Opponents of the ban have also claimed that this procedure is performed only in the rarest of circumstances and only in life-threatening situations. But those claims, too, have proven to be false. In fact, in the State of New Jersey alone, some 1,500 such abortions are performed yearly. And the doctor who invented the procedure has admitted that 80 percent of these procedures he has performed were purely elective.

Mr. President, the truth is that, in the name of so-called freedom of choice we have created a situation in which abortion on demand—at any time during pregnancy, for any reason—is the norm. It is time we decided where we are going to draw the line. This is a good place to draw it. I urge my colleagues to vote to override this veto.

Mr. HELMS. Mr. President, regardless of the outcome, when the Senate votes on the question of whether to override President Clinton's veto of the Partial-Birth Abortion Ban Act, the impact will have grave consequences. For those who care deeply about the most innocent and helpless human life imaginable, failure to override the Clinton veto will border on calamitous. But it will have focused the abortion debate on the baby.

The spotlight will no longer shine on the much-proclaimed right to choose. Senators have been required to consider whether an innocent, tiny baby—partially-born, just 3 inches from the protection of the law—deserves the right to live, and to love and to be loved. The baby is the center of debate in this matter.

On December 7, 1995, the Senate voted, 54 to 44, to outlaw the inhuman procedure known as a partial-birth abortion, as the House of Representatives had done the previous November 1. But the President, taking his cue from the radical feminists and the National Abortion Rights Action League, vetoed the bill.

President Clinton, and other opponents of the Partial-Birth Abortion Ban Act, have sought to explain the necessity of a procedure that allows a doctor to deliver a baby partially, feet-first from the womb, only to have his or her brains brutally removed by the doctor's instruments. The procedure has prompted revulsion across the land, even among many who previously had supported the freedom-of-choice rhetoric.

Many Americans view the President's veto in terms of a character lapse and a regrettable failure of moral judgment. Now Senators must stand up and be counted, for or against the President's veto, with him or against him, for or against the destruction of innocent human life in such a repugnant way.

In my view, the President was wrong, sadly wrong. His veto by any civilized standards, let alone by any measurement of decency and compassion, is wrong, wrong, wrong. The Senate must override the President's cruel error of judgment.

Mr. President, I ask unanimous consent that a September 24 Washington Post column by Richard Cohen, headed ''A New Look at Late-Term Abortion,'' be printed in the RECORD at the conclusion of my remarks. Likewise, I ask unanimous consent a Bergen County, NJ, Sunday Record article of September 15, 1996, headed ''The Facts on Partial-Birth Abortion'' be printed in the CONGRESSIONAL RECORD.

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

[From the Washington Post, Sept. 24, 1996]

A NEW LOOK AT LATE-TERM ABORTION

A RIGID REFUSAL EVEN TO CONSIDER SOCIETY'S INTEREST IN THE MATTER ENDANGERS ABORTION RIGHTS

(By Richard Cohen)

Back in June, I interviewed a woman—a rabbi, as it happens—who had one of those late-term abortions that Congress would have outlawed last spring had not President Clinton vetoed the bill. My reason for interviewing the rabbi was patently obvious: Here was a mature, ethical and religious woman who, because her fetus was deformed, concluded in her 17th week that she had no choice other than to terminate her pregnancy. Who was the government to second-guess her?

Now, though, I must second-guess my own column—although not the rabbi and not her husband (also a rabbi). Her abortion back in 1984 seemed justifiable to me last June, and it does to me now. But back then I also was led to believe that these late-term abortions were extremely rare and performed only when the life of the mother was in danger or the fetus irreparably deformed. I was wrong.

I didn't know it at the time, of course, and maybe the people who supplied my data—the usual pro-choice groups—were giving me what they thought was precise information. And precise I was, I wrote that ''just four one-hundredths of one percent of abortions are performed after 24 weeks'' and that ''most, if not all, are performed because the fetus is found to be severely damaged or because the life of the mother is clearly in danger.''

It turns out, though, that no one really knows what percentage of abortions are late-term. No one keeps figures. But my Washington Post colleague David Brown looked behind the purported figures and the purported rationale for these abortions and found something other than medical crises of one sort or another. After interviewing doctors who performed late-term abortions and surveying the literature, Brown—a physician himself—wrote: ''These doctors say that while a significant number of their patients have late abortions for medical reasons, many others—perhaps the majority—do not.''

Brown's findings brought me up short. If, in fact, most women seeking late-term abortions have just come to grips a bit late with their pregnancy, then the word ''choice'' has been stretched past a reasonable point. I realize that many of these women are dazed teenagers or rape victims and that their anguish is real and their decision probably not capricious. But I know, too, that the fetus being destroyed fits my personal definition of life. A 3-inch embryo (under 12 weeks) is one thing; but a nearly fully formed infant is something else.

It's true, of course, that many opponents of what are often called ''partial-birth abortions'' are opposed to any abortions whatever. And it also is true that many of them hope to use popular repugnance over late-term abortions as a foot in the door. First these, then others and then still others. This is the argument made by pro-choice groups: Give the antiabortion forces this one inch, and they'll take the next mile.

It is instructive to look at two other issues: gun control and welfare. The gun lobby also thinks that if it gives in just a little, its enemies will have it by the throat. That explains such public relations disasters as the fight to retain assault rifles. It also explains why the National Rifle Association has such an image problem. Sometimes it seems just plain nuts.

Welfare is another area where the indefensible was defended for so long that popular support for the program evaporated. In the 1960s, '70s and even later, it was almost impossible to get welfare advocates to concede that cheating was a problem and that welfare just might be financing generation after generation of households where no one works. This year, the program on the federal level was trashed. It had few defenders.

This must not happen with abortion. A woman really ought to have the right to choose. But society has certain rights, too, and one of them is to insist that late-term abortions—what seems pretty close to infanticide—are severely restricted, limited to women whose health is on the line or who are carrying severely deformed fetuses. In the latter stages of pregnancy, the word abortion does not quite suffice; we are talking about the killing of the fetus—and, too often, not for any urgent medical reason.

President Clinton, apparently as misinformed as I was about late-term abortions, now ought to look at the new data. So should, the Senate, which has been expected to sustain the president's veto. Late-term abortions once seemed to be the choice of women who, really, had no other choice. The facts now are different. If that's the case, then so should be the law.

[From the Sunday Record, Sept. 15, 1996]

THE FACTS ON PARTIAL-BIRTH ABORTION

BOTH SIDES HAVE MISLED THE PUBLIC

(By Ruth Padawer)

Even by the highly emotional standards of the abortion debate, the rhetoric on so-called ''partial-birth'' abortions has been exceptionally intense. But while indignation has been abundant, facts have not.

Pro-choice activists categorically insist that only 500 of the 1.5 million abortions performed each year in this country involve the

partial-birth method, in which a live fetus is pulled partway into the birth canal before it is aborted. They also contend that the procedure is reserved for pregnancies gone tragically awry, when the mother's life or health is endangered, or when the fetus is so defective that it won't survive after birth anyway.

The pro-choice claim has been passed on without question in several leading newspapers and by prominent commentators and politicians, including President Clinton.

But interviews with physicians who use the method reveal that in New Jersey alone, at least 1,500 partial-birth abortions are performed each year—three times the supposed national rate. Moreover, doctors say only a ''minuscule amount'' are for medical reasons.

Within two weeks, Congress is expected to decide whether to criminalize the procedure. The vote must override Clinton's recent veto. In anticipation of that showdown, lobbyists from both camps have orchestrated aggressive campaigns long on rhetoric and short on accuracy.

For their part, abortion foes have implied that the method is often used on healthy, full-term fetuses, an almost-born baby delivered whole. In the three years since they began their campaign against the procedure, they have distributed more than 9 million brochures graphically describing how doctors ''deliver'' the fetus except for its head, then puncture the back of the neck and aspirate brain tissue until the skull collapses and slips through the cervix—an image that prompted even pro-choice Sen. Daniel P. Moynihan, D–N.Y., to call it ''just too close to infanticide.''

But the vast majority of partial-birth abortions are not performed on almost-born babies. They occur in the middle of the second trimester, when the fetus is too young to survive outside the womb.

The reason for the fervor over partial birth is plain: The bill marks the first time the House has ever voted to criminalize an abortion procedure since the landmark Roe vs. Wade ruling. Both sides know an override could open the door to more severe abortion restrictions, a thought that comforts one side and horrifies the other.

HOW OFTEN IT'S DONE

No one keeps statistics on how many partial-birth abortions are done, but pro-choice advocates have argued that intact ''dilation and evacuation''—a common name for the method, for which no standard medical term exists—is very rare, ''an obstetrical non-entity,'' as one put it. And indeed, less than 1.5 percent of abortions occur after 20 weeks gestation, the earliest point at which this method can be used, according to estimates by the Alan Guttmacher Institute of New York, a respected source of data on reproductive health.

The National Abortion Federation, the professional association of abortion providers and the source of data and case histories of this pro-choice fight, estimates that the number of intact cases in the second and third trimesters is about 500 nationwide. The National Abortion and Reproductive Rights Action League says ''450 to 600'' are done annually.

But those estimates are belied by reports from abortion providers who use the method. Doctors at Metropolitan Medical in Englewood estimate that their clinic alone performs 3,000 abortions a year on fetuses between 20 and 24 weeks, of which at least half are by intact dilation and evacuation. They are the only physicians in the state authorized to perform abortions that late, according to the state Board of Medical Examiners, which governs physicians' practice.

The physicians' estimates jibe with state figures from the federal Centers for Disease Control, which collects data on the number of abortions performed.

''I always try an intact D&E first,'' said a Metropolitan Medical gynecologist, who, like every other provider interviewed for this article, spoke on condition of anonymity for fear of retribution. If the fetus isn't breech, or if the cervix isn't dilated enough, providers switch to traditional, or ''classic,'' D&E—in utero dismemberment.

Another metropolitan area doctor who works outside New Jersey said he does about 260 post-20-week abortions a year, of which half are by intact D&E. The doctor, who is also a professor at two prestigious teaching hospitals, said he has been teaching intact D&E since 1981, and he said he knows of two former students on Long Island and two in New York City who use the procedure. ''I do an intact D&E whenever I can, because it's far safer,'' he said.

The National Abortion Federation said 40 of its 300 member clinics perform abortions as late as 26 weeks, and although no one knows how many of them rely on intact D&E, the number performed nationwide is clearly more than the 500 estimated by pro-choice groups like the federation.

The federation's executive director, Vicki Saporta, said the group drew its 500-abortion estimate from the two doctors best known for using intact D&E, Dr. Martin Haskell in Ohio, who Saporta said does about 125 a year, and Dr. James McMahon in California, who did about 375 annually and has since died. Saporta said the federation has heard of more and more doctors using intact D&E, but never revised its estimate, figuring those doctors just picked up the slack following McMahon's death.

''We've made umpteen phone calls [to find intact D&E practioners],'' said Saporta, who said she was surprised by The Record's findings. ''We've been looking for spokespeople on this issue. . . . People do not want to come forward [to us] because they're concerned they'll become targets of violence and harassment.''

WHEN IT'S DONE

The pro-choice camp is not the only one promulgating misleading information. A key component of The National Right to Life Committee's campaign against the procedure is widely distributed illustration of a well-formed fetus being aborted by the partial-birth method. The committee's literature calls the aborted fetuses ''babies'' and asserts that the partial-birth method has ''often been performed'' in the third trimester.

The National Right to Life Committee and the National Conference of Catholic Bishops have highlighted cases in which the procedure has been performed well into the third trimester, and overlaid that on instances in which women have had less-than-compelling reasons for abortion. In a full-page ad in the Washington Post in March, the bishops' conference illustrated the procedure and said women would use it for reasons as frivolous as ''hates being fat,'' ''can't afford a baby and a new car,'' and ''won't fit into prom dress.''

''We were very concerned that if partial-birth abortion were allowed to continue, you could kill not just an unborn, but a mostly born. And that's not far from legitimizing actual infanticide,'' said Helen Alvare, the bishops' spokeswoman.

Forty-one states restrict third-trimester abortions, and even states that don't—such as New Jersey—may have no physicians or hospitals willing to do them for any reason. Metropolitan Medical's staff won't do abortions after 24 weeks of gestation. ''The nurses would stage a war,'' said a provider there. ''The law is one thing. Real life is something else.''

In reality, only about 600—or 0.04 percent—of abortions of any type are performed after 26 weeks, according to the latest figures from Guttmacher. Physicians who use the procedure say the vast majority are done in the second trimester, prior to fetal viability, generally thought to be 24 weeks. Full term is 40 weeks.

Right to Life legislative director Douglas Johnson denied that his group had focused on third-trimester abortions, adding, ''Even if our drawings did show a more developed baby, that would be defensible because 30-week fetuses have been aborted frequently by this method, and many of those were not flawed, even by-an expensive defintion.''

WHY IT'S DONE

Abortion rights advocates have consistently argued that intact D&Es are used under only the most compelling circumstances. In 1985, the Planned Parenthood Federation of America issued a press release asserting that the procedure ''is extremely rare and done only in cases when the woman's life is in danger or in cases of extreme fatal abnormality.''

In February, the Nation Abortion Federation issued a release saying, ''This procedure is most often performed when women discover late in wanted pregnancies that they are carrying fetuses with anomalies incompatible with life.''

Clinton offered the same message when he vetoed the Partial-Birth Abortion Ban Act in April, and surrounded himself with women who had wrenching testimony about why they needed abortions. One was an anti-abortion marcher whose health was compromised by her 7-month-old fetus' neuromuscular disorder.

The woman, Coreen Costello, wanted desperately to give birth naturally, even knowing her child would not survive. But because the fetus was paralyzed, her doctors told her a live vaginal delivery was impossible. Costello had two options, they said: abortion or a type of Caesarean section that might ruin her chances of ever having another child. She chose an intact D&E.

But most intact D&E cases are not like Coreen Costello's. Although many third-trimester abortions are for heart-wrenching medical reasons, most intact D&E patients have their abortions in the middle of the second trimester. And unlike Coreen Costello, they have no medical reason for termination.

''We have an occasional amnio abnormality, but it's a minuscule amount,'' said one of the doctors at Metropolitan Medical, an assessment confirmed by another doctor there. ''Most are Medicaid patients, black and white, and most are for elective, not medical, reasons; people who didn't realize, or didn't care, how far along they were. Most are teenagers.''

The physician who teaches said: ''In my private practice, 90 to 95 percent are medically indicated. Three of them today are Trisomy-21 [Down syndrome] with heart disease, and in another, the mother has brain cancer and needs chemo. But in the population I see at the teaching hospitals, which is mostly a clinic population, many, many fewer are medically indicated.''

Even the Abortion Federation's two prominent providers of intact D&E have showed documents that publicly contradict the federation's claims.

In a 1992 presentation at an Abortion Federation seminar, Haskell described intact D&E in detail and said be routinely used it on patients 20 to 24 weeks pregnant. Haskell went on to tell the American Medical News, the official paper of the American Medical Association, that 80 percent of those abortions wre ''purely elective.''

The federation's other leading provider, Dr. McMahon, released a chart to the House

Judiciary Committee listing ''depression'' as the most common maternal reason for his late-term non-elective abortions, and listing ''cleft lip'' several times as the fatal indication. Saporta said 85 percent of McMahon's abortions were for severe medical reasons.

Even using Saporta's figures, simple math shows 56 of McMahon's abortions and 100 of Haskell's each year were not associated with medical need. Thus, even if they were the only two doctors performing the procedures, more than 30 percent of their cases were not associated with health concerns.

Asked about the disparity, Saporta said the pro-choice movement focused on the compelling cases because those were the majority of McMahon's practice, which was mostly third-trimester abortions. Besides, Saporta said, ''When the Catholic bishops and Right to Life debate us on TV and radio, they say a woman at 40 weeks can walk in and get an abortion even if she and the fetus are healthy.'' Saporta said that claim is not true. ''That has been their focus, and we've been playing defense ever since.''

WHERE LOBBYING HAS LEFT US

Doctors who rely on the procedure say the way the debate has been framed obscures what they believe is the real issue. Banning the partial-birth method will not reduce the number of abortions performed. Instead, it will remove one of the safest options for mid-pregnancy termination.

''Look, abortion is abortion. Does it really matter if the fetus dies in utero or when half of it's already out? said one of the five doctors who regularly uses the method at Metropolitan Medical in Englewood. ''What matters is what's safest for the woman,'' and this procedure, he said, is safest for abortion patients 20 weeks pregnant or more. There is less risk of uterine perforation from sharp broken bones and destructive instruments, one reason the American College of Obstetricians and Gynecologists has opposed the ban.

Pro-choice activists have emphasized that nine of 10 abortions in the United States occur in the first trimester, and that these have nothing to do with the procedure abortion foes have drawn so much attention to. That's true, physicians say, but it ducks the broader issue.

By highlighting the tragic Coreen Costellos, they say, pro-choice forces have obscured the fact that criminalizing intact D&E would jettison the safest abortion not only for women like Costello, but for the far more common patient: a woman 4½ to 5 months pregnant with a less compelling reason—but still a legal right—to abort.

That strategy is no surprise, given Americans' queasiness about later-term abortions. Why reargue the morality of or the right to a second-trimester abortion when anguishing examples like Costello's can more compellingly make the case for intact D&E?

To get around the bill, abortion providers say they could inject poison into the amniotic fluid or fetal heart to induce death in utero, but that adds another level of complication and risk to the pregnant woman. Or they could use induction—poisoning the fetus and then ''delivering'' it dead after 12 to 48 hours of painful labor. That method is clearly more dangerous, and if it doesn't work, the patient must have a Caesarean section, major surgery with far more risks.

Ironically, the most likely response to the ban is that doctors will return to classic D&Es, arguably a far more gruesome method than the one currently under fire. And, pro-choice advocates now wonder how safe from attack that is, now that abortion foes have American's attention.

Congress is expected to call for the override vote this week or next, once again turning up the beat on Clinton, barely seven weeks from the election.

Legislative observers from both camps predict that the vote in the House will be close. If the override succeeds—a two-thirds majority is required—the measure will be sent to the Senate, where an override is less likely, given that the initial bill passed by 54 to 44, well short of the 67 votes needed.

Mr. DOMENICI. Mr. President, some time ago, the Congress passed a ban on the procedure known as the partial-birth abortion.

The President vetoed the bill on the grounds that it would threaten the lives and health of American women.

This, despite clear language in the bill allowing the procedure when the life of the mother was in danger.

Many voted against the ban because they thought the data showed that the partial-birth procedure was used sparingly, when no other procedure would suffice, and almost exclusively when the child was severely malformed or the life of the mother was in danger.

We heard that this procedure was used only in the most crucial and desperate situations, and should therefore be allowed to continue.

Since the veto, however, we have acquired much more data, and much more accurate data.

What we are finding is that this procedure is vastly more common than once thought—in fact, hundreds and perhaps thousands are performed each year.

In New Jersey alone, at least 1,500 of these are done each year.

The vast majority of these procedures are done electively, on normal fetuses—they are not performed to protect the life of the mother or because the fetus is profoundly disabled.

The doctors performing this procedure report that only a minuscule amount of these procedures are done for medical reasons—i.e. fetal malformation or concerns about a threat to the mother.

A group of physicians who state emphatically that the partial-birth procedure is never medically necessary.

Former Surgeon General C. Everett Koop was quoted as saying ''partial-birth abortion is never necessary to protect a mother's health or her future fertility.''

This procedure may actually increase the chances of harm to the mother, such as perforation of the uterus or long-term damage to the cervix.

So even though the bill still contains the exception for the life of the mother, it is highly doubtful this procedure is ever needed for medical reasons.

Had the Senate had this information, I believe the result of the vote might have been different.

Some in this body have come to reconsider their position in light of these facts.

My friend from New York, Senator MOYNIHAN, said ''I think this is just too close to infanticide. A child has been born and it has exited the uterus and, what on earth is this procedure?''

I share his opinion of this procedure, and I believe, in light of these facts, the proper and decent thing to do to override the President's veto.

Mr. MCCONNELL. Mr. President, the issue of abortion and the sanctity of life are matters of conscience for me. My views are well known, and deeply held, although I am not an individual known to wear my heart on my sleeve, as the saying goes. However, the vote we will soon take—on overriding the President's veto of the partial-birth abortion ban—presents a very compelling case for restricting a particular kind of abortion that offends our sensibilities as a civilized society.

I won't dwell on the kind of procedure it is. There are others who have described it in its horrific detail. I won't repeat it, but it is important that it be said. So, I commend Senator SMITH, as well as Senator SANTORUM and Senator NICKLES for their leadership in shining the bright light of public debate on the partial-birth abortion issue.

But I would like to speak briefly to explain the significance of this issue. In the Senate, we devote a great deal of time, energy and effort to debating and protecting the rights of those who are at the margins of society, the less fortunate, and the powerless. We do this because we are a caring nation of individuals, families and communities. And, we do this because we have a strong history and tradition of giving opportunity to the weakest in the world: the persecuted, the oppressed and the down-trodden. This uniquely American heritage has made us a strong and successful nation. And, it is the hallmark of our civilized society.

Now, we have before us a bill that would give protection to the most fragile and defenseless among us—the almost-born. What could be more American, than protecting those who have no voice or power?

Abortion steals human potential and possibility, the very definition of what America has meant to so many. On the eve of birth, this theft of the potential and possibility of life seems particularly cruel, inhumane, and even barbaric. It is the antithesis of what this Nation represents and what it stands for.

This is, no doubt, a matter of conscience for each Member of the Senate. But as we look into the depths of our souls, we should understand that unless we speak up on their behalf, those yet-to-be born, and all of the possibilities they represent, will be deprived—in a most inhumane way—of the basic right to begin life.

How many have come to this land, from every corner of the Earth, to begin their lives? Should we not now afford that same opportunity to the almost-born?

I will vote to override the President's veto, and I urge my colleagues to do the same.

Mr. LEVIN. Mr. President, the American College of Obstetricians and Gynecologists have urged Congress to oppose the so-called partial birth abortion bill and the Michigan Section of the American College of Obstetricians

and Gynecologists has also written me to express their opposition to this bill and their support of President Clinton's veto.

The Michigan section's letter states that they ''find it very disturbing that Congress would take any action that would supersede the medical judgement of trained physicians and criminalize medical procedures that may be necessary to save the life of a woman.'' I ask unanimous consent that the 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,
Grand Rapids, MI, September 23, 1996.

Senator CARL LEVIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR LEVIN: The Michigan Section of the American College of Obstetricians and Gynecologists is made up of over 1200 physicians dedicated to improving women's health care. The Advisory Council for the Michigan Section met on September 10, 1996, and discussed H.R. 1833, the Partial-Birth Abortion Ban Act of 1995. The Council does not support this bill, and does support President Clinton's veto. We find it very disturbing that Congress would take any action that would supersede the medical judgment of trained physicians and criminalize medical procedures that may be necessary to save the life of a woman. Moreover, in defining what medical procedures doctors may or may not perform, H.R. 1833 employs terminology that is not even recognized in the medical community.

Thank you for considering our views on this important matter.

Sincerely,

CHARLES W. NEWTON, MD,
Chair, Michigan Section.

Mr. LEVIN. The Supreme Court has held that the Constitution allows States to prohibit abortions during the third trimester, except to protect the life or health of the woman.

Many States have banned late term abortions, by whatever method, and included the constitutionally required exception allowing a physician to consider threats to a woman's life or health.

The vetoed bill prohibits one type of rarely used abortion procedure. But the bill doesn't allow consideration of serious health impairment. When this bill came before the Senate for consideration, I supported an amendment to the bill which would have banned this procedure except when a physician determines that a woman's life is at risk or is necessary to prevent serious adverse health consequences to the woman.

The amendment failed. And with it the chance of acting constitutionally and in accordance with the medical judgement of the American College of Obstetricians and Gynecologists.

Under these circumstances I will vote to sustain the President's veto of H.R. 1833.

Mr. DODD. Mr. President, I speak today with a very heavy heart about the vote on whether to override the President's veto of H.R. 1833, known as the Partial-Birth Abortion Ban Act.

First let me say, Mr. President, that the blatantly political nature of this bill during this year, and specifically this override vote at this time, escapes no one. It is very clear that we are having this debate at this time for purely political purposes.

Mr. President, I am deeply upset and greatly disturbed by this late-term abortion procedure. But the President has made clear, and I have made clear, that if this bill contained an appropriate, narrowly tailored exception for both the life and health of the mother, it would not be objectionable.

I am extremely distressed by the possibility that this procedure is not always performed to protect the health or life of the mother. In my view, when this late-term abortion procedure is performed for reasons other than to save the mother's life or avert serious health effects, it is inappropriate. And it is not just the method employed in this procedure that disturbs me. It is also the fact that it is often a third trimester abortion. I must say that I am bothered by any third trimester abortion that is not performed to save the life of the mother or to avert serious, adverse health consequences.

I am not one of those who believes, Mr. President, that abortions should be available at any time for any reason. I also don't think that all abortions should be banned. I have a long record supporting a woman's right, in consultation with her doctor, to choose. But I do believe that it is reasonable to restrict third trimester abortions to those necessary to save the mother's life or to avert serious health effects. This bill would allow third trimester abortions conducted by other methods to continue.

For the millions of Americans who neither favor abortion under all circumstances nor want to totally remove a woman's right to choose, we should be working together in a non-political way, along with the administration and the medical profession, to narrowly tailor medical exceptions to third trimester abortions. But we are not doing that in this political year, making the political motives of this bill's proponents crystal clear.

Still, Mr. President, sometimes this procedure is necessary to protect a woman's life or to avert serious health consequences, and an exception must be made for those cases. The Senate voted on such an exception—it was an exception for the life of the mother and for serious, adverse health consequences, only. I voted for that exception along with 46 other Senators, and if that exception had passed, I would have voted for the bill, and the President would have signed it. We would not be having this debate at all if that appropriate exception had been included.

Mr. President, there are some cases in which this is the safest, and in other cases only, medical procedure that will avert serious health consequences to a woman or even save her life. I sympathize with the women who find themselves in such tragic circumstances, I realize that their decisions are painful ones to have to make, and I believe that Congress must not supersede the medical judgement of the doctors who believe that this is the best way to treat these patients.

So I believe Mr. President, that there must be an exception to save a woman's life or avert serious health consequences. It must be a limited exception geared only toward serious medical circumstances, but a true exception nonetheless. And it is my hope that Congress and the administration, working with the medical profession, can work together to find a limited way to allow this procedure only to protect the life and health of the mother.

Mr. President, I say again that I am deeply disturbed by this procedure. And so Mr. President, this is not an easy vote for me to cast. But I remain hopeful that a limited exception for this and all third trimester abortions can be developed, and that we can come together and find some unity in this terribly troubling and divisive issue.

Mr. KERRY. Mr. President, today I will support the President in his veto of the late-term abortion bill. But I want to make several points about this debate.

Mr. President, this bill does not clearly define which procedures would be banned because the term ''partial birth'' is not a medical term. The bill defines ''partial birth'' abortion as ''an abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery.'' This vague definition in the bill would, for the first time, impose limits on the Roe versus Wade right of a woman to choose an abortion. This language easily could be interpreted to ban other medical procedures used in the second trimester which are—and should remain—completely legal. The bill would also ban procedures used in the third trimester to save the health or future fertility of the mother. This would overturn the Supreme Court ruling in Roe versus Wade that states in the third trimester can ban abortion procedures except those saving the life or protecting the health of the mother.

Mr. President, I am personally opposed to abortion in the third trimester—except when the life or health of the woman is at risk. But that is the law of the land today. There is no question that late-term abortion procedures are gruesome. But this procedure is considered safer and less traumatic in some cases than alternative late-term procedures. The bill that I voted against and the President vetoed failed to provide exceptions for cases in which a woman's health or future fertility are at risk. To ban a medical procedure that a trained physician concludes will best preserve a woman's chance to have a healthy pregnancy in the future is wrong.

Mr. President, there are only 600 third-term abortions performed in the entire country each year, according to the best statistics we have available from the Alan Guttmacher Institute. In fact, there are only two doctors in the entire United States, located in Colorado and Kansas, who are known to perform abortions during the last 3 months of pregnancy.

In April, President Clinton was joined by five women who had required late-term abortions. One of them described the serious risks to her health that she faced before she had the abortion: ''Our little boy had . . . hydrocephaly. All the doctors told us there was no hope. We asked about in utero surgery, about shunts to remove the fluid, but there was absolutely nothing we could do. I cannot express the pain we still feel.'' But she went on to say that having the late-term abortion ''was not our choice, for not only was our son going to die, but the complications of the pregnancy put my health in danger as well.'' In the haste of some in this chamber to substitute their medical judgement for that of licenced physicians, it appears to me that the anguished circumstances of women such as this and their families are being cavalierly shoved aside.

I support Roe versus Wade's ban of third trimester abortions except where a woman faces real, serious risks to her health. Although there is no evidence that this procedure is used in situations where a woman's health is not seriously at risk, I oppose this procedure if used in circumstances that do not meet that standard and would support appropriate legislation to ban them. At the same time, I believe it would be unacceptable to ban a procedure which competent medical doctors in some cases conclude represents the best hope for a woman to avoid serious risks to her health.

I will uphold the President's veto of this bill. I believe that it would be a major mistake for the Federal Government to try to practice medicine in order to make an ideological point. Trained doctors, after consulting with their patients, should make these decisions. I urge my colleagues to support the President on this difficult issue.

Ms. SNOWE. Mr. President, I rise to speak in opposition to this effort to override the President's veto of H.R. 1833.

Mr. President, this is our very last chance to ensure that this punitive legislation does not have the effect of putting women's lives and health on the line. For that is exactly what will happen if we override the President's veto today. Women's lives and health will be put at tragic risk. And Congress will be substituting its judgment for that of doctors, by outlawing a medical procedure for the first time since Roe versus Wade.

There is no question that any abortion is an emotional, wrenching decision for a woman. When a woman must confront this decision during the later stages of a pregnancy because she knows that the pregnancy presents a direct threat to her own life or health, such a decision becomes a nightmare.

Mr. President, 22 years ago, the Supreme Court issued a landmark decision in Roe versus Wade, 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.

Let me repeat—as long as they allowed exceptions for cases in which a woman's life or health is endangered.

The Supreme Court has reaffirmed this decision time and time and time again. And to date, 41 States—including my home State of Maine—have exercised their right to impose restrictions on post-viability abortions. All, of course, provide exceptions for the life or health of the mother, as constitutionally required by Roe.

This legislation, as drafted, does not provide an exception for the health of the mother, and provides only a very narrow life exception. It is narrow because it only allows a doctor to perform this late term procedure to save a woman's life, and I quote, 'if no other procedure would suffice.'' So this means that if another procedure carries 4 times the risk of this procedure, but it might suffice, the doctor will be compelled to perform the more risky procedure. If a hysterectomy, rather than this procedure, will suffice, the doctor will be compelled to perform it instead.

Above all, both the Constitution and the health of women across this Nation demand that we add a health exception. But this Chamber rejected an amendment to do just that.

Without such a health exception, this legislation represents a direct, frontal assault on Roe and on the reproductive rights of women everywhere. And make no mistake, innocent women will suffer. We learned this at the Judiciary Committee hearing from women who underwent the procedure.

Make no mistake—this procedure is extremely rare, and, when performed in the third trimester, only when it is absolutely necessary to preserve the life or health of the woman, or when a fetus is incompatible with life. In his September 24, 1996, letter to Congress, Dr. Warren Hern of the Boulder Abortion Clinic said: ''I know of no physician who will provide an abortion in the seventh, eighth or ninth month of pregnancy, by any method, for any reason except when there is a risk to the woman's life or health, or a severe fetal anomaly.

Not since prior to Roe v. Wade have there been efforts to criminalize a medical procedure in this country. But that's exactly what this bill does.

This legislation is an unprecedented expansion of Government regulation of women's health care. Never before has Congress intruded directly into the practice of medicine by banning a safe and legal medical procedure that is absolutely vital in some cases to protect the health or life of women.

The supporters of this bill are substituting political judgment for that of a medical doctor regarding the appropriateness of a medical procedure. Regrettably, politicians are second-guessing medical science.

Mr. President, who are we here on this floor to say what a doctor should and should not do to save a woman's life or preserve her health? Who are we to legislate medicine?

The proponents of this legislation are willing to risk the lives and health of women facing medical emergencies. According to physicians—not politicians—this procedure is actually the safest and most appropriate alternative for women whose lives and health are endangered by a pregnancy. As Dr. Robinson testified during the hearing before the Judiciary Committee, telling a doctor that it is illegal for him or her to perform a procedure that is safest for a patient is tantamount to legislating malpractice.

I oppose this bill because I believe in protecting women's health and upholding the Constitution. For central to both Roe and Casey is the premise that the determination whether an abortion is necessary to preserve a woman's health must be made by a physician in consultation with his patient.

Without an exception which allows these late term procedures in order to save the health of the mother, doctors will be unwilling to take the safest and most appropriate steps to protect a woman's health.

As today's editorial in the New York Times states:

> The bill should be rejected as an unwarranted intrusion into the practice of medicine. It would mark the first time that Congress has outlawed a specific abortion procedure, thus usurping decisions about the best method to use that should properly be made by doctor and patient. The bill would actually force doctors to abandon a procedure that might be the safest for the patient and resort to a more risky technique.

We must never overlook the fact that women's lives and health are at stake. They hang in the balance. Women who undergo these procedures face the terrible tragedy of a later-stage pregnancy that has through no fault of their own gone terribly, tragically wrong. These women will face the horrible truth that carrying their pregnancy to term may actually threaten their own life and their own health.

Now, I want to say something in response to some of the graphics that you have seen on the floor today and in previous debates in this Chamber—graphics that my colleagues have displayed about this traumatic and difficult procedure.

They say a ''picture paints a thousand words.'' But the truth is, these pictures just don't tell the whole story.

They don't tell you the story of the mothers involved. They don't tell you

the woman's side of the story. They certainly don't tell you her family's story.

They don't show you the faces of the mothers who are devastated because they must undergo this procedure in order to save their own lives and health.

These pictures don't tell the story of Vikki Stella, who learned 32 weeks into her pregnancy that her fetus had nine severe abnormalities, including a fluid-filled skull with no brain tissue at all. However, Vikki is a diabetic, and this procedure was the safest option to protect her life and health. Without it, she could have died.

These pictures don't tell the story of Viki Wilson—a nurse who testified that she found out in her 8th month of pregnancy that her fetus suffered a fatal condition causing two-thirds of the brains to grow outside of the skull. Viki testified that carrying the pregnancy to term would have imperiled her life and health. The fetus' malformation would have caused her cervix or uterus to rupture if she went into labor. She described this legislation as a ''cruelty to families act''.

And let us not forget the poignant testimony of Colleen Costello, who described herself as a conservative pro-life Republican, and who found out when she was 7 months pregnant that her baby had a fatal neurological disorder, was rigid, and had been unable to move for 2 months. Although she wanted to carry the baby to term, it was stuck sideways in her uterus. Her doctors did not want to perform a C-section, because the risks to her health and life were too great. Due to the safety of this procedure, Ms. Costello has recently given birth to a healthy son.

And these pictures certainly don't show you the pictures of women who died in back alleys in the dark days before Roe versus Wade. They don't show what the consequences will be for women if this legislation is signed into law, for that very small group of women each year who desperately need a late-term abortion in order to save their own lives and health.

Congress should not be in the position of forcing doctors to perform more dangerous procedures on women than necessary. As Dr. Campbell testified, the alternatives are significantly more dangerous for women and far more traumatic. Dr. Campbell, an OBGYN, listed these alternatives, which include:

> C-sections, which cause twice as much bleeding and carry four times the risk of death as a vaginal delivery. In fact, a woman is 14 times more likely to die from a C-section than from the procedure that this legislation seeks to outlaw. . .
>
> Induced labor, which carries its own potentially life-threatening risks and threatens the future fertility of women by potentially causing cervical lacerations. . .
>
> And hysterectomies, which leave women unable to have any children for the rest of their lives. . .

In the end, this legislation would order doctors to set aside the paramount interests of the woman's health, and to trade-off her health and future fertility in order to avoid the possibility of criminal prosecution.

As Professor Seidman, a constitutional expert at Georgetown University, testified during the hearing, the only thing that this procedure does is to channel women from one less risky abortion procedure to another more risky abortion procedure. He argued that the Government does not have a legitimate interest in trying to discourage women from having abortions by deliberately risking their health. This view is supported by Dr. Allan Rosenfield, Dean of the Columbia School of Public Health, who stated the following in a September 25 letter to the Editor of the Washington Post:

> [The bill's] only effect will be to prohibit doctors from using what they determine, in their best medical judgment, to be the safest method available for the women involved. * * * In sum, this bill is bad medicine.

Is this the legacy that the 104th Congress will bequeath to American women?

I urge my colleagues to oppose this effort to override the President's veto. It is necessary not only to uphold the Constitution, but first and foremost, it is critical to actually save women's lives and protect their health.

Mr. SIMPSON. Mr. President, I would like to take a few minutes of the Senate's time to speak on this most contentious and divisive issue. I was one of the 44 Members of this body who voted ''no'' when the Senate approved the Partial Birth Abortion Ban Act back on December 7.

As a longtime supporter of the ''right to choose,'' I do not believe either the Congress or the Federal Government should interfere with the deeply personal and private decisions that women sometimes face regarding unintended or crisis pregnancies. In fact, I have always questioned why men in the legislative bodies even vote on these terribly anguishing and intimate issues.

I am deeply troubled that this legislation does not provide an exception from the proposed ban in situations where the health of a woman is ''at risk.'' It is perplexing to me that this Senate rejected an amendment last December that would have granted an exception when a woman's health is endangered. If it was really true—as so many of the anti-choice activists claim—that this procedure is ''hardly ever used'' for health-related reasons, I believe my colleagues would have been much more receptive to such an exception.

The reality is that women's health is at the very core of this issue. I was present when the Senate Judiciary Committee held hearings on this legislation last November. I entered that hearing room with an open mind, and I listened carefully to witnesses who spoke both for and against the bill. What I found most compelling was the testimony of two women who had been faced with the heart-wrenching decision to have late-term abortions because their own health and well-being was imperiled by severely deformed fetuses that had no possible chance of surviving. In both cases, their doctors used the procedures that would be banned by this legislation.

These women were devastated when they learned that the fetuses they carried had no ability to live outside the womb. They agonized and even grieved over their decisions. One of them—who spoke poignantly about her ''deeply held Christian beliefs''—went on to give birth to a healthy baby boy just 14 months later. Anyone who ever listened to her testimony would know that she was not someone who simply decided that having a baby would be inconvenient or ''too much trouble.''

Unfortunately, the bill before us would limit the options a woman has for dealing with a crisis pregnancy. It is a classic example of heavyhanded government intrusiveness. This legislation sharply collides with the rhetoric of those who continually profess a fierce commitment to making the government less meddlesome and less intrusive. It is the ultimate irony, in my mind, that this legislation is being advanced by a Congress that has distinguished itself again and again by rejecting the misguided notion that ''Government Knows Best.''

I am very proud to be a Member of the 104th Congress. Collectively, we have taken some gutsy and courageous stands on a wide range of issues. Sadly, on the singular issue of abortion, many of my good friends in both the Senate and the House seem to be taking the attitude that Government does know best and that individual Americans are somehow incapable of thinking and deciding for themselves. I do not share this attitude in any way.

I am well aware that the anti-abortion ''groups'' are fully energized on this issue. They have done a remarkable job of mobilizing their members to write letters and place phone calls in support of the bill. The flow of postcards and form letters is truly dizzying.

Yet, I am not convinced that the other 99 percent of the public I do not hear from would embrace this bill and its ''Government Knows Best'' mentality. Perhaps that is because I still have vivid memories of what occurred just 2 years ago when Wyoming voters were given the opportunity to vote on an anti-choice Ballot Initiative in the 1994 election.

On that particular Ballot Initiative, which would have criminalized most abortions, over 60 percent of Wyoming voters said ''no'' to this misguided proposal. The final vote tally was 78,978 voting ''yes'' and 118,760 voting ''no.'' Let me emphasize that this was not a ''poll'' or a ''focus group'' or the sentiment of some narrowly targeted group of respondents. We all know that polls can be cleverly structured to achieve the desired result—and there is certainly no shortage of polls with respect

to this issue. What I am talking about, however, was a statewide vote. Voters from all of Wyoming's 23 counties participated. Every single registered voter in Wyoming had the opportunity to cast a vote on this issue. No one was excluded.

In this same election in 1994, these same Wyoming voters elected conservative Republicans in every single statewide race and they elected an overwhelming majority of Republicans to the Wyoming State Legislature. So, at the same time Wyoming voters were voting decisively against a Ballot Initiative that would have restricted their individual freedoms, they were further expressing their distaste for ''Big Government'' by voting in large numbers for candidates—at the local, State and Federal levels—who reject the ''Government Knows Best'' philosophy.

I share this information with my colleagues not because I believe our actions should be driven solely by public sentiment; I just think we ought to pay clear attention to all of our constituents—and not just to a narrow group of those who seem ever determined to impose their own idea of ''moral purity'' on their fellow human beings. I have found that it is often true in life that those who demand perfection of others—or who try to control other people's lives—sometimes do so because of their own imperfections or because they are somehow often incapable of controlling their own lives. I do not direct this statement at any of my fine and able colleagues. I simply offer it as an observation.

Finally, I am reminded that last year I said this was a divisive bill that would only increase and elevate tensions between those who hold differing views on abortion. Those words ring true today because, regrettably, that is exactly what this legislation has accomplished. The dialog on abortion—on both sides—outside of this Chamber is increasingly ugly and uncivil. This legislation does nothing to reverse that. I urge my colleagues to reject it.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Democratic leader is recognized.

Mr. DASCHLE. Mr. President, how much time remains on both sides?

The PRESIDING OFFICER. The Senator from Pennsylvania controls 15 minutes 34 seconds. The Senator from California controls 8 minutes 22 seconds.

Mr. DASCHLE. Mr. President, I will use my leader time for the statement I am about to make.

The PRESIDING OFFICER. The leader has that right.

Mr. DASCHLE. Mr. President, I will not be long. I know a number of others wish to be heard on this issue. I haven't had the opportunity to listen to all of the debate, but I know that it is a matter of great weight, great concern for each one of our colleagues.

I, frankly, question why we are debating and voting on this bill so close to the election. I would have hoped that we could have depoliticized this issue. But, obviously, it has taken on very major political overtones. Being this close to an election, I think it is probably impossible to keep it from being politicized. But it is a very important question that ultimately has to be resolved.

So much of the debate, in my view, was unnecessary. So much of the debate that I have heard on the Senate floor over the last couple of days has dealt with whether or not we can support the procedure that has been so graphically described, with depictions of all kinds, from charts to the language on the Senate floor, whether in some way we can condone that particular practice. Mr. President, I don't know of anybody in this Chamber that condones the practice. I am sure that my colleagues on this side of the aisle, and perhaps some on the other side, have made this point: No one condones the practice. No one stands here to defend the practice. No one, in any way, would want to encourage the practice. And so all of the talk and all of the graphic descriptions, in this Senator's view, are unnecessary, because we all know how abhorrent it is. We all know how extraordinarily detestable it is. The question is, as abhorrent and as difficult to witness it is, to hear described, is there ever a time when the procedure, regardless of whether it has been accurately described or not, should be used?

I am told that physicians differ substantially about that question. I am told that there are occasions, as rare as we might find them, that a mother's life and-or permanent health could be impaired if this procedure is not used.

I am lucky enough to be a husband and a father. I have had the good fortune to have a healthy wife and healthy daughters. Mr. President, I cannot tell my wife and I cannot tell my daughters that I am going to condemn you to permanent impairment, that I am going to condemn you to a life of permanent poor health, that I am going to condemn you because I find this procedure so wrenching, that you are going to have to subject yourself to permanent paralysis, or to a life that may never allow for another child as long as you live.

Mr. President, I cannot ask my daughter to do that. I cannot ask my wife to do that.

That is what this issue is about, Mr. President. It isn't whether or not we abhor the procedure. We do. It isn't whether or not we should allow this to be elective. It should not be elective. The question is: Are there occasions when, in order to save our daughter's health or our daughter's life, we find it necessary?

We ought to be reasonable people and able to come together to find some compromise in allowing for a lasting solution outlawing elective procedures, outlawing this detestable practice whenever it is done for convenience but recognizing at the same time that a daughter's life and a daughter's health is worth giving her the opportunity to use whatever measure necessary to protect her.

I have heard the argument that it is never necessary; that it is not necessary to do this. Well, if it is never necessary, this procedure will never be used. That is the logical conclusion one could make. If it is not necessary, don't worry. It will not be used.

Mr. President, I hope that once this veto is sustained, that we can sit down quietly without politics, without emotion, and recognize that somehow we have to come together on this issue. We have to deal with those rare circumstances that are not elective that allow us to save the life and the health of young women involved. I think we can do that. Unfortunately, it is not now possible this afternoon. But someday, somehow, working together it must happen.

I yield the floor.

Mr. SANTORUM. Mr. President, will the Senator from South Dakota yield for a question?

Mr. DASCHLE. I have yielded the floor. But I would be happy to participate in a colloquy with my distinguished colleague.

Mr. SANTORUM. The question I have asked other Members who have argued your position—I have to ask it again—is that if this procedure were being done on a 24-week-old baby, which is often done, the procedure were done correctly, the baby was not taken out with the exception of the head, and for some reason the head slipped out and the baby was born, will the doctor and mother have a choice to kill the baby?

Mr. DASCHLE. Mr. President, I will say this, as I have said on many occasions. We abhor the practice. If we can save the life of a baby, we should do so. If in any way, as graphic as the distinguished Senator from Pennsylvania chooses to be with regard to this procedure, it impairs his wife, his daughter, my wife, my daughter, he and I would come to the same conclusion, I guarantee it.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SANTORUM. I yield 1 minute to the Senator from Alabama.

Mr. SHELBY. Mr. President, I rise in strong support of overriding President Clinton's veto of the Partial-birth Abortion Ban Act.

First, this legislation bans a gruesome, deadly procedure. When performing a partial-birth abortion, the abortionist first grabs the live baby's leg with forceps and pulls the baby's legs into the birth canal. He then delivers the baby's entire body, except for the head; jams scissors into the baby's skull and opens them to enlarge the hole.

Finally, the scissors are removed and a suction catheter is inserted to suck the baby's brains out. This causes the skull to collapse, at which point the

dead baby is delivered and discarded. No one interested in the welfare of children could ever approve of such a heinous act. President Clinton has put politics above life by trying to keep this procedure legal.

Second, his veto is extreme because this procedure has questionable medical value. In fact, the American Medical Association's Council on Legislation—which unanimously supports banning this procedure—stated that a partial-birth abortion is ''not a recognized medical technique'' and concluded that the procedure is basically repulsive.

Third, even though this procedure is not used to save the life of the mother, there is an explicit provision in the bill to protect any physician who feels that this procedure is necessary to save the life of the mother. Despite this safeguard, President Clinton continues to raise false arguments in bowing to the liberal wing of his party.

Mr. President, the President's own wife has written a book about the value of children, entitled ''It Takes a Village.'' I don't know what type of village the Clinton's believe children should be raised in, but it should not be a village where it is a crime to disturb the habitat of a kangaroo rat but it is perfectly acceptable to suck out the brains of a baby. That is barbaric. It should no longer be tolerated in our society, and I urge my colleagues to join me in standing up for helpless children by overriding the President's blatantly political veto.

The PRESIDING OFFICER. Who yields time?

Mr. SANTORUM. Mr. President, I yield 5 minutes to the Senator from Tennessee, Dr. FRIST.

The PRESIDING OFFICER. The Senator from Tennessee is recognized for 5 minutes.

Mr. FRIST. Thank you, Mr. President.

Mr. President, I rise to strongly support the override of the President's veto. Why? Because as a physician, as someone who has delivered babies, as someone who is a board-certified surgeon, as someone who has gone back to read and study the original literature describing this procedure, I know that there are no instances where this particular procedure would save the life of a daughter, of a spouse, or of a mother. It is a strong statement. But it is a statement that I feel strongly about.

Two nights ago I stood on this floor and went through a number of the myths that circulate, because it is hard, because most people in this body are lawyers or small business people or accountants, and people have come forward trying to interpret a specific medical procedure. I went through the myths because there is a lot of misinformation. But I come back and say that there are no instances where the life of a daughter, of a spouse, or of a mother would be saved by this procedure that could not be saved by another mainstream procedure today.

No. 1, this procedure is brutal, it is cruel, it is inhumane, and it offends the sensibilities we have heard on both sides of the U.S. Senate, of the Congress, and of our constituents of Americans.

No. 2, an issue that is a little more difficult—it really is not the one we have been talking about now—is that there are times during the third trimester that either an accelerated delivery or a termination of a pregnancy is necessary. Putting all the pro-life and pro-choice aside, there are probably some times—there are some times—when that is indicated.

So you need to push that aside. You need to look at the really fundamental question. You boil everything down, and is this specific procedure as described in literature, as described by its proponents, medically necessary? The answer is no, it is not medically necessary.

What does ''medically necessary'' mean? Does it mean that all late abortions need to be banned; should be? Again, that needs to be debated at another place another day. It has been debated here. But let us put that aside. What it means today in our argumentation is, are there alternative procedures that are accepted, that are safe, and I would argue safer, that are effective, and I would argue equally effective, that preserves the reproductive health? I would argue absolutely, yes, there are other mainstream procedures, which means this procedure is not to be used.

So why is this procedure used at all? Why are we even talking about this procedure? Why would doctors come forth and look people in the eye and say this is the proper procedure? We have to go back to the medical literature where it is prescribed. If you go back to the original paper of Martin Haskell on ''Dilation and Extraction for Late Second Trimester Abortion,'' which was entered into the RECORD three nights ago, when you look at the last page, he says regarding this procedure, ''In conclusion, dilation and extraction is an alternative method''—an alternative method. It is not even a definitive method. It is a fringe method. He said it is ''an alternative method for achieving late second trimester abortions to 26 weeks. It can be used in the third trimester.''

This is an alternative, as the original author, the proponent, says.

What is even more interesting is that he says in the next sentence—Why? What are the indications? Is it medically necessary? Basically he says, ''Among its advantages are that it is a quick, surgical, outpatient method that can be performed on a scheduled basis under local anesthesia.''

So the reason this procedure is used is not to preserve reproductive health—not for the many other reasons as if it is the only procedure—it is that it is a matter of convenience. You can do it quickly. You can do it as an outpatient. Is ''quick,'' ''outpatient,'' and ''convenient'' the sort of issues that we should use as indications for this procedure? I would say absolutely not.

This is a fringe procedure. It is not taught in our medical schools today to residents. It is a procedure that is not indicated for the hydrocephaly, nor trisomy, nor polyhydramnios. It is never indicated. There are alternative procedures.

In closing, I am hesitant to recommend that any medical procedure should be banned. Yet, for a procedure that is medically unnecessary for which there are alternatives that are used in mainstream medicine today, I support this ban and hope that we can override the President's veto.

The PRESIDING OFFICER. Who yields time?

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, after consulting with the majority leader, I ask unanimous consent to use 5 minutes of the majority leader's time.

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

Mr. NICKLES. Mr. President, I rise today, first, to congratulate and compliment a couple of my colleagues who I think have performed extraordinary service to the Senate. First, Senator SMITH, from New Hampshire, who brought this issue to our attention.

I will readily admit I have been involved in this abortion debate for 16 years, but I did not know this procedure happened—I am shocked by it, saddened by it, disturbed by it. And for some of our colleagues who insinuated that, well, the males in the Senate really should not be arguing on this because they have not been in the business of delivering babies, I have talked to my wife about it and she feels stronger about it even than I do. She thinks President Clinton was absolutely, totally, completely wrong in vetoing a bill that would have protected the lives of young babies that are three-fourths of the way delivered from their mother's birth canal. So I congratulate Senator SMITH for bringing this to the attention of the Senate.

I also congratulate Senator SANTORUM for his leadership as well.

President Clinton was wrong in vetoing this bill. Two-thirds of the House said that he was wrong. I hope that today two-thirds of the Senate will say he made a mistake. Maybe he had bad information. I notice in his veto message he said this is necessary in order to protect the health of the mother, but that is not true.

Dr. Koop—I think a lot of us, Democrat and Republican, give him a lot of credibility—said, and I quote—and this is Dr. Koop and also 300 medical specialists who are specialists in obstetrics and health care and delivery:

> Partial-birth abortion is never medically necessary to protect a mother's health or her fertility.

That is a quote. They said ''never.'' Dr. TOM COBURN, my colleague from the House, who has delivered over 3,000 babies, said it is never, never medically necessary. There are other alternatives. There are better, safer alternatives.

What is this? What is partial-birth abortion? This child is seconds away, is inches away from total birth—total birth. In some cases, the arms and the legs are kicking and moving, the fingers are squeezing. It is a live human being. This procedure is infanticide.

Dr. Pamela Smith, an obstetrician at Mount Sinai Hospital in Chicago, points out, and this is a quote:

> Partial-birth abortion is a surgical technique devised by abortionists in the unregulated abortion industry to save them the trouble of counting body parts that are produced in dismemberment procedures.

This quote is in a letter written to Senators on November 4, 1995. She says in the same letter:

> Opponents have said that aborting a living human fetus is sometimes necessary to preserve the reproductive potential and/or the life of the mother. Such an assertion is deceptively and patently untrue.

Mr. President, lots of people, real experts who have studied this issue have said it is not necessary to protect the health of the mother and it is certainly not necessary to protect the health of the baby. This is destroying a baby.

Yes, this moves the abortion debate away from theoretical rights into talking about lives. We are talking about the life of an innocent, unborn human being. I know I heard my colleague, the minority leader of the Senate, say it is rare. How can it be rare when originally the proponents of maintaining the legality of this procedure said a few hundred are performed a year and then we find out in one city in New Jersey there were 1,500 done in 1 year. This was not discovered by the National Right to Life Committee; this was discovered by investigative writers at the Washington Post—1,500 in one clinic in New Jersey. There are thousands of these procedures performed annually now—thousands.

Mr. President, some of our colleagues made all kinds of remarks that people who are opposed to this procedure, they are just opposed to abortion. Yes; I am opposed to abortion, but I cannot remember ever having to vote on banning all abortions. Somebody said Republicans would like to ban all abortions; that is in your platform. It is not in our platform. It says, yes; we want to protect the sanctity of human life. I have only voted on one constitutional amendment that dealt with abortion in my 16 years in the Senate. That was not to ban abortion. So some people have tried to move this all over the field.

What we are trying to do is protect the lives of thousands of babies when they are three-fourths born, when they are three-fourths delivered, when they are a few inches away from being totally delivered, a few seconds away from their first breath. And it is particularly gruesome when you realize that some of these babies' heads are held in the mother, held in the mother so the brains can be sucked out and the baby killed while part of the baby is still in the mother, because they know if there is a couple inches' movement, then the abortionist would be liable for murder. Then there is no question that it is the taking of life. That is how close we are. What does that say about America's society today?

This is one of those defining moments that we have in the Senate. Will we stand up and say, enough is enough; this procedure is terrible; it is outlandish; it should be stopped? Are we going to allow this type of procedure to go on and on and say, no, we believe in abortion at any time for any reason at any cost?

Dr. Martin Haskell, one of the leading proponents of abortion, who has performed 1,000 of these, has stated that some 80 percent of those he performed were for purely elective reasons, purely elective reasons.

That alone is enough. We need to override the President's veto. He was wrong. We need to protect the lives of innocent, unborn children.

The PRESIDING OFFICER. Who yields time? The Senator from Pennsylvania.

Mr. SANTORUM. I ask unanimous consent that we have 10 additional minutes equally divided. I am swamped with speakers and do not have enough time to even get my own statement in.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. SANTORUM. I yield 5 minutes to the Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana is recognized for up to 5 minutes.

Mr. COATS. I thank my friend for yielding. I thank him for his tireless work on what I think is one of the most defining issues of our time.

I am pleased to see the Senator from West Virginia in the Chamber. He is always in the Chamber during important debates. I regret that many others are not in the Chamber.

Mr. President, I had the opportunity to call a good friend of ours, Senator CAMPBELL, who, as we all know, was in a serious motorcycle accident just a few days ago in Colorado, and is hospitalized in a hospital in Cortez, CO. I called to ask his condition, and he told me he had undergone some 15 to 18 hours of surgery, but he was hoping to recover. He asked me, however, if I would deliver a message to our colleagues. I take the opportunity to read that message:

> Mr. President, I take this opportunity to thank my friend and colleague, Senator COATS, for submitting this statement on my behalf while I am absent from the Senate due to my accident. During this important debate on the override of the President's veto of the partial-birth abortion bill, I felt compelled to share my personal thoughts with my colleagues on this extremely emotional issue.
>
> During the past month, I have listened carefully to those who hold strong views on both sides of this difficult issue, and I have learned a great deal more about this procedure and its implications. I also have consulted with doctors and others in the medical profession who have discussed this procedure in graphic detail. It became clear to me the procedure which would be banned is an atrocity which is inflicted on a fetus so far along in its development, it is nearly an infant.
>
> Since last Saturday, I have spent the last six days straight in a hospital bed in Cortez, Colorado. Part of my decision-making process is based on watching the dedicated health professionals here in this hospital working so hard, day in and day out, to save lives. As the days went by, it became increasingly clear to me that a vote to override the veto also represents an effort to save lives, and not take lives. Those who know me, know that I am not one to bend with the political breeze.
>
> As my colleagues and my constituents will know, I am pro-choice! I always have been pro-choice, and will continue to be pro-choice. In fact, 1 have a 100 percent voting record with NARAL and other pro-choice organizations. However, in light of the medical evidence, I do not consider this specific vote to be a choice issue.
>
> Therefore, based on the compelling medical evidence and the insights I've gained, I would vote to override the President's veto were I able to be on the Senate floor today.

Mr. President, this is not just another skirmish in the running debate between left and right. This debate raises the most basic questions asked in any democracy: Who is my neighbor? Who is my brother? Who do I define as inferior, cast beyond my sympathy and protection? Who do I embrace and value, both embrace in law and embrace in love? It is not a matter of ideology; it is a matter of humanity. It is not a matter of what constituency we should side with; it is a matter of living with ourselves and sleeping at night. This is not just a matter of our Nation's politics, but it is a matter of our Nation's soul, and how this Nation will be judged by God and by history.

In this body, we can agree and disagree on many matters of social policy. Yet, surely we must agree on this, that a born child should not be subjected to violence and death. I believe that protection should be extended to the unborn as well. But at least in this body, should we not reject infanticide? At least can we refuse to cross that line.

Mr. President, I fear that we are sliding into a culture of death instead of a culture of life, a society that begins to retreat from inclusion, an ever widening circle of inclusion, to include people previously excluded on the basis of race, of ethnic background, of gender—the great civil rights battles to bring people into this wonderful American experiment of democracy, equality, and justice. I fear we are retreating from that with this vote, that we are beginning a differentiation between the healthy and the unhealthy, between the perfect and the not so perfect, between the beautiful and the not so beautiful.

So, today we have a choice, a choice between the beauty of life or the horror of death. I am pleading with my colleagues to reach out in love and compassion for the most innocent and the most defenseless in our society. God has imbued all of us with a capacity to love. Unfortunately, the great human

tendency is to turn that love inward and think of and love only ourselves, our possessions, our careers, our achievements; not to think of others.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. COATS. I ask for 1 additional minute.

Mr. SANTORUM. I yield the Senator 1 additional minute.

The PRESIDING OFFICER. The Senator is recognized for 1 additional minute.

Mr. COATS. But that is misdirected love. True love goes beyond ourselves. It reaches out in love of others.

This vote is an appeal to a higher purpose, what Lincoln said ''is the better angels of our nature.'' I appeal to my colleagues, for the sake of a larger question, of a higher purpose, to reach to the better angels, to the larger questions—life, liberty, equality, justice—for the sake of the future of this great experiment in democracy, to support us in this effort, to say that we will not promote a culture of death. We will not embrace the culture of death. We will embrace a culture of life. We will keep extending the circle of equality, justice, passion, and love for the least among us.

Clearly, today, at this defining moment, that issue is in great peril.

Mr. President, I thank the Senator from Pennsylvania for his efforts and for the time he yielded, and yield back the remaining time I have.

The PRESIDING OFFICER. Who yields time?

Mrs. BOXER. Mr. President, may I inquire as to how much time each side has left?

The PRESIDING OFFICER. The Senator from California controls 13 minutes, 25 seconds; the Senator from Pennsylvania, 6 minutes, 48 seconds.

Mrs. BOXER. Mr. President, I yield myself 5 minutes.

Mr. President, we are winding down this debate. It has been a hard debate. In some ways, it has been a harsh debate.

I think the most important thing that I would like to do—if I do this, I will feel that I have done my best—is to put a family's face on this issue, put a woman's face on this issue, to make sure that the American people understand that when President Clinton vetoed this bill, he vetoed it with compassion in his heart for the families who had to face the kind of tragic circumstances I have discussed throughout this debate.

I think there has been some effort on the part of those who take an opposite view, there has been some effort to try and undermine or undercut some of these families, some of these women who have gone through this tragic experience. I hope that effort has failed.

I want to talk about Mary-Dorothy Line, a devoted Catholic who was 5 months pregnant with her first child when she learned her baby might have a very serious genetic problem. Mary-Dorothy writes:

> My husband and I talked about what we would do if there was something wrong. We quickly decided that we are strong people and that, while having a disabled child would be hard, it would not be too hard for us. We are Catholic, [she writes] we go to church every week. So we prayed, as did our parents and our grandparents.
>
> We sat there and watched as the doctor examined our baby and then told us that, in addition to the brain fluid problem, the baby's stomach had not developed and he could not swallow.

After being told that in-utero surgery would not help, Mary-Dorothy Line and her husband decided to use the procedure that is outlawed in this bill, because they were told it was the safest.

Mary-Dorothy says to us:

> The doctors knew that the late-term abortion was not easy for us, since we really wanted to have children in the future. This is the hardest thing I have ever been through. I pray that this will never happen to anyone again, but it will. And those of us unfortunate enough to have to live through this nightmare need a procedure that will give us hope for the future.

That is one story. Viki Wilson is another story. There are many more stories.

I thank the women who came forward to tell their stories. There are women standing outside this Chamber. I went out to see them—and they are crying. They are crying because they do not understand how Senators could take away an option that their doctor needed to save their lives. They are crying because they do not believe that those Senators truly understand what this meant for their families and what it meant to them—women and men and families who so wanted these babies, so wanted to hold them, so wanted to birth them, so wanted to love them, so wanted to raise them. But, because in science today sometimes serious abnormalities cannot always be known in the early stages, they did not learn until very late in the pregnancy.

They wanted those babies. They named those babies, Mr. President. They buried those babies with love. And they are crying because they cannot understand how a majority of Senators could put themselves inside the hospital room and tell them that they cannot have a procedure that could save their lives.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SANTORUM. Mr. President, I yield myself 5 minutes.

Mr. President, I look and see the Senator from West Virginia, who represents as much the U.S. Senate to this country as probably any individual here, the dignity of this institution as the greatest deliberative body in the world. I have been saying for the last few days that I have tremendous faith that this body, as a deliberative body, will listen to the facts and live up to its reputation as a body that, when presented with all the evidence, can judge not only about this procedure, which is important, but what the consequence are of this action on the future of the nation, on the future of a civilization.

And so I ask Members, before they come down, to think and look inwardly as to their own conscience. Yes, to look outwardly around to this Chamber and remember that we have a standard to uphold and that today we are going to be making the decision about whether in this country it will be legal to allow a viable baby to be delivered outside of the mother and then killed inches before its first breath.

I have asked the question of almost every person who spoke on this issue opposing my position: What would be the case if the baby's head was to, for some reason, slip out? Would the doctor and the mother then have the right, the choice to kill that baby?

No one has ever answered that question. The Senator from Wisconsin came the closest. He said, ''I don't think we should interfere with that,'' which I guess means yes. How far do we go? Where do we draw the line? Have we stopped saying here in this body that there are no more lines, that everything is OK for anyone to do as long as you feel it's right, it's your right to do whatever you feel is right?

Don't we have any more lines? What are the facts? That is a factually accurate description of the procedure, as so stated by the person who performs it. Some have likened this chart to a depiction of an appendicitis operation. My God. Appendicitis. That is not an appendix. That is not a blob of tissue. It is a baby. It's a baby.

Did you ever really think that this could actually be happening on the floor of the U.S. Senate? When you came here, the people in the audience—maybe you are just visiting Washington or just wandered in—did you actually believe that we could be actually contemplating allowing thousands of these kinds of procedures to continue? I sometimes just have to sit here and pinch myself and wonder whether this is all real, whether this really is the United States of America.

The Senator from California said she hears the cries of the women outside this Chamber. We would be deafened by the cries of the children who are not here to cry because of this procedure.

I cry with these women. This is a difficult decision to make, but there are alternative measures available. No woman will be denied access to abortion, late-term as they are, if we ban this procedure. That is a fact. The leading writer on abortions, Dr. Hern from Colorado, says that he thinks this is a dangerous procedure and should not be done.

The Senator from Colorado—and my best wishes go out to him in his hospital bed in Colorado—made the most poignant statement today when he said he has been in a hospital looking at all that is being done to preserve life.

I have to hearken back to another Lincoln quote which is: ''A house divided against itself cannot stand.''

In one operating room when there is a baby being delivered and everything

is being done to save that baby; in the next room, one is being delivered to be killed. That cannot continue to happen in this country.

The Senator from Colorado is right. What are we to become? What will we be like if we allow this, and then maybe if the baby is born and it is not quite perfect enough for us, maybe it has some problems, that it won't live as long as we would like.

Cardinal Bevilacqua spoke today, and there are many religious leaders here. The cardinal is up in the gallery, and he said, ''If this procedure is allowed to continue, I fear that legal infanticide will not be far behind. If partial-birth abortion is allowed to continue, surely it will mark the beginning of the end of our Nation, of our civilization. No Nation, no civilization that abandons its moral foundations, its spiritual beliefs by legally destroying its own unborn children in this barbaric procedure can possibly survive.''

Please, I ask my colleagues, I plead with my colleagues, don't let this happen on our watch.

Mr. President, I have a series of newspaper articles and letters. I ask unanimous consent that they be printed in the RECORD.

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

STATEMENT AT PRESS CONFERENCE ON PARTIAL BIRTH ABORTION, THURSDAY, SEPTEMBER 26, 1996, BY ANTHONY CARDINAL BEVILACQUA, ARCHBISHOP OF PHILADELPHIA

I know that God will be present today in the U.S. Senate when it discusses and votes on an over-ride of the President's veto. I pray that the Senators will be conscious of God's presence among them and vote in accordance with His will which is will for human life.

I appeal to the Senators to override the veto on partial birth abortion. I pray that they will vote on principle. A vote for the over-ride is a vote for human life. A vote against the over-ride is a vote for the death of human beings made to the image and likeness of God.

This vote is critical for the preservation of this nation, of our civilization. Partial birth abortion is ⅘ birth and ⅕ abortion. The baby is but a few seconds, 2–3 inches from full birth. In this procedure, therefore, it is only a few seconds, 2–3 inches from being legal infanticide. If this procedure is allowed to continue, I fear that legal infanticide will not be far behind.

If partial birth abortion is allowed to continue, surely it will mark the beginning of the end of our nation, of our civilization. No nation, no civilization that abandons its moral foundations, its spiritual beliefs by legally destroying its own unborn children in this barbaric procedure can possibly survive.

This vote is not a vote for choice. It is a vote for the culture of life instead of a culture of death.

PITTSBURGH, PA,
June 30, 1996.

Hon. RICK SANTORUM,
Washington, DC.

DEAR SENATOR: I am a practicing Obstetrician-Gynecologist. I urge you to vote for the ''ban of partial birth abortion''.

I believe this to be the most cruel procedure of infanticide. During the last trimester of pregnancy, the infant is partially delivered and is alive and moving. At this time the infant is killed by stabbing it at the base of the skull. Then the brains are removed by suction. In a short period of time, a normal delivery of this infant could have ensued. Therefore, it cannot be stated ''the abortion is being done because the pregnancy is a threat to the Mother's life.''

I disapprove of this gross procedure for two additional reasons. This is not a routine practice in the field of obstetrics. Secondly, the forceful dilation of the cervix to make possible the premature delivery can tear the cervix. This creates a site for infection and excessive bleeding. Since the placenta is not ready for delivery it may deem necessary to manually deliver it (which is not a normal procedure). This may cause even more bleeding. Because of the forceful dilation, the cervix may be incompetent to hold future pregnancies.

Stated simply, the primary and strongest objection is the burden of a live infant. PLEASE, vote for the ''ban of partial birth abortion.''

Respectfully,

ALBERT W. CORCORAN, M.D.

PITTSBURGH, PA,
June 24, 1996.

Senator RICHARD SANTORUM,
Washington, DC.

DEAR SENATOR SANTORUM: I have never written anyone in the Congress a letter such as this one. However, I feel as a board certified obstetrician, who has practiced obstetrics and gynecology for 35 years, I must bring closure to my problem.

The words ''rip open a woman'' have disturbed me since they were uttered by our President. In all my years in the operating room, I have never seen even the weakest surgeon ''rip open'' any patient.

I would plead for you to urge your fellow Senators to override the President's veto of third trimester termination of a human being.

There are several reasons for doing this aside from an unprovoked attack on a human being. Namely, any of the six women he paraded before the American public on television could have been cared for by c-section. More importantly, since these women were all willing to have their pregnancies terminated in the third trimester, all could have resolved their personal dilemma with greater studies in the first trimester. Finally, this procedure is just another form of euthanasia.

I hope there are some fellow Senators who will divorce themselves from politics and truly vote their conscious.

Kindest regards,

E.A. SCIOSCIA, MD FACOG FACS,
Asst. Clinical Prof. of Obstetrics & Gynecology, Medical College of Pennsylvania.

HILTON HEAD ISLAND, SC,
June 21, 1996.

Senator RICK SANTORUM,
Washington, DC.

DEAR SENATOR SANTORUM: I am writing to you as an Obstetrician of thirty seven years and subsequently as Medical Director of Forbes Health System. During all that time my efforts were dedicated to the delivery of healthy born infants and on maintenance of good health by their mothers. The abortion deaths of more than a million a year in the richest country in the world will one day be looked on by history as the greatest slaughter of innocents in world history to date.

In the past the pro-abortionists hid from what they were doing by claiming that what was being aborted were non persons—simply protoplasm! How they can rationalize this is not understandable to me. It seems to me that a person is a human living, individual. Certainly the fetus is an ''individual''—no one exactly like him or her will be born again.—its genes are distinct. It is ''human'' not canine, or bovine or equine—it is ''human.'' And it is certainly ''living'' and there would be no need to abort it.

Nevertheless, the pro-abortionists do not wish to have the early fetus recognized as a person. But surely there can be no denying of the person of a 32 week fetus when greater than 90% if normal will survive if born at that gestation. The bill which was vetoed by President Clinton recognized that this forcing of the labor of an abnormal infant and then its destruction by invading its skull and collapsing the brain while it was still alive; in order to complete delivery is not only murder but unjustified. It is possible that the mother's reproductive organs may be permanently damaged in this rush to termination. However; if allowed to deliver in normal labor the grossly abnormal infant would probably not survive more than a matter of hours. This process of craneocleisis which was employed when cesarean section was so dangerous in the 19th century was done to save the life of the mother and still it was abhorrent even to those who did the procedure. Once cesarean section reached an improved degree of safety by the 1920's it was abandoned—now to be resurrected to force the premature delivery of an abnormal baby. I am not unmindful of the emotional stress that carrying such a baby, can cause a mother if she knows that it is not normal! But is the abrupt termination of the pregnancy worth the possible damage to the mothers reproductive capacity by this assault on a living human individual?

My best wishes for your success in addressing the presidential veto.

Sincerely yours,

RICHARD MCGARVEY.

CHEVY CHASE, MD.

During the weeks and months Congress was considering legislation to end partial birth abortion, I heard and read many news stories featuring women who said they had undergone the procedure because it was the only option they had to save their health and future fertility as a result of a pregnancy gone tragically wrong.

But based on my own personal experience, I am convinced that women and their families are tragically misled when they are informed that partial birth abortion is their only option. I believe many more women and their families would choose to give birth to their fatally ill babies and love and care for them as long as their short and meaningful lives might endure, if they were fully informed that they could let their babies live rather than aborting them.

Dr. James McMahon, who performed the partial birth abortions upon many of the women I heard about in the news, would have targeted our first child, Gerard, because he had Trisomy 18, a chromosomal abnormality incompatible with more than a few hours or weeks of life outside the uterus.

My husband, a pediatric neurologist and I, a pediatric nurse, learned via a routine sonogram halfway through our first pregnancy that our baby had a large abdominal defect. Our OB suggested an amniocentesis to confirm whether our son had Trisomy 18, since abdominal defects this large are frequently associated with Trisomy 18. If he did not have Trisomy 18, we would begin to research our son's need for abdominal surgery and the best pediatric surgeon available to us. The second half of the pregnancy was extremely painful emotionally. I felt that perhaps our hopes of having a large family were dying with Gerard.

We had a supportive OB and at each visit we also met with the OB clinical nurse specialist. She helped us with our grief and she

also helped us plan for Gerard's birth and death. We also met the neonatologist prior to birth who informed us about what to expect about Gerard's condition and we let him know that we didn't want Gerard to have any painful procedures.

We did not once consider an abortion, for this was our beloved child for whom we would do anything. We prayed that he would be born alive and live at least for a short period of time. My husband and I were drawn very close as we comforted each other and talked about our grief and our evolving plans for our child. At 40 weeks our OB decided he would induce labor; on the eve of the second day of induction, Gerard was delivered alive. We held him and gently talked to him. The priest who had married us ten months earlier was there to baptize him. Gradually, his vital signs slowed until he died 45 minutes after we met him in person. We took many beautiful pictures of him that are among our most cherished possessions.

We have since been blessed with 5 additional children, all healthy. Number 6 was 11½ lbs and the hospital staff marveled at how easily I delivered her. Delivering Gerard alive and giving him even a brief period of life in no way impaired my future fertility, as these 5 wonderful children can attest to. Our children have internalized our love and respect for Gerard and babies and others with disabilities.

We have never had any regrets about carrying Gerard to term, giving birth to him and loving him until he died naturally. In fact, it is the event I am most proud of in my life. Our only regret is that he did not live longer.

My hope is that since there is no medical reason for a woman to undergo a partial birth abortion, that each woman listen to her heart and her strong desire to protect her child and love him or her until that child's natural death.

MARGARET SHERIDAN.

OAK PARK, IL.

My name is Jeannie Wallace French. I am a 34 year old healthcare professional who holds a masters degree in public health. I am a diplomate of the American College of Healthcare Executives, and a member of the Chicago Health Executives Forum.

In the spring of 1993, my husband Paul and I were delighted to learn that we would be parents of twins. The pregnancy was the answer to many prayers and we excitedly prepared for our babies.

In June, five months into the pregnancy, doctors confirmed that one of our twins, our daughter Mary, was suffering form occipital encephalocele—a condition in which the majority of the brain develops outside of the skull. As she grew, sonograms revealed the progression of tissue maturing in the sack protruding from Mary's head.

We were devastated. Mary's prognosis for life was slim, and her chance for normal development nonexistent. Additionally, if Mary died in utero, it would threaten the life of her brother, Will.

Doctors recommended aborting Mary. But my husband and I felt that our baby girl was a member of our family, regardless of how ''imperfect'' she might be. We felt she was entitled to her God-given right to live her life, however short or difficult it might be, and if she was to leave this life, to leave it peacefully.

When we learned our daughter could not survive normal labor, we decided to go through with a cesarean delivery. Mary and her healthy brother Will were born a minute apart on December 13, 1993. Little Will let out a hearty cry and was moved to the nursery. Our quiet little Mary remained with us, cradled in my Paul's arms. Six hours later, wrapped in her delivery blanket, Mary Bernadette French slipped peacefully away.

Blessedly, our story does not end there. Three days after Mary died, on the day of her interment at the cemetery, Paul and I were notified that Mary's heart valves were a match for two Chicago infants in critical condition. We have learned that even anacephalic and meningomyelocele children like our Mary can give life, sight or strength to others. Her ability to save the lives of two other children proved to others that her life had value—far beyond what any of us could ever have imagined.

Mary's life lasted a total of 37 weeks 3 days and 6 hours. In effect, like a small percentage of children conceived in our country every year, Mary was born dying. What can partial birth abortion possibly do for children like Mary? This procedure is intended to hasten a dying baby's death. We do not need to help a dying child die. Not one moment of grief is circumvented by this procedure.

In Mary's memory, as a voice for severely disabled children now growing in the comfort of their mother's wombs, and for the parents whose dying children are relying on the donation of organs from other babies, I make this plea: Some children by their nature cannot live. If we are to call ourselves a civilized culture, we must allow that their deaths be natural, peaceful, and painless. And if other preborn children face a life of disability, let us welcome them into this society, with arms open in love. Who could possible need us more?

JEANNIE W. FRENCH.

[From Physicians' Ad Hoc Coalition for Truth]

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 (7/29/96) 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 her medical history—of her own accord 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, 7/24/96). 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 'polyhydramnios secondary to fetal swallowing defect.' In other words, the child could not swallow the amniotic fluid, and an excess of the fluid therefore collected in the mother's uterus. 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 approach in such a case would be to reduce the amount of amniotic fluid collecting in the mother's uterus by serial amniocentesis. Excess fluid in the fetal ventricles could also be drained. Ordinarily, the draining would occur 'transabdominally.' Then the child would be vaginally delivered, after attempts were made to move the child into the usual, head-down position. Dr. McMahon, who performed the draining of cerebral fluid on Ms. Costello's child, did so 'transvaginally,' most likely because he had no significant expertise in obstetrics/gynecology. In other words, he would not be able to do it well transabdominally—the standard method used by ob/gyns—because that takes a degree of expertise he did not possess.

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 caesarean section in this case would not be medically indicated—not because of any inherent danger—but because the baby could be safely delivered vaginally.''

The Physicians' Ad-hoc Coalition for Truth (PHACT), with over three hundred members drawn from the medical community nationwide, exists to bring the medical facts to bear on the public policy debate regarding partial birth abortions. Members of the coalition are available to speak to public policy makers and the media. If you would like to speak with a member of PHACT, please contact Gene Tarne or Michelle Powers at 703–683–5004.

The PRESIDING OFFICER. All time of the Senator from Pennsylvania has expired. Who yields time?

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. BYRD. I ask the Senator to give me 30 seconds.

Mrs. BOXER. I yield 30 seconds to the Senator from West Virginia.

Mr. BYRD. Mr. President, I call attention to the rules of the Senate which preclude any reference to people

in the galleries, and one cannot, even by unanimous consent, change that rule, and the Chair is not even to entertain a unanimous-consent request that the rule be waived.

I hope Senators will abide by the rules regardless of what side of the question they are on.

Mr. SANTORUM. If the Senator will yield, I apologize for making such an error, and I appreciate the Senator pointing that out.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, thank you very much. I understand I have 8 minutes remaining, or a little less than that?

The PRESIDING OFFICER. Approximately 7 minutes remaining.

Mrs. BOXER. Mr. President, I ask I be yielded 4 minutes of that time. At that time, I am going to turn to another Senator to close our debate.

Mr. President, I ask unanimous consent to set aside the pending veto message and proceed immediately to a bill that allows this procedure only in cases where the mother's life is at stake or she would suffer serious adverse health consequences without this procedure.

The PRESIDING OFFICER. Is there objection?

Mr. SANTORUM. Reserving the right to object.

Mrs. BOXER. Mr. President, I ask for regular order and just ask if there is objection this time.

The PRESIDING OFFICER. Regular order, the Senator must object.

Mr. SANTORUM. I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. BOXER. Mr. President, the reason I asserted my parliamentary rights is because time is a wasting.

I would like to ask Senators to do me one favor as a colleague, and that favor is this: to simply visualize yourself in a circumstance where a person who you love maybe more than anyone else in the world, comes to you—it could be your wife, it could be your daughter, it could be a niece, it could be a grandchild, a granddaughter—and that woman who has been flushed with the thrill of a pregnancy, who was waiting with great anticipation with her family for the most blessed event any woman can have, and God has blessed me with two such events, and that loving woman looks in your eyes and says, ''Daddy,'' or ''Brother,'' or ''Mother, I have horrible news. I've been told by my doctor that there's a horrible turn of events that has happened in this pregnancy that we could not learn until the very late stages. And if I don't have this procedure''—the one that is outlawed in this bill, may I say—''my doctor says I might die or I might never be able to have another baby or I might be paralyzed for life. What should I do? Will you support me?''

I really think, if we are totally honest, as the distinguished Democratic leader has tried to put forward in his eloquence, I think every one of us would reach inside, and that love would overwhelm us and we would save that child, that wife, that granddaughter, and we would face this together with her doctor and our God, and we would not call a U.S. Senator, no matter how dignified, no matter how intelligent, no matter how popular at the moment, into that room. We would want to decide it with our family.

I beg my colleagues, I know this is such a difficult vote, but I believe in my heart when the American people understand that we have offered to ban this procedure but for life and serious health consequences and we were turned down by the other side, they will understand that not one of us is for a late-term abortion of a healthy pregnancy. Who could be? No one could be.

What we are talking about is preserving this procedure for cases like Viki Wilson and Vikki Stella and the women who have the courage to come forward and tell us their stories. I urge my colleagues, please, sustain the President's veto. I yield the balance of my time to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 2 minutes, 40 seconds.

Mr. BYRD. I thank the Chair, and I thank the distinguished Senator from California.

This is a very, very difficult question. I have been greatly troubled by it, as I am sure other Senators have been. Napoleon—who is not particularly one of my idols—and Josephine had a child on March 20, 1811. And when he was told by the doctors that the infant or the mother might have to be sacrificed, he revealed all the warmth of the human instincts and the instincts of family when he answered, ''Save the mother.''

Mr. President, as a father and as a grandfather, I would never want to be cast into that excruciating position. But if I were, I would answer as did Napoleon: ''Save the mother.''

Mr. COATS. Would the Senator yield at this time his time remaining?

Mrs. BOXER. Mr. President, what is the pending business?

The PRESIDING OFFICER. The Senator from California has 34 seconds remaining. That is the extent of all further debate.

Mr. COATS. May I ask the Senator from California if she would yield me—give me a chance to just make a 10-second response to the Senator from West Virginia?

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I yield back all the time. We have debated this. I think it is time to vote. I ask that we go to the regular business and vote at this time.

The PRESIDING OFFICER. All time having been yielded back, the question is, Shall the bill pass, the objections of the President of the United States to the contrary notwithstanding? The yeas and nays are required. The clerk will call the roll.

The bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from Maine [Mr. COHEN] is necessarily absent.

I also announce that the Senator from Colorado [Mr. CAMPBELL] is absent due to illness.

The yeas and nays resulted—yeas 57, nays 41, as follows:

[Rollcall Vote No. 301 Leg.]

YEAS—57

Abraham	Ford	Mack
Ashcroft	Frahm	McCain
Bennett	Frist	McConnell
Biden	Gorton	Moynihan
Bond	Gramm	Murkowski
Breaux	Grams	Nickles
Brown	Grassley	Nunn
Burns	Gregg	Pressler
Coats	Hatch	Reid
Cochran	Hatfield	Roth
Conrad	Heflin	Santorum
Coverdell	Helms	Shelby
Craig	Hutchison	Smith
D'Amato	Inhofe	Specter
DeWine	Johnston	Stevens
Domenici	Kempthorne	Thomas
Dorgan	Kyl	Thompson
Exon	Leahy	Thurmond
Faircloth	Lugar	Warner

NAYS—41

Akaka	Graham	Mikulski
Baucus	Harkin	Moseley-Braun
Bingaman	Hollings	Murray
Boxer	Inouye	Pell
Bradley	Jeffords	Pryor
Bryan	Kassebaum	Robb
Bumpers	Kennedy	Rockefeller
Byrd	Kerrey	Sarbanes
Chafee	Kerry	Simon
Daschle	Kohl	Simpson
Dodd	Lautenberg	Snowe
Feingold	Levin	Wellstone
Feinstein	Lieberman	Wyden
Glenn	Lott	

NOT VOTING—2

Campbell	Cohen

The PRESIDING OFFICER. The Chair would like to remind the visitors in gallery that demonstrations of approval or disapproval are prohibited under Senate rules and I ask the Sergeant at Arms to assist in maintaining order in the gallery. We appreciate your cooperation.

On this vote the ayes are 57, the nays are 41.

Two-thirds of the Senators present and voting not having voted in the affirmative, the bill, on reconsideration, fails of passage.

Mr. LOTT. Mr. President, I previously voted ''aye.'' I changed my vote to ''no.'' I now enter a motion to reconsider the vote by which the veto message was sustained.

The PRESIDING OFFICER. The motion has been received.

Mr. GRASSLEY. Mr. President, this is a matter of such great importance that we will raise it again and again for votes until we prevail. In fact, we may even bring it up again for a vote this year.

MORNING BUSINESS

Mr. LOTT. Mr. President, I now ask that there be a period for the transaction of routine morning business