minute and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, I rise more in disappointment than in anger. I am the Democratic member of the task force on the contested election in the 46th District, the district of the gentlewoman from California [Ms. SANCHEZ]. I have not taken to the well of the House or to the podium upstairs in the press gallery to talk about the disturbing pattern that has developed in this investigation.

Several days ago, the House Oversight Committee adopted a resolution providing for the issuance of interrogatories. The resolution clearly stated that there would be consultation with the ranking minority member. There was none. There was no discussion regarding the process or the substance of these interrogatories, directly contrary to the resolution of the committee.

What happened last week, unfortunately, is consistent with the pattern that has been established in this case. It has not been, I repeat, it has not been, a fair one. It has not been a process which has reflected a desire to proceed in a cooperative way to effect the ends of a fair investigation.

SENATE FINANCE COMMITTEE HEARINGS ON IRS ABUSES

(Mrs. MYRICK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MYRICK. Mr. Speaker, when was the last time that the American people saw such a spectacle as last week, when the Senate Finance Committee conducted hearings on the IRS abuses? Listen to some of the shocking things that we heard.

IRS agent Jennifer Long, a 15-year veteran with the agency, actually told the Senators that the management of IRS systematically concluded that Americans who reported less than $20,000 in income a year were tax cheats because nobody can live on that income.

Well, I have got some people back home who would totally disagree with that, especially seniors who live on fixed incomes every day, and they get by on a lot less than that.

IRS agents are not told to go out and be just, to be fair, to use good judgment to enforce their laws. No; they are told to go out and raise as much money as possible. If they do not shake down enough money, their careers could be in jeopardy.

And now the White House is asking the very same agency that is out of control to reform itself. Maybe this is the most amazing spectacle of all.

STOP ATTACKS ON PUBLIC EDUCATION

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Georgia. Mr. Speaker, the Republican assault on education is nothing new. The gentleman from Georgia [Mr. GINGRICH] and the radical Republican right have a plan to dismantle public education, abolish the Department of Education, cut the school lunch program, cut funding for safe and drug-free schools, for teacher training, for Head Start. To these attacks on our children, Democrats have said ''no.''

Now Republicans have a new scheme: Drain funding from public education and give it to a privileged few to attend private school. Reward the few and punish the many. That is the Republican plan. To that I say ''no'' and Democrats say ''no.'' Democrats believe in investing in education for all of our children, improving, reforming, and strengthening our public schools.

Mr. Speaker, 99 percent of our children attend public school. We need to work to improve our public schools. Stop attacks on public education, Mr. Speaker. Our children deserve better.

PARTIAL-BIRTH ABORTION BAN ACT OF 1997

Mrs. MYRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 262 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 262

Resolved, That upon adoption of this resolution it shall be in order to take from the Speaker's table the bill (H.R. 1122) to amend title 18, United States Code, to ban partial-birth abortions, with Senate amendments thereto, and to consider in the House a single motion that the House concur in each of the Senate amendments. The Senate amendments and the motion shall be considered as read. The motion shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. The previous question shall be considered as ordered on the motion to final adoption without intervening motion or demand for division of the question.

The SPEAKER pro tempore. The gentlewoman from North Carolina [Mrs. MYRICK] is recognized for 1 hour.

Mrs. MYRICK. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman from New York [Ms. SLAUGHTER] pending which I yield myself such time as I may consume. During consideration of this resolution, all time is yielded for the purpose of debate only.

Mr. Speaker, yesterday afternoon, the Committee on Rules met to grant a rule that provides for a motion to concur to the Senate amendments to H.R. 1122, the Partial-Birth Abortion Ban Act of 1997 in the House. It is a simple rule that provides 1 hour of debate on the motion equally divided between the chairman and ranking minority member of the Committee on the Judiciary.

Supporting this rule and the motion to agree to the Senate amendments will allow us to complete the long legislative process on this bill. H.R. 1122 would then be ready to be sent to the other end of Pennsylvania Avenue, where the President will again have the opportunity to end the cruel procedure known as partial-birth abortion.

During the Committee on Rules hearing yesterday, we heard impassioned pleas to make two amendments in order, one by the gentlewoman from New York [Mrs. LOWEY] and one by the gentleman from Maryland [Mr. HOYER]. Neither of those amendments were ruled in order.

I respect their heartfelt sentiments on this emotional issue. But I would like to point out that if we went through the normal legislative process, going to conference with the other body and working out our differences, the subsequent conference report would not be amendable either.

It may be alleged that the majority on the Committee on Rules is trying to cut off debate on this issue. Nothing could be further from the truth. We are merely trying to complete this legislative process in a timely manner.

The two proposed amendments have not gone through the normal process. They have both expanded the scope of the bill and contain language that should be carefully deliberated by my colleagues so that we are all completely sure what they mean.

☐ 1045

With respect to H.R. 1122 and the Senate amendments, the two substitute amendments offered by the minority are irrelevant. The amendments would ban third-trimester abortion except to save the mother's life or health.

While that may sound perfectly reasonable, the vast majority of partial-birth abortions are performed in the fifth and sixth month of pregnancy, not the third trimester. Further, the health exemption would effectively permit all abortions. The Supreme Court interprets health abortions so broadly as to include all those related to social, psychological, financial, or emotional concerns. I realize that the Hoyer amendment defined health in another manner.

The gentleman from Florida [Mr. CANADY], chairman of the Subcommittee on the Constitution, provided testimony that indicated that there was still a great deal of latitude given to abortionists to determine if the health exemption applied.

Despite all the attention that will be given to what is not on the floor today, I would now like to focus on what is going to be on the floor today, a ban on the brutal procedure known as partial-birth abortion, with protection for the life of the mother, and let me be perfectly clear that if her life is in jeopardy, the ban does not apply, and fines and possible prison terms for physicians who violate the ban and perform this atrocity.

This resolution will allow us to vote on accepting three acceptable, simple Senate amendments which delete some

language in the life exception. The bill still bans partial-birth abortion unless it is necessary to save the life of the mother, clarifies the definition of partial-birth abortion, and allows a physician to present evidence in court from the State medical licensing authority on whether the partial-birth abortion was necessary to save the life of the mother.

There is little debate about the brutality of this procedure. In fact, the gruesome and violent partial-birth abortions are unconscionable. It has been confirmed that thousands of these procedures are performed every year. Many of those are elective and performed on healthy mothers with healthy babies. More than 80 percent of the American people and the American Medical Association support banning this practice. We live in a civilized society, one that cannot consciously condone or tolerate such inhumane and uncivilized procedures.

I strongly urge my colleagues to support this rule and the Senate amendments to H.R. 1122. It is time we complete our work on this important bill, and take a step closer to banning this most monstrous type of abortion.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong opposition to this rule. This rule would allow the Congress to take up once again one of the most shameful bills that has ever come before this Chamber. In their war against a woman's right to choose, antichoice forces have shown that they are willing to sacrifice a woman's health and her future fertility to pursue the extreme agenda by passing H.R. 1122.

The House will be asked today to adopt the Senate amendments to H.R. 1122. These amendments consist of three minor changes that were made in order to secure the controversial endorsement of the American Medical Association.

These changes do not alter the substance of the bill, which seeks for the first time ever, ever, Mr. Speaker, to make a specific medical procedure a Federal crime. Rather, these changes provide further protection for doctors who may face prosecution under this proposal if it becomes law. Evidently, antichoice advocates are more interested in protecting a doctor's license than a woman's health.

I would like to bring my colleagues' attention to part of a letter I received from a Texas women's health clinic. It states:

> Please do not make the mistake of thinking that the AMA speaks for all physicians on this issue. It does not speak for the American College of Obstetricians and Gynecologists, the doctors most intimately concerned with women's reproductive health; it does not speak for the 13,000 members of the American Women's Medical Association; and it does not speak for us, doctors who provide abortions to the women who need them.

Less than a year ago the President made it clear that he will veto any bill that does not pass the test of the four women who visited him in his office, explaining that the procedure we are discussing today was necessary to preserve their health, their lives, and their reproductive ability. This bill fails that test once more.

It is not the role of Congress to determine the appropriateness of medical procedures. The doctor-patient relationship has been accepted as totally private in this country. Congress is inserting itself into the most private of decisions, and saying that we are more competent than our women and their doctors to make medical judgments.

As one of the few Members of Congress with a background in public health, I can tell the Members this most assuredly is not the case. I would like to read from a letter dated October 3 from the American College of Obstetricians and Gynecologists.

They state:

> This organization, representing 38,000 physicians dedicated to improving women's health, continues to oppose the Partial-Birth Abortion Ban Act of 1997, and urges the House of Representatives to reject this legislation.

These physicians believe that H.R. 1122, as amended, continues to represent an inappropriate, ill-advised, and dangerous intervention into a medical decision.

The amended bill still fails to include an exception for the protection of the health of the woman. Further, the amended bill still violates a fundamental principle at the very heart of the doctor-patient relationship: that the doctor, in consultation with the patient, based on what the patient's individual circumstances are, must choose the most appropriate method of care for the patient.

This bill removes decisionmaking about medical appropriateness from the physician and from the patient. This bill is vague and broad. With the potential to restrict other techniques in obstetrics and gynecology, it fails to use recognized medical terminology and fails to define explicitly the prohibited medical techniques it criminalizes. Moreover, the ban applies to all stages of pregnancy. It thus would have a chilling effect on medical behavior and decisionmaking with a potential to outlaw techniques that are critical to the lives and health of American women.

Let us defeat this rule and defeat the previous question. If the previous question is defeated, I intend to offer an amendment that would make in order the Hoyer amendment, which was the same language offered by Senator DASCHLE during Senate consideration. It would ban all postviability abortions except where continuation of the pregnancy would endanger the life of the mother or risk grievous injury to her health.

Mr. Speaker, I urge my colleagues to defeat this rule, to defeat the previous question, and also to get rid of those Senate amendments to H.R. 1122.

Mr. Speaker, I reserve the balance of my time.

Mrs. MYRICK. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON], our illustrious chairman of the Committee on Rules.

Mr. SOLOMON. I thank the gentlewoman from North Carolina for yielding time to me, Mr. Speaker.

Mr. Speaker, I would rise in support of this rule and the Partial-Birth Abortion Ban Act. I would just take exception to the statement of the gentlewoman from Rochester, NY, that this is the most shameful bill ever brought to this floor. I think what is shameful is the fact that these heinous procedures are allowed against about-to-be-born helpless children. For us to delay even another hour would be, in itself, shameful.

Mr. Speaker, this rule will allow the House to consider a motion to agree with the Senate amendments, and this is the right procedure to use in this case because if the Senate-passed version is changed in any way, in other words, the legislation has to go back to the Senate for further action, and if that happens, that means that the window of opportunity for laying this bill on the desk of the President just will not happen this year.

Is it right to delay this bill? Some say, why can we not do it in January or February? I would just pose the question, how many partial-birth abortions would take place across this country between now and next January, February, or March? Given that our colleagues in the other body have no germaneness rules, who knows what could be hooked onto this legislation and just how long it could be tied up.

As we get into this debate, I want to provide just a little of the history of this legislation. In the last Congress, a similar bill was passed by both the House and Senate. After President Clinton vetoed the bill, the House voted to override the veto by a vote of 285 to 137, overwhelming. The Senate fell short of the two-thirds vote necessary to override the veto, with a vote of 58 to 40. In this Congress, the House passed this bill by an even wider margin of 295 to 136, which is more than sufficient to override the veto, far more.

On May 20 the Senate passed the bill with amendments by a vote of 64 to 36, again, widening that margin of support, just three votes short of the two-thirds necessary to override the veto. We are getting very close to crossing the goal line with this bill. I firmly believe we are going to make it.

The issue presented by this legislation is absolutely crystal clear: do we support or do we oppose the procedure called partial-birth abortion. For me, that answer is without doubt. As my hero, Ronald Reagan, stated so well, we cannot diminish the value of one category of human life, the unborn, without diminishing the value of all human

life. There is no cause more important, said Ronald Reagan.

With regard to this legislation, there are at least two things that are different in this Congress from the last Congress, which gives both pro-choice advocates and pro-life advocates, who oppose this heinous procedure, which gives us hope that we are going to make it this time.

In the last Congress, when the President vetoed the bill, he justified that veto by contending that partial-birth abortions occur only rarely, and only when necessary to save the life of the mother. That is what the President said. That was his reason for vetoing the legislation.

It has since become clear that much of the information which the President relied on in reaching that conclusion was erroneous. The information was so wrong that one of the strongest supporters of partial-birth abortion admitted publicly that he deliberately misled the American people, he deliberately misled this Congress, and he deliberately misled the President of the United States in making that statement on which he vetoed the bill.

On February 25 of this year Ron Fitzsimmons, the executive director of the second largest abortion provider in the Nation, admitted, and many Members saw this, and if not, I will recall it to them, admitted on Nightline, and later in the New York Times, and we have the publication of the New York Times, that he lied through his teeth, he lied through his teeth, about this terrible procedure. Partial-birth abortions do in fact happen far more often than previously acknowledged, and on healthy mothers bearing healthy babies. That is what he said.

There is a second thing that is different in this Congress from the last Congress. That is, the number of votes against partial-birth abortions has increased in both the House and Senate, which I have just outlined. This legislation is picking up momentum.

In order to build on that momentum, I would ask Members, whether they are pro-life or pro-choice, because we all gather together on this important issue, to support the rule and support the Partial-Birth Abortion Ban Act.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Maryland, a very respected Member on the other side of the aisle.

Mr. HOYER. Mr. Speaker, I appreciate the gentleman's thoughtful statement, and I am well aware of his strong feelings on this. But I want to pursue, if I might, just a couple of questions, because of the difficulty of this.

Mr. SOLOMON. Mr. Speaker, if the gentleman would let me reclaim my time, we are pressed with the time that we are allocating. If the gentleman would like to get his time, I will stay here and answer any questions, even though I have to go to the Committee on Rules in a few minutes. So I must reclaim, and ask the gentleman to get his time. I will be glad to speak to the gentleman.

Ms. SLAUGHTER. Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. EDWARDS].

Mr. EDWARDS. Mr. Speaker, I rise in strong opposition to this rule. I have great respect for Members of Congress who are genuinely pro-life. Some even believe if a woman is the victim of incest or rape, the Federal Government should prevent her from terminating the pregnancy. While I strongly disagree with that opinion, I can respect those who honestly believe it. But what I cannot respect is a bill that is designed for sound bites, not saving babies.

We all know this bill will pass today. Why? Because it is designed for maximum impact in 8-second sound bites and 30-second attack ads.

□ 1100

If we want to save babies, we do not outlaw one type of abortion procedure and allow all other types of late-term abortion procedures to be perfectly legal. That is why this bill might be good politics, but it will not save one baby.

If someone wants a late-term abortion under this bill, their doctor can just use a procedure not outlawed by the bill. As someone who helped pass, as a Texas Senator, a ban on late-term abortions in Texas in 1987, I think it is tragic that the supporters of this bill would not even allow us to offer an amendment similar to the Texas law, an amendment that would have outlawed all late-term abortion procedures, not just one procedure, and providing an exemption in rare cases where the mother's life or health are endangered. Denying us that amendment might have been good politics, but it is terrible policy.

The consequences of that political decision are real. First, now, today, we have a bill that will not prohibit all late-term abortion procedures, so no babies will be saved.

Second, the bill will be vetoed by the President, and is unconstitutional, because it has no health exception and limits women's choices in the second trimester, even before viability. Federal judges have already stopped such similar bills in 10 States across this Nation.

Third, women in tragic, tragic cases where their fetus has zero chance of survival, zero chance, will be forced by the Federal Government and politicians to go through a procedure that can endanger her health and stop her from ever having babies again.

I may be in the minority vote today, Mr. Speaker, but I, for one, am not willing to sacrifice one woman's fertility, one woman's chance to have the joy of having a baby in order to pass a sound bite bill that is unconstitutional. That is simply a price that no woman in America should have to pay for my political convenience or anyone else's.

Mr. Speaker, while I can respect genuine pro-life, I will not sit by silently and let some proponents of this bill suggest that those of us who oppose this bill support taking a healthy baby, just moments before a normal childbirth, and crushing the baby's skull. That is deceitful, it is dishonest, and it is wrong. It is not true, and they know it.

I strongly oppose late-term abortions. If there is one done for frivolous reasons, it should be illegal, but when a woman's health is in danger, I, like many Americans, believe that difficult choice should not be made by politicians in Washington, DC, but by a woman, her family, and her doctor.

Mr. Speaker, the reality is this: We could have passed 2 years ago, 2 years ago, the bill that pro-lifers supported in Texas as far back as 1987. That law would be saving babies today. Instead, because of the proponents' approach, their political approach, we have no Federal law. We could pass that Texas bill on this House floor today. The President would sign it tomorrow, and it could save babies the day after that. But sadly, this Committee on Rules has chosen not to even give us Members of the House the right to cast that vote of conscience and belief. That is wrong.

Mr. Speaker, the real tragedy is that to some, the politics of this bill has become more important than saving babies.

I believe it is time to save babies' lives, not sound bites. That is why I hope the President will once again have the courage to veto this bill, so that we can finally work together to pass a bill that will save babies rather than political careers.

Finally, Mr. Speaker, regardless of my colleagues' position on this difficult emotional issue, if Members of Congress believe that we should all have the right to express a vote of deep conscience and conviction, then my colleagues should oppose this unfair closed rule.

Mrs. MYRICK. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. CANADY].

Mr. CANADY of Florida. Mr. Speaker, I thank the gentlewoman for yielding me this time. I want to express my gratitude to the Committee on Rules for bringing forward this rule.

Comments have been made about whether the proponents of this bill are doing what they can to reduce abortions. It has been suggested that another proposal which has been advanced by the President would actually be more effective in dealing with reducing abortions. I will leave it to the candid judgment of the people of this country whether it is the supporters or the opponents of this bill who are interested in reducing the number of abortions performed in America. I think the record of those who are supporting this bill speaks pretty clearly on that subject.

It has been contended that partial-birth abortion is, in some cases, necessary to protect the health of the mother. That is simply untrue. Partial-birth abortion is never necessary to protect the health of a woman. Hundreds of obstetricians and gynecologists and maternal fetal specialists have come forward to unequivocally state that partial-birth abortion is never medically necessary to protect a mother's health or her future fertility. On the contrary, this procedure can pose a significant threat to both.

The American Medical Association, which is on record in support of abortion rights, supports banning partial-birth abortion because it is not necessary and it is, and I quote, not good medicine.

Furthermore, in an American Medical News article, Dr. Warren Hern, a late-term abortionist, disputed the safety of partial-birth abortion. I want to quote directly from this article. It says even some in the abortion-provider community find the partial-birth abortion procedure difficult to defend. ''I have very serious reservations about this procedure,'' said Colorado physician Warren Hern, M.D.

The author of ''Abortion Practice,'' the Nation's most widely-used textbook on abortion standards and procedures, Dr. Hern specializes in late-term procedures. He opposes the bill, he said, because he thinks Congress has no business dabbling in the practice of medicine. But of the procedure in question, he says, ''You really can't defend it. I'm not going to tell somebody else that they should not do this procedure. But I'm not going to do it.''

Dr. Hern's concerns center on claims that the procedure in late-term pregnancy can be safest for a pregnant woman and without this procedure, women would have died. ''I would dispute any statement that this is the safest procedure to use,'' he said.

Turning the fetus to a breech position is potentially dangerous, he added. ''You have to be concerned about causing amniotic fluid embolism or placental abruption if you do that.''

Pamela Smith, M.D., director of medical education, Department of Ob-Gyn at Mount Sinai Hospital in Chicago, added two more concerns: cervical incompetence in subsequent pregnancies caused by 3 days of forceful dilation of the cervix and uterine rupture caused by rotating the fetus within the womb.

Partial-birth abortion is used by some abortionists for their own convenience. It is never necessary to partially deliver a live child and jam scissors into the back of that child's head to preserve a mother's health. Think about it. Look at what they do. How is partially delivering the child, jamming scissors in the child's head, in any way calculated to protect the health of the mother? If the pregnancy must be terminated because of the health of the mother, if the child must be delivered, the child can be delivered without stabbing the child in the back of the head.

This is an argument that has absolutely no merit. It is an argument that is being advanced in defense of a procedure that simply cannot be defended.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, the women who undergo this late-term abortion procedure do so, they do so when they are left with no other choice. Often, this procedure is the only one which will save the life of the mother and preserve her fertility so that one day, in fact, she can have the chance to have another healthy child.

I received a letter from one of my constituents who underwent this procedure. The child that she was carrying was the victim of a chromosomal abnormality so rare that it does not even have a name. Her child was missing genetic information, was missing internal organs, and her digestive system was in difficulty.

After meeting with her rabbi, with a genetics counselor, talking with her doctor and with her family, my constituent decided to have this procedure because her doctor told her that it would preserve her ability to have another child.

She is now the proud mother of a young girl, realizing, fulfilling the dreams of herself and her family to be able to have a baby. She deeply mourns the child that she lost, but she is grateful that she had the chance to have that baby girl, a chance that she would not have had if she had been forced to carry that pregnancy to term.

This bill would have taken that decision out of the constituent's hands and out of the hands of her doctors, and yes, there are many, many doctors who believe that what my colleagues on the other side of the aisle are trying to do is to take the decision out of the hands of the doctors.

This is the most painful decision that any woman, any family will ever have to make. Families deserve to make it for themselves, and that is why I oppose this bill and this rule.

If my colleagues on the other side of the aisle truly wanted to ban this procedure, they would have made in order a Democratic alternative that would have included an exemption in the cases when the health of the mother is at risk. They refuse to deal with the issue of the health of the mother. The President has said that he will veto any bill that does not include a health exemption, and indeed, he has already vetoed a virtually identical bill.

Instead, what they do is they insist on playing partisan politics with women. We are not going to stand for it. The President is not going to stand for it, and my friends, the women of America are not going to stand for it. I urge my colleagues to oppose this rule and to oppose this bill.

Mrs. MYRICK. Mr. Speaker, I yield such time as he may consume to the gentleman from Oklahoma [Mr. COBURN].

(Mr. COBURN asked and was given permission to revise and extend his remarks.)

Mr. COBURN. Mr. Speaker, what we just heard was a very unfortunate story, but the most unfortunate thing about the story is the woman was lied to by her physician, for in fact there is never a medical reason to care for any anomaly associated with pregnancy in this way.

This debate is not going to be centered around truth. It has not been. There is never an indication to use this procedure to save the life of a woman. And if, in fact, that were not true, the bill still protects for that. So it is a specious argument to say that partial-birth abortion is required to save the life of a woman. It is just absolutely untrue.

Now, why would I say that? I have cared for every imaginable type of anatomic, genetic defect in the over 3,200 babies that I have cared for, let alone the other 1,000 or so pregnancies that did not come to fruition. Why? Why do we have the partial-birth abortion? We have the partial-birth abortion as a convenience to abortionists.

Now, it makes good rhetoric to say that this saves the life of a woman; it makes good rhetoric to say that this is the only way we can in fact allow that choice for that woman in a very unfortunate situation, but it is not medically true, it is not scientifically true. But it philosophically supports the idea that no matter what we want, if we want to terminate a life at any time, for any reason, for any cause, then we ought to do this.

The argument ought to be on the basis of what people think, and if one really believes that, then one ought to stand up and say that. Some 80 percent of the babies that have been aborted this way were absolutely normal, nothing wrong with them. Look at Bergen County, NJ. Look at the data. It is truly representative of what goes across this country, it is truly representative of what happens in the reproductive field in this country. It is OK if in fact one believes that one ought to be able to terminate a life at any time, for any reason, in any way, but stand up and say that. Do not distort what the medical information is.

□ 1115

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. COBURN. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, I understand what the gentleman is saying. His representation is that the doctor did not tell the patient the truth.

Mr. COBURN. Mr. Speaker, reclaiming my time, absolutely.

Mr. HOYER. Mr. Speaker, if the gentleman would continue to yield, in the instance if one accepts the premise that the condition existed, I would ask the gentleman what alternative would he have recommended.

Mr. COBURN. Mr. Speaker, again reclaiming my time, easy. The doctor

would do the same thing in terms of preparing, if the life need to be terminated for the life of the woman, which in fact in this case I do not know the details, I cannot say.

Mr. HOYER. Mr. Speaker, I ask the gentleman to accept that as a premise.

Mr. COBURN. Mr. Speaker, if the gentleman would continue to yield, accepting that as a premise, that in fact if the life of the woman was in danger, could it have been done? Easy. It is called prostaglandin induction, and without putting the woman at risk.

The other false statement is that this procedure is known to put the woman's fertility at risk, not ensure her future fertility. Every major obstetrical textbook says doctors should not forcefully dilate the cervix. This procedure forcefully dilates the cervix.

Mr. HOYER. Mr. Speaker, if the gentleman would continue to yield, I did not get the term. What would have been the result?

Mr. COBURN. Mr. Speaker, again reclaiming my time, spontaneous abortion that would have occurred without a puncture vacuum evacuation of the cranium.

Mr. HOYER. Mr. Speaker, if the gentleman would again yield, and the fetus or the child would not have survived?

Mr. COBURN. Mr. Speaker, reclaiming my time, I do not know, and the gentleman does not know. Many times babies have been born in my care that would not survive. We chose not to make the decision on what their survival would be. Physicians are not that accurate in terms of life and death. We obviously are human, and we make those mistakes.

My point is, this woman, if in fact she needed to be evacuated, could be evacuated in many ways other than this method.

Mr. HOYER. Mr. Speaker, if the gentleman would again yield, I would ask the doctor, I am correct then that eliminating this prior would not necessarily eliminate the abortion?

Mr. COBURN. Mr. Speaker, reclaiming my time, it would not. The gentleman is correct.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, if I may add for just a moment to what the doctor has said, if the doctor does not know, how does he expect Members of Congress to make this decision? Why should we be doing that?

Mr. COBURN. Mr. Speaker, will the gentlewoman yield?

Ms. SLAUGHTER. I yield to the gentleman from Oklahoma.

Mr. COBURN. Mr. Speaker, it is not a matter of knowing life or death; it is a matter of knowing techniques that are used. There is a very big difference in saying that we can use a procedure that is a convenience to the abortionist that is heinous, that is totally cruel and inhumane, versus the methods that are available that are not.

Ms. SLAUGHTER. Mr. Speaker, reclaiming my time, I would ask the gentleman whether it bothers him at all as a physician that the Congress of the United States is outlawing for the first time and making a Federal crime a medical procedure?

Mr. COBURN. Mr. Speaker, if the gentlewoman would continue to yield, this is not a medical procedure in my estimation. This is murder. This has nothing to do with medicine. It has to do with murder at the convenience of the abortionist.

Ms. SLAUGHTER. Mr. Speaker, reclaiming my time, I am saddened beyond measure every time we debate this issue. Every one of us who has been brought up by a woman that we consider brilliant and wonderful suddenly decides here that the women in the country do not have any sense at all and, if this Congress did not act, they might do something really dreadful.

Well, for all of my colleagues who have never had the honor of carrying a baby, let me say it does not work that way. Women who undergo this procedure want these babies desperately. The fact that at almost the point of birth they find that they cannot carry that baby to term is heartbreaking for them.

Mr. Speaker, I pray that none of my colleagues, and none of their family members, ever have to reach that decision. But for heavens sake, I do not believe it is the province of the House of Representatives to determine whether or not that woman can get that procedure. In fact, I would wager to my colleagues, if that decision were to be made, a woman and her family facing that and this procedure was outlawed, I do not believe that the doctor would stop it.

Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. WOOLSEY].

(Ms. WOOLSEY asked and was given permission to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Speaker, there truly is no rest for the weary. And I tell my colleagues, the women of this country are weary. They are just plain tired of the constant stream of attacks launched by the Republican leadership in this House.

Mr. Speaker, today's assault on women is especially dangerous. It is dangerous because it puts women's health at risk.

I rise in opposition to this rule today because it does not allow an amendment to safeguard the health of women in this country. The health of women should be what this bill is about, Mr. Speaker. Instead, this bill makes complicated medical pronouncements while ignoring the health of women, those who are most affected.

That is why the American College of Obstetricians and Gynecologists, the American Nurses Association, and the American Medical Women's Association all strongly oppose this legislation. These groups oppose the bill, Mr. Speaker, because it will hurt women, plain and simple, hurt women.

Mr. Speaker, it continues to amaze me that Members of this House have so little faith in women, the very people who bear and raise the children of this country, so little faith that they would deny them access to the lifesaving procedures out of some ridiculous notion that pregnant women do not care about their children, that they wait until the last moment to abort a pregnancy.

Mr. Speaker, I urge my colleagues, put women ahead of politics. I urge my colleagues, defeat the previous question. I urge my colleagues to let the decisions be made between the women and their doctors.

Mrs. MYRICK. Mr. Speaker, I yield 15 seconds to the gentleman from Oklahoma [Mr. COBURN].

Mr. COBURN. Mr. Speaker, I would just remind the body that the testimony before Congress is that over 80 percent of these that are performed were elective. That is the testimony before the committees of this Congress.

Ms. SLAUGHTER. Mr. Speaker, I yield 15 seconds to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I would ask the gentleman from Oklahoma [Mr. COBURN], in that testimony, was the testimony as to at what stage that was done?

Mr. COBURN. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Oklahoma.

Mr. COBURN. Mr. Speaker, it was across the stage, most of them more than viable, greater than 22½ weeks.

Mr. HOYER. Postviability?

Mr. COBURN. Postviability.

Mrs. MYRICK. Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I thank the gentlewoman from New York [Ms. SLAUGHTER] for her courage and leadership in defending women of America, their lives and their safety.

Mr. Speaker, I rise in strong opposition to the amended version of H.R. 1122. This bill, in its original form and as amended, puts at great risk women's health and future fertility. The bill provides no exception to protect a woman's health. It would prevent a qualified doctor from using a medical procedure that could be the most medically appropriate one to save the life and health of a woman.

This House of Representatives lacks the extensive medical qualifications needed to determine what is in the best interest of the patient. Why are we in the House of Representatives now choosing and deciding about medical procedures? It is ridiculous.

Mr. Speaker, this bill forces qualified physicians to make a choice between their best medical judgment and a prison sentence. Doctors should not have to fear criminal prosecution for providing what they have determined to be the most compassionate care possible for a woman in an excruciating circumstance, and that circumstance is

that the baby is not viable, that the baby is lost, that people who have been joyfully expecting a new baby have to face the terrible reality that the baby is not going to survive. This is just the most helpful way in terms of the woman to proceed, if the doctor, the woman, and her family decide to go this way.

Mr. Speaker, I urge my colleagues to protect the health of the woman and vote against this legislation which is both unconstitutional and inappropriate.

Let me say that I understand how difficult this issue is for all of us. It is not easy to have this kind of discussion. But I believe that this is not an issue that rests with Congress. This legislation destroys the family's right to face a devastating circumstance with safety and dignity.

The President will not sign a bill that threatens this right. This decision is appropriately made by the woman. I urge my colleagues to vote ''no''.

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska [Mr. CHRISTENSEN].

Mr. CHRISTENSEN. Mr. Speaker, I would remind the gentlewoman from California [Ms. PELOSI] that the American Medical Association has not recognized this procedure as a medically necessary procedure.

Mr. Speaker, I rise in strong support today of this rule on H.R. 1122, which will ban this partial-birth procedure.

Each day we have an opportunity to craft legislation in this Chamber that is going to affect the lives of men and women and children all across this Nation. Today is no different. But today we have an opportunity also to restore some morality to this country.

Mr. Speaker, I believe that the decision that we are faced with, after hearing the graphic illustrations, after listening to the testimony, after listening to the gentleman from Oklahoma [Mr. COBURN] having delivered 2,200 babies, state that this is not a necessary medical procedure; listening to former people who were in charge of this issue who used to be pro-abortion who have now voted in favor of outlawing this procedure. The testimony is clear. The evidence is direct. There should be no divisiveness on this issue.

Protecting the life of unborn children after viability should not be an issue. As a Nation, as a family, we should come together on this issue. We should come to agree on this issue. Postviability abortion is wrong. Partial-birth abortions are wrong. Killing the unborn baby is wrong.

Mr. Speaker, this is not about the life of the mother. We have already heard from the testimony of Dr. COBURN and other people that there are other ways and other procedures and other things that can be done. Taking the life of an unborn child once viability is proven is clear-cut murder. It is wrong. We should not allow it.

We must come together as a body, we must come together as a Nation, to heal this situation. Today we have that opportunity. Vote in favor of H.R. 1122.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to put on the record a comment. Although Dr. COBURN has his opinion, that is just one doctor.

I would like to say that a panel convened by the American College of Obstetricians and Gynecologists says that while it is not the only option, ''An intact D&X may be the best or most appropriate procedure in a particular circumstance to save the life or preserve the health of a woman, and only the doctor, in consultation with the patient, based upon the woman's particular circumstances, can make this decision.''

Mr. Speaker, if we believe this is murder, we should be filing criminal charges, and I do not see anybody doing that.

Mr. Speaker, I yield 2 minutes to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Speaker, like most Americans, I wrestle with this issue more than any other. It hits in every possible way, moral, physical. It is a gut-wrenching issue.

Like most Americans, I oppose late-term abortion. Like most Americans, I would support late-term abortion only to save the life of the mother or to protect her health, to protect her from serious health endangerment.

This legislation does not do this. This legislation does not seek to protect the health of the mother. If people wanted to truly ban late-term abortions, we would not ban one procedure, we would ban all late-term abortions, which I have voted for, except to save the life of the mother or to protect her from serious health risks.

Mr. Speaker, agonizing about this, I called three physicians across the country, three ob/gyn's. I respect the opinion of the gentleman from Oklahoma. They do not agree with him. That is a fair statement that there is not agreement on this. But those three ob/gyn's who have done a wide range of deliveries, who each of them have been delivering babies at least 23 years, all of them said that this procedure in limited circumstances was necessary.

In fact, I believe in each case they had performed the procedure in many, many years of deliveries only twice, and in two cases at least then necessary to protect the health of the mother, because the child was going to be born dead, was hydrocephalic, and they felt there was no other way to do it and to protect the life of the mother.

The American College of Obstetricians and Gynecologists disagrees with what this Congress is about to do today. I have heard about the American Medical Association, but the physicians that actually deliver the babies, they disagree and they think that this is a bad piece of legislation.

Mr. Speaker, we can all agree that late-term abortions should not be allowed except when the mother's life or her health would be seriously in danger. But I cannot vote for this legislation, because that means I have to look a woman in the eye and say, even though there may have been a medical procedure that would have protected your health, the Congress voted not to let it be done.

Mrs. MYRICK. Mr. Speaker, I would like to inquire of the amount of time left for each side, please.

The SPEAKER pro tempore (Mr. CALVERT). The gentlewoman from North Carolina [Ms. MYRICK] has 7¾ minutes remaining, and the gentlewoman from New York [Ms. SLAUGHTER] has 8¾ minutes remaining.

Mrs. MYRICK. Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. SCOTT].

□ 1130

Mr. SCOTT. Mr. Speaker, I rise in opposition to the rule because the rule leaves out the possibility that we can consider a bill that is constitutional. This bill is clearly unconstitutional, and State laws have been thrown out recently because the Supreme Court has said that we cannot restrict a woman's right to choose if the restriction endangers the life and health of the mother.

Mr. Speaker, nine State lawsuits have been decided just this year that have thrown out similar State laws. For example, in Michigan the court said that such a ban ''would operate to eliminate one of the safest post-first-trimester abortion procedures,'' and the court therefore found that a woman would have to go into riskier procedures and they threw out the law.

In Nebraska the ban was unconstitutional because it would subject patients to ''appreciably greater risk of injury or death.'' That law was enjoined just this year.

In Montana, just this year, the court concluded that there would be an increase in the amount of risk and pain that must be suffered, and they enjoined the implementation of the law.

Louisiana, they found that it would be unduly burdensome by virtue of banning the safest, most common procedures used after the first trimester.

Mr. Speaker, State after State after State concluded that the law was unconstitutional. We need to defeat the previous question so that we can consider the amendment to be offered by the gentleman from Maryland that would make the law constitutional so that we can consider a constitutional law. I would hope that we would defeat the previous question, adopt the Hoyer amendment, or defeat the rule.

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentleman from Kansas [Mr. TIAHRT]).

Mr. TIAHRT. Mr. Speaker, I have often wondered what would happen if Congress based our decisions on truth and logic. Today we are debating a rule

for banning partial-birth abortion. Some will say the procedure is necessary but the gentleman from Oklahoma, Dr. COBURN, was very clear. He says that it is unnecessary, and he has delivered 3,200 children. I think he probably knows what he is talking about. Some will say it is needed to allow for the health of the mother. That is really undefined. It could mean a headache or perhaps an emotional strain.

The truth is this procedure is not needed. Its purpose is very simple. It is for the convenience of performing abortions. It is to satisfy a very specific group here in America, the abortion industry. That is why in my estimation an abortionist from Wichita, KS, traveled to Washington, DC, to attend a Presidential coffee, contributed $25,000 to the Democratic National Party, following the President's veto of the partial-birth abortion ban.

There is a letter then from the Pope condemning the President for this veto. It is very interesting the Pope has only written about six such letters this century, all the Popes this century. And they include people like Ayatollah Khomeini, Muámmar Qadhafi, Adolf Hitler, tyrants, all tyrants who placed a very low value on human life.

The opposition to this rule and the opposition to this ban is very simple. It is merely support for the abortion industry, purely to support those who want the convenience of this procedure. It is not necessary medically. It is not needed for the health of the mother. It is just a convenience for the abortion industry. That is the truth and the logic behind this debate. That is the truth and logic behind these arguments, simply to support the abortion industry.

I say to my colleagues, let us support H.R. 1122. Let us support this rule and let us ban this hideous procedure that is not necessary, not for medical reasons, not for political reasons, purely to support the abortion industry.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas [Ms. JACKSON-LEE].

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, this issue is one that generates a great deal of emotion. I appreciate that we all may agree and disagree. I think the strength of our democracy belongs in that opportunity to agree and disagree and to have our voices be heard.

I am compelled to speak on this issue, one, because the law does indicate that a woman in this Nation has a right to choose. I am distressed that our leaders did not see fit to provide an open rule so that all of our views could be expressed. I do not ask my colleagues to agree with me but I do ask them to allow me the opportunity to vote on my position and the rights of women to choose.

Yesterday afternoon at the Committee on Rules both the gentlewoman from New York [Mrs. LOWEY] and the gentleman from Maryland [Mr. HOYER] offered amendments. The committee, however, did not see fit to make either of these amendments in order. This should have been an open rule.

Mr. Speaker, I ask that this rule be opposed and defeated and, in the alternative, that these amendments be allowed so that all of our voices and all of our views can be represented, and the law can be represented, and a woman's right to choose.

Mr. Speaker, I rise today to voice my opposition to the closed rule on H.R. 1122 that is before us. There is a great deal of emotion surrounding the debate on H.R. 1122. While I may not agree with some of my colleagues views on this issue, I respect that those views are both thoughtful and deeply held. I believe that the strength of our democracy lies in the fact that we open the door to all voices and all opinions—both those that we disagree with and those that we do not.

It is for this reason that I am compelled to speak. I am distressed that this rule does not respect or acknowledge the divergence in our views. I do not ask my colleagues to agree with me on the issue of abortion, or to vote with me, but I do ask that they allow me the opportunity to cast a vote that reflects my views.

Yesterday afternoon at the Rules Committee meeting, both Representatives LOWEY and HOYER offered amendments to H.R. 1122. The committee, however, did not see fit to make either of these amendments in order. I would like to say that I was surprised upon hearing this decision, but I cannot. Once again the committee has issued a restrictive rule that denies the Members of this Congress the opportunity to vote on an alternative to their favored legislation.

I find it particularly interesting that the committee has denied this House a vote on Mr. HOYER'S amendment in the nature of a substitute. That amendment would have banned all abortions in the final trimester allowing only a very narrow exception for the life and physical health of the mother. In fact, this is a much broader ban than that currently in H.R. 1122. It seems to me that if the goal of this bill's sponsors was truly to protect life, then they would support the Hoyer amendment.

My colleagues this rule does not respect the divergence of our views. It does not allow Members to cast a vote for an alternative that reflects those views. For these reasons, I urge my colleagues to vote against this rule on H.R. 1122.

Mrs. MYRICK. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. BARCIA].

Mr. BARCIA. Mr. Speaker, I rise today in support of the amendments to the Partial-Birth Abortion Ban Act. I urge my colleagues to really think for a moment about what we are debating here today.

This is not a bill that will end a persons's choice. This is not a vote that will overturn Roe versus Wade. This vote will not end a person's right to terminate their pregnancy. And this vote will not endanger the lives of pregnant women across this country.

This vote will save innocent children from having their lives ended before they have a chance to speak. This vote will simply prohibit one and only one type of particularly gruesome abortion, a type of abortion where a live baby, one that could usually survive outside the womb, is partially delivered, then has the first vision of light snuffed out forever.

With modern medical procedures available, we must ask ourselves if it is necessary to sacrifice innocent children because it is convenient or easier for the parents. I do not think so and neither do millions of Americans across this country who believe, just as I do, that life is too precious to waste.

A couple from Michigan could have chosen to abort their baby when they were told that the baby had a tumor that endangered her life. When she was only 4 inches long, Sarah Elizabeth was briefly removed from her mother's womb so doctors could remove the growing tumor. Sarah's heart stopped beating during the surgery and the surgeon performed CPR for 20 minutes to revive her before returning her to the safety of the womb. In July 1996, Sarah was delivered and is now a healthy toddler. Time and time again medical miracles like Sarah's show us that a child in the womb is a unique, irreplaceable and precious human being deserving of our help and protection.

Unfortunately, even as lives like Sarah's are being saved by scientific breakthroughs, other children's lives are being extinguished by partial-birth abortions. The care Sarah received from a conscientious surgeon provides a stark contrast to the treatment her mother might have legally have chosen, a partial-birth abortion.

Sarah was not in perfect physical health when she was growing in her mother's womb. She had a life-threatening condition. But she, like every other precious unborn baby, was always a perfect child in need of love and care.

Support this bill and give thousands of children like Sarah at least a chance at life.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

I want to urge Members to defeat the previous question. If it is defeated, I will offer an amendment to the rule that will make in order an amendment in the nature of a substitute offered in the Committee on Rules yesterday by the gentleman from Maryland [Mr. HOYER]. The amendment is the same language offered by Senator DASCHLE during Senate consideration.

Members of this House deserve an opportunity to vote on this substitute. Vote ''no'' on the previous question.

Mr. Speaker, I include the text of the amendment:

AMENDMENT TO HOUSE RESOLUTION 262

Strike all after the resolved clause and insert in lieu thereof the following:

''That upon adoption of this resolution it shall be in order to take from the Speaker's table the bill (H.R. 1122) to amend title 18, United States Code, to ban partial-birth

abortions, with Senate amendments thereto, and to consider in the House, any rule of the House to the contrary notwithstanding, a single motion offered by Representative Hoyer of Maryland that the House concur in the amendments of the Senate with an amendment. The Senate amendments and the motion shall be considered as read. The motion shall be debatable for one hour equally divided and controlled by the proponent and an opponent. The previous question shall be considered as ordered on the motion to final adoption without intervening motion or demand for division of the question.''.

HOYER AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 1122 AS AMENDED BY THE SENATE

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Comprehensive Abortion Ban Act of 1997''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) As the Supreme Court recognized in *Roe* v. *Wade*, the government has an ''important and legitimate interest in preserving and protecting the health of the pregnant woman . . . and has still another important and legitimate interest in protecting the potentiality of human life. These interests are separate and distinct. Each grow in substantiality as the woman approaches term and, at a point during pregnancy, each becomes compelling''.

(2) In delineating at what point the Government's interest in fetal life becomes ''compelling'', *Roe* v. *Wade* held that ''a State may not prohibit any woman from making the ultimate decision to terminate her pregnancy before viability'', a conclusion reaffirmed in *Planned Parenthood of Southeastern Pennsylvania* v. *Casey*.

(3) *Planned Parenthood of Southeastern Pennsylvania* v. *Casey* also reiterated the holding in *Roe* v. *Wade* that the government's interest in potential life becomes compelling with fetal viability, stating that ''subsequent to viability, the State in promoting its interest in the potentiality of human life may, if it chooses, regulate, and even proscribe, abortion except where it is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother.''

(4) According to the Supreme Court, viability ''is the time at which there is a realistic possibility of maintaining and nourishing a life outside the womb, so that the independent existence of the second life can in reason and all fairness be the object of State protection that now overrides the rights of the woman.''

(5) The Supreme Court has thus indicated that it is constitutional for Congress to ban abortions occurring after viability so long as the ban does not apply when a woman's life or health faces a serious threat.

(6) Even when it is necessary to terminate a pregnancy to save the life or health of the mother, every medically appropriate measure should be taken to deliver a viable fetus.

(7) It is well established that women may suffer serious health conditions during pregnancy, such as breast cancer, preeclampsia, uterine rupture or non-Hodgkin's lymphoma, among others, that may require the pregnancy to be terminated.

(8) While such situations are rare, not only would it be unconstitutional but it would be unconscionable for Congress to ban abortions in such cases, forcing women to endure severe damage to their health and in some cases, risk early death.

(9) In cases where the mother's health is not at such high risk, however, it is appropriate for Congress to assert its ''compelling interests'' in fetal life by prohibiting abortions after fetal viability.

(10) While many States have banned abortions of viable fetuses, in some States it continues to be legal for a healthy woman to abort a viable fetus.

(11) As a result, women seeking abortions may travel between the States to take advantage of differing State laws.

(12) To prevent abortions of viable fetuses not necessitated by severe medical complications, Congress must act to make such abortions illegal in all States.

(13) Abortion of a viable fetus should be prohibited throughout the United States, unless a woman's life or health is threatened and, even when it is necessary to terminate the pregnancy, every measure should be taken, consistent with the goals of protecting the mother's life and health, to preserve the life and health of the fetus.

CHAPTER 74—ABORTION PROHIBITION

Sec.
1531. Prohibition.
1532. Penalties.
1533. State regulations.
1534. Rule of construction.

1531. Prohibition.

(a) In General: It shall be unlawful for a physician to abort a viable fetus unless the physician certifies that the continuation of the pregnancy would threaten the mother's life or risk grievous injury to her physical health.

(b) Grievous Injury:

(1) In general: For purposes of subsection (a), the term ''grievous injury'' means—

(A) a severely debilitating disease or impairment specifically caused by the pregnancy; or

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

(2) Limitation: The term ''grievous injury'' does not include any condition that is not medically diagnosable or any condition for which termination of pregnancy is not medically indicated.

(c) Physician: In this chapter, the term ''physician'' means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the State in which the doctor performs such activity, or any other individual legally authorized by the State to perform abortions, except that any individual who is not a physician or not otherwise legally authorized by the State to perform abortions, but who nevertheless directly performs an abortion in violation of subsection (a) shall be subject to the provisions of this section.

(d) No Conspiracy: No woman who has had an abortion after fetal viability may be prosecuted under this section for a conspiracy to violate this section or for an offense under section 2, 3, 4, or 1512 of title 18, United States Code.

1532. Penalties.

(a) Action by Attorney General: The Attorney General, the Deputy Attorney General, the Associate Attorney General, or any Assistant Attorney General or United States Attorney specifically designated by the Attorney General may commence a civil action under this chapter in any appropriate United States district court to enforce the provisions of this chapter.

(b) Relief:

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

(2) Second offense: If a respondent in an action commenced under subsection (a) has been found to have knowingly violated a provision of this chapter on a prior occasion, the court shall notify the appropriate State medical licensing authority in order to effect the revocation of the respondent's medical license in accordance with the regulations and procedures developed by the State under section 1533(d), or shall assess a civil penalty against the respondent in an amount not exceeding $250,000, or both.

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

(c) Certification Requirements: At the time of the commencement of an action under subsection (a), the Attorney General, the Deputy Attorney General, the Associate Attorney General, or any Assistant Attorney General or United States Attorney specifically designated by the Attorney General shall certify to the court involved that, at least 30 calendar days prior to the filing of such action, the Attorney General, the Deputy Attorney General, the Associate Attorney General, or any Assistant Attorney General or United States Attorney involved—

(1) has provided notice of the alleged violation of this section, in writing, to the Governor or chief executive officer and attorney general or chief legal officer of the State or political subdivision involved, as well as to the State medical licensing board or other appropriate State agency; and

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

1533. Regulations.

(a) Regulations of Secretary for Certification:

(1) In general: Not later than 60 days after the date of enactment of this chapter, the Secretary of Health and Human Services shall publish proposed regulations for the filing of certifications by physicians under section 1531(a).

(2) Requirement: The regulations under paragraph (1) shall require that a certification filed under section 1531(a) contain—

(A) a certification by the physician (on penalty of perjury, as permitted under section 1746 of title 28) that, in his or her best medical judgment, the abortion involved was medically necessary pursuant to such section; and

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

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

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

1534. Rule of Construction.

(1) In general: The requirements of this chapter shall not apply with respect to postviability abortions in a State if there is a State law in effect in the State that regulates, restricts, or prohibits such abortions to the extent permitted by the Constitution of the United States.

(2) State law: In paragraph (1), the term ''State law'' includes all laws, decisions,

rules or regulations of any State, or any other State action having the effect of law.

(b) Clerical Amendment: The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 73 the following new item:

74. Prohibition of post-viability abortions 1531. * * *

Mrs. MYRICK. Mr. Speaker, I yield 1 minute to the gentlewoman from Florida [Ms. ROS-LEHTINEN].

Ms. ROS-LEHTINEN. Mr. Speaker, partial-birth abortions involve killing partially delivered babies, usually from the fifth month on into the later stages of pregnancy. This gruesome procedure consists of partially delivering the live baby feet first, with only the head inside the mother's womb, and then stabbing the child at the base of the skull.

Partial-birth abortions are performed mainly on healthy babies of healthy mothers. The American Medical Association says that the partial delivery of a living fetus for the purpose of killing it outside the womb is ethically offensive to most Americans and doctors. The AMA could find no identified circumstance in which the procedure was the only safe and effective abortion method.

The worst tragedy of partial-birth abortions is that most are done for strictly elective reasons. We must take action to end this heinous act of killing the innocent unborn.

Ms. SLAUGHTER. Mr. Speaker, I yield the balance of my time to the gentleman from Maryland [Mr. HOYER].

The SPEAKER pro tempore (Mr. CALVERT). The gentleman from Maryland [Mr. HOYER], is recognized for 5½ minutes.

Mr. HOYER. Mr. Speaker, I rise in opposition to this rule. This rule precludes the one opportunity that Members will have to vote against late-term abortions, elective or otherwise.

Hear me now, Mr. Speaker. Voting against this rule will be the only opportunity they have to vote against late-term abortions.

Why do I say that? The American press has done a disservice to the American people in characterizing the bill before us as a late-term abortion bill. It is not. It does not mention late term. It is not about late term. It is about a procedure.

The gentleman from Oklahoma [Mr. COBURN] was accurate on that matter. I want to refer to some of the things that the gentleman from Oklahoma [Mr. COBURN] said, because the Republicans rightfully point to a man who has experience and, therefore, can speak with more experience than the rest of us.

First of all, he said that this bill that is pending before us does not preclude a single abortion, not one. It does not preclude one abortion, if we vote and pass this bill and the President signs it. It does prohibit a procedure.

I further asked the gentleman from Oklahoma how many of these abortions, as a matter of fact, he said, that were done through this procedure were elective. He said approximately 80 percent, that has been repeated a number of times, were elective.

I say to my colleagues, if they vote against the rule and allow the Hoyer amendment to be offered, they will have an opportunity to preclude every one of those 80 percent abortions that, as the gentleman from Oklahoma [Mr. COBURN] said, most were done postviability.

Let me make my statement absolutely accurate. Every postviability elective abortion, not just done with this procedure but any procedure, will be outlawed. I want my colleagues to understand, voting against this rule and voting for the Hoyer amendment, which is the Daschle-Snowe, Democratic minority leader and Republican Senator from Maine, the Daschle amendment, is the only opportunity we will have to vote against late-term abortions and have the Federal law essentially like 43 other States.

This is not an isolated judgment nor an independent act or amendment. This is an amendment that 43 legislatures have essentially said ought to be the law. What does it say? It says that it permits a postviability abortion only if the life of the woman is endangered, to that extent it tracks the Hyde language, or if carrying the fetus to term would present the, and I quote, risk of grievous injury to her physical health. It therefore precludes any claim that this is a Mack truck exception for mental health.

□ 1145

It specifically requires grievous physical risk. The amendment defines grievous injury as meaning that the continuation of the pregnancy would directly result in, and again I quote from the Hoyer-Daschle amendment, a severely debilitating disease or impairment, or prevents a physician from providing necessary treatment for a life-threatening condition; for example, a fast spreading cancer, the treatment of which, aggressive chemotherapy, would be incompatible with carrying a healthy fetus to term.

My colleagues, this imposes a $250,000 fine and possible revocation of license on the doctor who violates this.

I want to make it very clear to everybody in this House I am opposed to late term elective abortions. They should not happen in America. If, on the other hand, we have at risk the life of the mother, that is a wrenching judgment that the mother and her physician will have to make, and I will not interpose my judgment in that critical situation.

So I ask the Members of this House to give us an opportunity to state clearly the policy of the United States of America that late-term abortions are against public policy. The only way we can do that is to vote against this rule so that this amendment can be offered to this bill.

Mrs. MYRICK. Mr. Speaker, I yield 30 seconds to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Speaker, I would ask a question of the last speaker. How does the gentleman's definition in his bill trump the Supreme Court, which defined health in Doe versus Bolton as a state of emotional well-being? How does his mere statute trump the Supreme Court's definition of health?

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Maryland.

Mr. HOYER. How does the Hyde statute, sir?

Mr. HYDE. Mr. Speaker, reclaiming my time, I do not talk about the Supreme Court.

Mr. HOYER. If the gentleman will continue to yield, nor do I.

Mr. HYDE. Does the gentleman not have an answer to my question?

Mr. HOYER. I do.

Mr. HYDE. Well, let us hear it, I am running out of time.

Mr. HOYER. It enunciates the policy of 43 States, I tell my friend from Illinois, and I think we should enunciate it as a Federal Congress as being the appropriate and right policy to preclude late-term abortions.

Mr. HYDE. I welcome the gentleman to the ranks of pro-lifers.

Mrs. MYRICK. Mr. Speaker, I yield 1 minute to the gentleman from Oklahoma [Mr. COBURN].

Mr. COBURN. Mr. Speaker, I want to talk about Mike and Nancy Johnson from Muscogee, OK. I have delivered five babies for them. One of their babies had a tremendous anencephalic complicated cystic structure on its brain. Now, this procedure that is supposedly so important that it has to be there for the life and health of a woman could have been used on her. But I want to tell my colleagues what they chose to do. They chose to deliver that baby. And in the delivery room, as that baby was born, I placed it in the hands of the father, and over the next 2 hours that baby was comforted in its death.

I want to contrast that with the idea of a child dying in its father's arms, with the idea of a physician ramming a hole in the back of a skull and sucking the brains out of a child. Tell me, my colleagues, which way is the right way to do it?

Mrs. MYRICK. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. CALVERT). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. SLAUGHTER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Pursuant to clause 5 of rule XV, the Chair announces that he will reduce to

a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of agreeing to the resolution.

The vote was taken by electronic device, and there were—yeas 280, nays 144, not voting 9, as follows:

[Roll No. 499]

YEAS—280

Aderholt	Frelinghuysen	Mollohan
Archer	Gallegly	Moran (KS)
Armey	Ganske	Murtha
Bachus	Gekas	Myrick
Baesler	Gibbons	Neumann
Baker	Gilchrest	Ney
Ballenger	Gillmor	Northup
Barcia	Goode	Norwood
Barr	Goodlatte	Nussle
Barrett (NE)	Goodling	Oberstar
Bartlett	Gordon	Ortiz
Barton	Goss	Oxley
Bass	Graham	Packard
Bateman	Granger	Pappas
Bereuter	Gutknecht	Parker
Berry	Hall (OH)	Pascrell
Bilbray	Hall (TX)	Paul
Bilirakis	Hamilton	Paxon
Bliley	Hansen	Pease
Blunt	Hastert	Peterson (MN)
Boehlert	Hastings (WA)	Peterson (PA)
Boehner	Hayworth	Petri
Bonilla	Hefley	Pickering
Bonior	Hefner	Pickett
Bono	Herger	Pitts
Borski	Hill	Pombo
Boswell	Hilleary	Pomeroy
Brady	Hobson	Porter
Bryant	Hoekstra	Portman
Bunning	Holden	Poshard
Burr	Hostettler	Pryce (OH)
Burton	Houghton	Quinn
Buyer	Hulshof	Radanovich
Callahan	Hunter	Rahall
Calvert	Hutchinson	Ramstad
Camp	Hyde	Redmond
Campbell	Inglis	Regula
Canady	Istook	Reyes
Cannon	Jefferson	Riggs
Castle	Jenkins	Riley
Chabot	John	Roemer
Chambliss	Johnson (CT)	Rogan
Chenoweth	Johnson, Sam	Rogers
Christensen	Jones	Rohrabacher
Clement	Kanjorski	Ros-Lehtinen
Coble	Kaptur	Roukema
Coburn	Kasich	Royce
Collins	Kelly	Ryun
Combest	Kildee	Salmon
Condit	Kim	Sandlin
Cook	King (NY)	Sanford
Cooksey	Kingston	Saxton
Costello	Kleczka	Scarborough
Cox	Klink	Schaefer, Dan
Cramer	Klug	Schaffer, Bob
Crane	Knollenberg	Sensenbrenner
Crapo	Kucinich	Sessions
Cubin	LaFalce	Shadegg
Cunningham	LaHood	Shaw
Danner	Lampson	Shimkus
Davis (FL)	Largent	Shuster
Davis (VA)	Latham	Sisisky
Deal	LaTourette	Skeen
DeLay	Lazio	Skelton
Diaz-Balart	Leach	Smith (MI)
Dickey	Lewis (CA)	Smith (NJ)
Dingell	Linder	Smith (OR)
Doolittle	Lipinski	Smith (TX)
Doyle	Livingston	Smith, Linda
Dreier	LoBiondo	Snowbarger
Duncan	Lucas	Solomon
Dunn	Manton	Souder
Ehlers	Manzullo	Spence
Ehrlich	Mascara	Spratt
Emerson	McCollum	Stearns
English	McCrery	Stenholm
Ensign	McDade	Strickland
Etheridge	McHugh	Stump
Everett	McInnis	Stupak
Ewing	McIntosh	Sununu
Fawell	McIntyre	Talent
Flake	McKeon	Tanner
Foley	McNulty	Tauzin
Forbes	Metcalf	Taylor (MS)
Fowler	Mica	Taylor (NC)
Fox	Miller (FL)	Thomas
Franks (NJ)	Minge	Thornberry
Thune	Watkins	Whitfield
Tiahrt	Watts (OK)	Wicker
Traficant	Weldon (FL)	Wolf
Turner	Weldon (PA)	Young (AK)
Upton	Weller	Young (FL)
Walsh	Weygand	
Wamp	White	

NAYS—144

Abercrombie	Gejdenson	Morella
Ackerman	Gilman	Nadler
Allen	Green	Neal
Andrews	Greenwood	Obey
Baldacci	Gutierrez	Olver
Barrett (WI)	Harman	Owens
Becerra	Hastings (FL)	Pallone
Bentsen	Hinchey	Pastor
Berman	Hinojosa	Pelosi
Bishop	Hooley	Price (NC)
Blagojevich	Horn	Rangel
Blumenauer	Hoyer	Rivers
Boucher	Jackson (IL)	Rodriguez
Boyd	Jackson-Lee (TX)	Rothman
Brown (CA)	Johnson (WI)	Roybal-Allard
Brown (FL)	Johnson, E. B.	Rush
Brown (OH)	Kennedy (MA)	Sabo
Capps	Kennedy (RI)	Sanchez
Cardin	Kennelly	Sanders
Carson	Kilpatrick	Sawyer
Clay	Kind (WI)	Schumer
Clayton	Kolbe	Scott
Clyburn	Lantos	Serrano
Conyers	Levin	Shays
Coyne	Lewis (GA)	Sherman
Cummings	Lofgren	Skaggs
Davis (IL)	Lowey	Slaughter
DeFazio	Luther	Smith, Adam
DeGette	Maloney (CT)	Snyder
Delahunt	Maloney (NY)	Stabenow
DeLauro	Markey	Stark
Dellums	Martinez	Stokes
Deutsch	Matsui	Tauscher
Dicks	McCarthy (MO)	Thompson
Dixon	McCarthy (NY)	Thurman
Doggett	McDermott	Tierney
Dooley	McGovern	Torres
Edwards	McHale	Towns
Engel	McKinney	Velazquez
Eshoo	Meehan	Vento
Evans	Meek	Waters
Farr	Menendez	Watt (NC)
Fattah	Millender-McDonald	Waxman
Fazio	Miller (CA)	Wexler
Filner	Mink	Wise
Ford	Moakley	Woolsey
Frank (MA)	Moran (VA)	Wynn
Frost		Yates
Furse		

NOT VOTING—9

Foglietta	Hilliard	Payne
Gephardt	Lewis (KY)	Schiff
Gonzalez	Nethercutt	Visclosky

□ 1209

Messrs. KIND, SHAYS, SERRANO, HORN, GILMAN, and NEAL of Massachusetts changed their vote from ''yea'' to ''nay.''

Ms. KAPTUR and Mr. TURNER changed their vote from ''nay'' to ''yea.''

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. CALVERT). The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

□ 1215

Mr. CANADY of Florida. Mr. Speaker, pursuant to House Resolution 262, I call up the bill (H.R. 1122), to amend title 18, United States Code, to ban partial-birth abortions, with Senate amendments thereto, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The text of the Senate amendments is as follows:

Senate amendments:

Page 2, line 16, strike out all after ''injury'' down to and including ''purpose'' in line 17.

Page 3, after line 10 insert:

(3) As used in this section, the term ''vaginally delivers a living fetus before killing the fetus'' means deliberately and intentionally delivers into the vagina a living fetus, or a substantial portion thereof, for the purpose of performing a procedure the physician knows will kill the fetus, and kills the fetus.

Page 3, after line 23, insert:

(d)(1) A defendant accused of an offense under this section may seek a hearing before the State Medical Board on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, illness or injury.

(2) The findings on that issue are admissible on that issue at the trial of the defendant. Upon a motion of the defendant, the court shall delay the beginning of the trial for not more than 30 days to permit such a hearing to take place.

Page 3, line 24, strike out ''(d)'' and insert ''(e)''.

MOTION OFFERED BY MR. CANADY OF FLORIDA

Mr. CANADY of Florida. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CANADY of Florida moves that the House concur in each of the Senate amendments to the bill H.R. 1122.

The SPEAKER pro tempore. Pursuant to House Resolution 262, the gentleman from Florida [Mr. CANADY] and the gentlewoman from New York [Mrs. LOWEY], each will control 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. CANADY].

GENERAL LEAVE

Mr. CANADY of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the legislation under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. CANADY of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today I rise to urge the House to vote for the motion to concur in the Senate amendments to H.R. 1122, the Partial-Birth Abortion Ban Act of 1997, a bill which bans an abortion procedure in which a living baby is partially delivered before the abortionist kills the baby and completes the delivery.

Under H.R. 1122, an abortionist who violates the ban would be subjected to fines or a maximum of 2 years imprisonment or both. The bill also establishes a civil cause of action for damages against an abortionist who violates the ban.

Mr. Speaker, thousands of partial-birth abortions are performed each year, primarily in the fifth and sixth months of pregnancy, on the healthy babies of healthy mothers. The infants subjected to partial-birth abortion are not unborn. Their lives instead are taken during a breech delivery.

A breech delivery, a procedure which obstetricians use in some circumstances to bring a healthy child into the world, is perverted and made into an instrument of death. The physician, traditionally trained to do everything in his power to assist and protect both mother and child during the birth process, deliberately kills the child in the birth canal.

H.R. 1122 would end this cruel practice which bears an undeniable resemblance to infanticide.

The Senate amendment to H.R. 1122 makes three acceptable changes to the House-passed version of the bill. The first amendment deletes superfluous language in the life exception included in the act. The bill still bans partial-birth abortion unless it is necessary to save the life of the mother.

The second amendment clarifies the definition of partial-birth abortion. H.R. 1122 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.'' The Senate amendment further clarifies that ''partially vaginally delivers a living fetus before killing the fetus'' means ''deliberately and intentionally delivers into the vagina a living fetus, or substantial portion thereof, for the purpose of performing a procedure the physician knows will kill the fetus, and kills the fetus.''

The third Senate amendment allows the physician who is prosecuted for performing a partial-birth abortion to present evidence in court from the State medical licensing authority on whether the partial-birth abortion was necessary to save the life of the mother.

The Senate voted to approve these three clarifying amendments to H.R. 1122 and passed the Partial-Birth Abortion Ban Act in May of this year. Shortly thereafter, the American Medical Association House of Delegates voted to support H.R. 1122 with the Senate amendments because partial-birth abortion, quote, ''is not good medicine.''

As we have discussed in prior debates in this House, the realities of partial-birth abortion are truly horrible to contemplate, they are truly horrible to discuss. The partial-birth abortion procedure is performed from around 20 weeks to full term. It is well documented that a baby is highly sensitive to pain stimuli during this period and even earlier.

In his testimony before the Subcommittee on the Constitution in 1995, Prof. Robert White, director of the division of neurosurgery and brain research laboratory at Case Western Reserve School of Medicine, stated, ''The fetus within this time frame of gestation, 20 weeks and beyond, is fully capable of experiencing pain.'' After analyzing the partial-birth abortion procedure, Dr. White concluded, ''Without question, all of this is a dreadfully painful experience for any infant subjected to such a surgical procedure.''

Abortion advocates have claimed that partial-birth abortion is rare and only used in extreme circumstances. That has been a focus of the debate that has been waged against the ban on partial-birth abortion. But this claim is contradicted by the evidence.

Dr. Martin Haskell, an Ohio abortionist, told the American Medical News that the vast majority of the partial-birth abortions he performs are elective. He stated, and I quote, ''And I'll be quite frank: Most of my abortions are elective in that 20–24 week range. In my particular case, probably 20 percent are for genetic reasons. And the other 80 percent are purely elective.''

Another abortionist, Dr. McMahon of California, used the partial-birth abortion method through the entire 40 weeks of pregnancy. He sent the Subcommittee on the Constitution a graph which showed the percentage of ''flawed fetuses'' that he aborted using the partial-birth abortion method. The graph shows that even at 26 weeks, half the babies that Dr. McMahon aborted were perfectly healthy, and many of the babies he described as ''flawed'' had conditions that were compatible with long life, either with or without a disability. For example, Dr. McMahon listed nine partial-birth abortions performed because the baby had a cleft lip.

In September 1996, the Sunday Record, a newspaper in Bergen, NJ, reported that in New Jersey alone, at least 1,500 partial-birth abortions are performed each year, 3 times the supposed national rate. Moreover, doctors say only a minuscule amount are for medical reasons.

The article quotes an abortionist in New Jersey who describes his partial-birth abortion patients as follows: ''Most are Medicaid patients, 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.''

Ron Fitzsimmons, the executive director of the second largest trade association of abortion providers in the country, admitted that he intentionally lied through his teeth when he told a Nightline camera that partial-birth abortion is rare and performed only in extreme medical circumstances.

The New York Times reported that Mr. Fitzsimmons ''says the procedure is performed far more often than his colleagues,'' that is, other advocates in the abortion rights community, ''have acknowledged, and on healthy women bearing healthy fetuses.'' ''The abortion rights folks know it,'' he said.

Ron Fitzsimmons' admission makes clear that the pro-abortion lobby has engaged in a concerted and ongoing effort to deceive the Congress and the American people about partial-birth abortion. They attempted to hide the truth, they attempted to conceal the facts about this procedure because they knew that the American people would be outraged by the facts.

When President Clinton vetoed H.R. 1833, the Partial-Birth Abortion Ban Act of 1995, he claimed that women needed partial-birth abortion for their health and future fertility. That claim has been proven to be completely false.

Former Surgeon General C. Everett Koop has said, ''In no way can I twist my mind to see that the late-term abortion as described, you know, partial birth, and then destruction of the unborn child before the head is born, is a medical necessity for the mother. It certainly can't be a necessity for the baby. So I am opposed to partial-birth abortion.''

In addition, a group of over 400 obstetricians and gynecologists and maternal-fetal specialists have unequivocally stated, and I quote, ''Partial-birth abortion is never medically indicated to protect a woman's health or her fertility. In fact, the opposite is true: The procedure can pose a significant and immediate threat to both the pregnant woman's health and her fertility.''

The American Medical Association agrees with these doctors that partial-birth abortion is not good medicine and supports banning the procedure. I point out the American Medical Association is on record in strong support of abortion rights, but even they recognize that this procedure simply falls outside the pale.

However, the President has remained unmoved by these facts. He still threatens to veto this bill. He has tried to change the subject by supporting a purported ban on abortion in the seventh month of pregnancy and later. Of course, unfortunately, the President's supposed ban includes a broad health exception that would give the abortionist unfettered discretion to decide when an abortion would be performed.

The proposal would allow the abortionist to perform postviability abortions using any method, including partial-birth abortion, if the abortionist certified in his or her best medical judgment that the continuation of the pregnancy would threaten the mother's life or risk grievous injury to her physical health. Of course, the continuation of any pregnancy does involve at least some degree of risk, however small.

Dr. Warren Hern, a third-trimester abortionist in Colorado, says of this proposal, ''I will certify that any pregnancy is a threat to a woman's life and could cause grievous injury to her physical health.'' Dr. Hern, using his best medical judgment, believes that any pregnancy threatens a mother's life and risks grievous injury to her physical health. He has said it unequivocally.

Dr. Hern is one of the leading experts on abortion in this country. He has written a textbook on the subject. He is a recognized authority. Now, if Dr. Hern signed a paper that asserted this belief, he would satisfy the certification exception in the President's proposal.

Mr. Speaker, all of this demonstrates beyond any doubt that the President's

proposal would not do anything to stop any abortion. Furthermore, the President's proposal, which covers only postviability abortions, does not even purport to affect the vast majority of partial-birth abortions which take place in the fifth and sixth months of pregnancy, not in the third trimester.

To sum it all up, the President's proposal is a sham. Mr. Speaker, the President knows that partial-birth abortions are primarily performed before the seventh month of pregnancy, in the fifth and sixth months, on thousands of healthy babies of healthy mothers. His purported ban would not protect one of these babies. We will not allow the President to change the subject from the disturbing facts of partial-birth abortion, as he has attempted to do. The President is supporting an indefensible procedure that should not be allowed in a civilized society.

I would ask my colleagues to look at partial-birth abortion. We have described this procedure in this House before, but I ask my colleagues to consider again what is involved when an abortionist performs the procedure known as partial-birth abortion.

In the first step of this horrible procedure, the abortionist, guided by ultrasound, grabs the live baby's leg with forceps. In the next step, the baby's leg is pulled into the birth canal. The abortionist then delivers the baby's entire body, except for the head.

□ 1230

Of course, if the head came out, none of the rest of this could happen. If the head came out and the abortionist took any action against that child, that would undoubtedly be considered murder under our law. Then, after the baby is delivered, except for the head, the abortionist jabs scissors into the baby's skull. The scissors are then opened to enlarge the hole.

I ask my colleagues to look at this critical stage of this horrible procedure. This is what is going on when a partial-birth abortion is performed. Then, in the final stage of partial-birth abortion, the scissors are removed and a suction catheter is inserted into the hole which has been created by the abortionist in the baby's head, and the baby's brains are sucked out and the delivery is completed.

I ask the Members, how could jamming those scissors into the skull of the baby, into the back of the baby's head, be possibly required for the health of the mother? It simply makes no sense. The claims made by the President and other supporters of partial-birth abortion about the mother's health belong with all the other falsehoods that have been a part of the campaign against this bill, and are advanced by people who are desperate to escape from reality in their quest to defend the indefensible. They cannot defend this, therefore they are attempting to create a cloud of confusion and deceive the American people.

In this House we deal with many issues. We have hundreds of votes here. The issues come and go. Most of the votes we will cast here will soon be forgotten. Even those that seem rather important to us at the moment will fade away. They will become a distant memory. But I believe that today's vote on partial-birth abortion will be remembered. The Members of this House will not be able to escape responsibility for the votes they cast on this important issue. History will also remember the President, whose veto had to be overridden in order to protect helpless infants from this gruesome procedure.

I appeal to my colleagues, put aside all the myths that have been generated in this debate in opposition to this bill, put aside all the distortions, put aside all the misinformation that has been disseminated. Look at the facts, consider the truth, and face up to the reality of partial-birth abortion. This is it. This procedure cannot be defended.

I would ask that my colleagues support the Senate amendments to the Partial-Birth Abortion Ban Act, and help bring this cruel, this brutal practice to an end in America.

Mr. Speaker, I reserve the balance of my time.

Mrs. LOWEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong opposition to the bill. This is the fifth time that the House will vote on this issue. Unfortunately, it will not be the last. As my colleagues know very well, the President will veto this legislation because it does not contain an exception to ensure the health of American women, so we will be back here again next year.

We have repeatedly tried to offer an amendment to protect the health of the mother to this bill on the floor of this House, and the Republican leadership has consistently blocked us. We offered to sit down and work with the Republican leadership to craft a health exception that we could all accept. The Republican leadership refused. The President will sign this legislation if it contains an exception that would protect the health of the mother, but the Republican leadership will not even give us a chance to put one in this legislation.

The Republican leadership does not want to ban this procedure. Unfortunately, it wants a political issue. Republicans would rather debate this again and again and again, rather than send the President a bill that he can sign into law.

Mr. Speaker, do not take my word for it. Let us listen to the words of Ralph Reed. On May 21 he told the New York Times that this was, and I quote, ''A winning, gold-plated issue going into the 1996 election.'' No pious words about the defenseless unborn, no handwringing over moral decay, just a winning gold-plated issue. This, Mr. Speaker, sadly, is pure politics, plain and simple.

Mr. Speaker, we will hear a great deal today about the AMA and its endorsement of this bill. We will hear that changes made to the bill in the Senate have improved it. Nonsense. The Senate amendments are window dressing that provide cover to doctors while leaving women, frankly, out in the cold. The AMA struck a very cynical bargain with the Republican leadership to endorse this bill.

Thankfully, Mr. Speaker, the AMA is not the final word on this issue. The American College of Obstetricians and Gynecologists, ACOG, the health professionals who actually deliver babies and care for women, oppose this legislation. The American College of Obstetricians and Gynecologists oppose this legislation. Let us not forget, Mr. Speaker, that the AMA represents the doctors, not the women.

So while the changes made to this bill in the Senate may make it marginally more difficult to throw doctors in jail when they are making these very difficult decisions, they will do nothing, absolutely nothing, to save the lives or preserve the health of women.

So we are left with the same bill that we have voted on four times before, the same bill that puts the lives and health of women at risk, the same bill that violates the Constitution of the United States of America and tramples on the rights of American women. Women from around the Nation testified before Congress that this procedure protected their lives and their health, women like Tammy Watts, Claudia Addes, Maureen Britel, women who would have been harmed by this bill.

These women, Mr. Speaker, desperately wanted to have children. They had purchased baby clothes. They had picked out names. They did not abort because of a headache. What an insult, Mr. Speaker. They did not choose to abort because their prom dress did not fit. They chose to become mothers, and only terminated their pregnancies because of tragic circumstances.

Mr. Speaker, who in this body will stand in judgment of them? Which of the Members will stand in the operating room and limit their options? Who, at the agonizing moment, will decide? That is the question? Who is going to make this decision, the Congress of the United States, or the women and families of America?

The courts have been very clear on this question, and have consistently found bills of this type to be unconstitutional. Lawsuits have been filed in 10 States challenging State statutes similar to the bill before us. In 10 States courts have ruled that the laws were unconstitutional, struck them down, limited their scope, or enjoined them.

Mr. Speaker, when the House debated this issue in March, the distinguished gentleman from Florida [Mr. CANADY] assured us that this bill was constitutional and consistent with Roe. Since then this ban has been struck down, changed, or enjoined on constitutional grounds in 10 States, 10 States. States

have moved ahead, passed these bans, and they have been struck down again and again. The courts have clearly spoken. This bill violates a woman's constitutionally protected right to choose.

Unfortunately, we know that the antichoice majority will not let a little thing like the Constitution of the United States of America stand in the way of their abortion ban. Mr. Speaker, the anti-choice Republican leadership has been waging war on the reproductive rights of American women since taking over this House in 1994.

In the last Congress alone, the leadership voted to limit abortion rights more than 50 separate times, a new record. It is clear that this leadership wants to ban every abortion, that is the ultimate goal, procedure by procedure, trimester by trimester. They want to rollback Roe versus Wade and push American women back into the back alley.

Mr. Speaker, we have a different vision. We will continue to fight to ensure that women are able to obtain safe, legal abortions, and we will work as hard as we can to reduce the number of abortions by providing women with greater access to family planning and contraceptives. We will work to empower women to make responsible choices about their own bodies.

Unfortunately, Mr. Speaker, the Republicans have chosen to make our bodies their battleground, and they will not succeed.

Mr. Speaker, I am pleased to yield 3½ minutes to my colleague, the gentleman from Virginia [Mr. SCOTT], the distinguished ranking member of the Subcommittee on the Constitution.

Mr. SCOTT. Mr. Speaker, I think it is important that we focus on what this bill does. It prohibits one procedure. Nothing in the bill affects the decision to have any abortion. If this bill passes, women who decide to have a legal abortion will still be able to get that abortion. Some will just have to be subjected to other procedures that their doctors conclude will be more likely to kill, maim, or sterilize them.

We have heard, and I assume we will hear more, graphic descriptions of this procedure, but the fact is that other alternatives which will be used have not been described graphically today, and probably will not be. So the point of this bill is not to reduce the number of abortions. In fact, the point of today's vote will not even be to enact a bill, because this version is clearly unconstitutional, so much so that similar laws in the States have been thrown out at least nine times this year alone.

Mr. Speaker, though abortion has always been a controversial issue, the fact is that since 1973 the Supreme Court decision Roe versus Wade decreed that abortion will be legal in this country. Roe, which is still the law of the land, held that a woman's right to have an abortion before fetal viability is a fundamental right.

The State may, however, prohibit post-viability abortions, but only if there is no substantial threat to the life or health of the mother. In Planned Parenthood versus Casey, 1992, the court reaffirmed this holding. Mr. Speaker, other Supreme Court decisions have added to this concept by prohibiting regulations that jeopardize a woman's health by chilling the physician's exercise of discretion in determining which abortion method may be used.

So interference with a physician's exercise of discretion jeopardizes the woman's health, and is therefore as dangerous as it is unconstitutional. Although the health of the mother must remain a primary interest in order to pass constitutional muster, today's bill includes no provision which allows an exception from the ban in those cases where the other methods pose serious health risks to the mother. The Partial-Birth Abortion Ban Act will not prevent a single abortion. It simply prevents one procedure which, in certain circumstances, is the safest procedure available.

Mr. Speaker, many of us support a total prohibition on post-viability abortions as long as it is consistent with Roe versus Wade, by protecting the health of the mother. But this bill only prohibits one procedure, not the decision to undergo the abortion. Therefore, if this bill passes, the only effect, as I have said, will be that some people will have to undergo a more dangerous procedure which will increase their chances of them being killed, maimed, or sterilized.

□ 1245

I hope that my colleagues will work to prevent this result.

This debate should not be about politics, it should be about the woman who may need this procedure to protect her health and reproductive ability but may not have access to it because Congress decided that it should play doctor and politics. Let us put women's health first and defeat the bill.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. Mr. Speaker, I rise in strong support of this partial-birth abortion ban.

Mr. Speaker, this has little to do with Roe versus Wade, little to do with politics, little to do with the majority versus the minority, and everything to do with banning a procedure that is, in effect, legalized infanticide. Let there be no doubt about what we are trying to do in this Chamber today.

Mr. Speaker, 295 of my colleagues, Democrats and Republicans, and men and women, some pro-choice and pro-life, have come together not to get into the rhetoric and the hyperbole but to try to do something to cut down on the number of abortions that take place in this country.

Mr. Speaker, the AMA has now endorsed this bill that I strongly support. Former Surgeon General C. Everett Koop, who has taken on big tobacco and fought for little children, has said this about partial-birth abortion: ''Partial-birth abortion is never medically necessary to protect a mother's health or her future fertility. On the contrary, this procedure can pose a significant threat to both.''

Mr. Speaker, I think that states pretty much the case, and 64 Republicans and Democrats out of 100 in the Senate have agreed. We need to talk, Mr. Speaker, about ways to eliminate the large number of abortions in this country, to reduce the number of abortions in this country. We need to do it by passing this bill. We need to do it by talking about funding birth control methods.

Mr. Speaker, we have heard that we have voted already four times on this act. We should vote 40 times or 400 times to pass what is morally, ethically, and, I think, soundly politically the right thing to do. Let us pass this bill today and put it on the President's desk.

Mrs. LOWEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from Colorado [Ms. DEGETTE].

Ms. DEGETTE. Mr. Speaker, last spring a woman came to my office with her infant son whom she loved, and you could tell the love was obvious. Tragically for this woman, this was not the first pregnancy she had had. She had lost a previous baby months along in the cycle through no fault of her own, and she had used this procedure after consulting with her husband, her family, and her doctor.

Mr. Speaker, not very many women are forced to use this procedure. In 1992, the most recent year for which we have statistics, only 0.4 percent of all abortions take place after 26 weeks when this procedure becomes necessary. Like the women in my office, like the women that my colleagues have talked about today, every single one of these women who are facing these late-term procedures are facing threats to their life or threats to their health or they are carrying a fetus with severe abnormalities that will not survive. That is why the American College of Obstetricians and Gynecologists opposes this legislation even now, and that is why this piece of legislation is unconstitutional and should not be passed.

Mr. Speaker, the terms are so vague that like the 10 States that have struck down the State legislation, this legislation will not be held constitutional and should not be passed.

Mr. Speaker, I have a question as a new Member of Congress. Why are we voting on this piece of legislation again and again and again and again and again? It is all we have talked about in my first 10 months of Congress.

Mr. Speaker, the reason is clear. In the 1998 elections, the Republicans think they can saddle people with this. The women of America are not going to accept it. The women of America need to make this decision in consultation

with their families and their doctors. Let us move beyond this to rational family planning so we can avoid unwanted pregnancies.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. WELDON].

Mr. WELDON of Florida. Mr. Speaker, I rise in strong support of H.R. 1122, the partial-birth abortion ban. I have spoken out repeatedly in support of this ban, and I will continue to do so however long it takes to get the necessary two-thirds majority in both the House and the Senate so that we can override the President's veto.

It was in 1993 when I was still practicing medicine when I first read about this procedure. It was published in the American Medical News. I had seen all of my patients for the day, I was sitting down at my desk, and, frankly, I was shocked and amazed that in a country that is supposed to be founded on the principle that we are endowed by our Creator with the right to life, that a procedure this barbaric would be legal and, furthermore, that some people who purport to be legal scholars would argue that it is somehow protected in our Constitution. It is nowhere mentioned anywhere in our Constitution.

I want to address two very important issues; No. 1, these so-called tragic circumstances. In that original article that appeared in the AMA News, the originators of this procedure admitted that 85 percent of the time it was on perfectly healthy fetuses and in the other 15 percent, the majority of them were cleft lip and cleft palate.

How many millions of Americans in this country who have a loved one with cleft lip or cleft palate would like to know that this kind of barbaric procedure could be done on a baby for a deformity as simple as that? It is absolutely tragic to me to think that somebody would make that kind of an argument.

Mr. Speaker, I am not finished. I also want to discuss this other so-called health exception. They had a health exception in California prior to Roe versus Wade, and they did thousands and thousands of abortions every year because we all know, I am a doctor, any doctor can say it is needed for health. That is a loophole you can drive a truck through.

This procedure is barbaric. I encourage all of my colleagues to vote in support of the bill.

Mrs. LOWEY. Mr. Speaker, I yield 10 seconds to the distinguished gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Speaker, I would say to the doctor, he is also a Congressman and there is a constitutional basis for this measure that we have. Look at the fifth amendment, then read the U.S. Supreme Court decision.

Mrs. LOWEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas [Ms. JACKSON-LEE], a member of the committee.

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, there are physicians and people of many walks of life in this House, but though we come with different experiences, we do not stand for the thousands upon thousands of physicians across the Nation who deal with patients, in this instance women, women who are expecting and looking forward to the blessed day. As we debate this issue, none of us can stand in their shoes.

I am saddened that we now come for the fourth time to deny the opportunity for a mother who wants to bear children again to be protected and to have her health protected in a private and personal and religious and family decision.

Take the story of Eileen Sullivan, someone who brought tears to my eyes as she testified before the House Committee on the Judiciary. I ask you to stand in her shoes. Eileen Sullivan from Los Angeles, a Catholic with 10 brothers and sisters, Eileen had long awaited her first child. She and her husband were devastated at 26 weeks of pregnancy that testing revealed overwhelming fetal abnormalities in their son, including an improperly formed brain, a malformed heart, no lungs, and nonfunctioning liver.

Mr. Speaker, did she rush to have an abortion? No, she did not. She took test after test after test. And I imagine, as a devout Catholic, she prayed and prayed and prayed, and yet the prognosis was: ''Eileen, if you and your husband want a healthy child, we must terminate this pregnancy.'' In the law of the land, she had the right to choose. She did not voluntarily do so.

So Eileen had a procedure, a medical procedure for which, under this bill, the physician would be held liable and accountable, upon which the family decision, the prayer that was made that helped them to decide this.

Mr. Speaker, I simply say this is a bad piece of legislation. It is difficult to decide, but I would ask that my colleagues vote on behalf of Eileen. Vote against this legislation and give life.

Mr. Speaker, I rise today in opposition to H.R. 1122. The issue raised by this legislation is a very difficult and emotional issue for all of us here in this body. It is one that I, and I am sure many of my colleagues, have given a great deal of consideration. There is no question, however, but that I must oppose this legislation.

H.R. 1122 raises many concerns, but two in particular are worthy of discussion. First, as currently written this legislation is unconstitutional. Second, the legislation makes no provision for the protection of a mother's health.

Last May, the Senate passed H.R. 1122, the Late-Term Abortion Ban Act only making three minor amendments to the House-passed version. We are asked today to agree to these amendments. The Senate amendments are purely cosmetic, however, and do nothing to answer my concerns. While these amendments provide the physician additional protections, they do nothing to extend protection to the health and well-bring of American women and their families. As currently written, H.R. 1122 provides no exception to protect a woman's health and makes no distinction between abortions before and after fetal viability.

As a Member of Congress, I have, sworn to uphold the U.S. Constitution. H.R. 1122 is unconstitutional and we, in Congress, should not attempt to undercut the law of the land as set forth by the U.S. Supreme Court in Roe versus Wade.

In Roe versus Wade, the Supreme Court held that women had a privacy interest in electing to have an abortion. This right is qualified, however, and so most be balanced against the State's interest in protecting prenatal life. The Court determined that post-viability the State has a compelling interest in protecting prenatal life and may ban abortion, except when necessary to preserve the woman's life or health. In line with this decision, 41 States have already passed bans on late term abortions, except where the life or health of the mother is involved.

In Planned Parenthood versus Casey, the Court held that the States may not limit a woman's right to an abortion prior to viability when it places an undue burden on that right. An undue burden is one that has ''the purpose or effect of placing a substantial obstacle in the path of a woman seeking an abortion of a nonviable fetus.''

H.R. 1122 in its current form interferes with a woman's access to the abortion procedure that her doctor has determined to be safest for her, and so unduly burdens her right to choose. It is therefore inconsistent with the principles outlined in Roe and Casey, which have been reaffirmed by every subsequent Supreme Court on this issue, and so is unconstitutional.

Partial birth abortions are performed because a physician, with the benefit of his expertise and experience, determines that, given a woman's particular circumstances, this procedure is the safest available to her; that this is the procedure most likely to preserve her health and her future fertility. Only a doctor can make this determination. We, in Congress, should not interfere with the close relationship that exists between a doctor and his or her patient.

It is a tragic fact that sometimes a mother's health is threatened by the abnormalities of the fetus that she is carrying. She is faced with a terrible decision whether to carry a fetus suffering from fatal anomalies to term and in so doing jeopardize her own health and future fertility or whether to abort the fetus and preserve her chances of bringing a later healthy life into the world.

When a woman is faced with this type of painful circumstance, it is one that she should face free from Government interference. This is too intimate, too personal, and too fragile a decision to be a choice made by the Government. We should protect the sanctity of the woman's right to privacy and of the home by letting this choice remain in her hands. Families and their physicians, not politicians, should make these difficult decisions. It is a decision that should be between a woman, her spiritual leader and her god.

Proponents of the partial birth abortion ban maintain that this procedure is never the only option to save the life or preserve the health of a woman. ACOG, The American College of Obstetricians and Gynecologists stated that while this procedure may not be the only option to save a woman's life and health, it may be the best option.

I am reminded of the story of King Solomon. In that story Solomon is faced with deciding between two women who claim that a certain child is their own. The power and authority to determine to whom the child belongs rests with King Solomon, but he gave the mothers the power to choose the child's fate and from this decision the life of the child was saved.

Many of my colleagues have worked hard to amend the ban so that it would provide an exception to protect the mother when the continuation of the pregnancy would put her physical health at risk. This was rejected. Without such a provision, I am unable to support this ban. For these reasons I urge my colleagues to join me in opposing H.R. 1122.

Mr. CANADY of Florida. Mr. Speaker, I yield 2½ minutes to the gentleman from Oklahoma [Mr. COBURN].

Mr. COBURN. Mr. Speaker, ''We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.''

Mr. Speaker, we have heard a whole lot about the American College of Surgeons and the American College of Obstetricians and Gynecologists. That is the same organization that refused to suggest that women who are pregnant get an HIV test, knowing that in fact it could prevent HIV infection from the baby, the same organization that ruled we should do that after this Congress stood up and morally said they should do it. So, they do not lead on what is right and wrong. They follow. They have already proven that they follow.

We have a choice. The child just described by the gentlewoman from Texas [Ms. JACKSON-LEE], there was a choice there. There was a choice that the doctor could end a life early through a very gruesome and horrible procedure, or there was a choice that a baby could have been delivered and died in its mother's and father's arms. We do have choices. There is no question about it.

Mr. Speaker, who is looking out for the infant girls that consume 85 percent of the elective abortions used on this procedure?

The thing that saddens me most about this debate, and I am tired of the debate as well, is we will not be truthful about what we are talking about. The truth is that this is never needed. The truth is that we have a lot of people who believe, and are respected in their belief, that women ought to be able to abort any baby any time for any reason.

The unfortunate thing is that there is not the integrity in this House, or the honesty, to stand up and say that is what I believe. So, therefore, we use disinformation, deceit, and untruth to cover what the real facts of the issues are.

So, Mr. Speaker, when, in fact, Members decide on whether or not we ought to be involved in banning a procedure that the vast majority of physicians in this country know is not needed to accomplish the purpose, they should ask themselves whether we are leaders or we are followers.

I do stand in the shoes every weekend and defend women and their rights and care for them and their problem pregnancies. I do know what I am talking about. It is a moral, ethical issue. It has nothing to do with the practice of medicine.

Mrs. LOWEY. Mr. Speaker, I yield 2¼ minutes to the gentleman from Massachusetts [Mr. FRANK], a distinguished member of the committee.

Mr. FRANK of Massachusetts. Mr. Speaker, the gentleman from Indiana [Mr. ROEMER] said he is for this bill because he wants to reduce the number of abortions. This bill, of course, does not by any means reduce the number of abortions. It does say doctors cannot do one procedure versus another. This deals with one procedure. It does not purport even to ban abortion under any circumstances but simply says, do not use this procedure.

Now, when we ban one procedure and allow the others, we make this one mistake. On this bill, the majority has consistently refused to accept an amendment which says this procedure can be used if the doctor believes it is necessary to avoid grievous physical harm to the mother.

So I ask my colleagues to understand, this is a bill which says that even if there will be grievous physical harm in the opinion of the doctor, he has to use a different procedure.

Mr. Speaker, I am told the chairman of the committee, who is here, has said: Well, but we cannot just restrict it. Once we say ''health,'' the Court will automatically say ''mental health.'' That is simply, wholly untrue.

Mr. Speaker, when the Court interpreted health to mean mental health, they were not talking about a statute which specifically modified health with the word ''physical.'' The Court has held that there is a general constitutional right of the health of the mother to be taken into account, and they have defined that as mental or physical.

□ 1300

If that governs, the whole bill is out. Understand, if that interpretation governs, then all health, all abortions are out. We are apparently believing here, the majority, that we cannot ban this particular procedure and make an exception. What we are saying is, OK, we will make an exception to the exception and if grievous physical harm will come, then it will be allowed. No, there is no argument that the court would not recognize that. The court has defined health when it was unmodified. There is not a single decision that suggests that the court will look at the words ''grievous physical health consequences'' and interpret those away. So either we must believe that the court will impose health, including mental health, across the board, or we must recognize the validity of this.

Without the amendments we have offered, by refusing to let us offer an amendment, the majority says not simply that we will ban the procedure but we will ban it even to avoid, if it is necessary, to avoid grievous physical health consequences. That is what this is about, whether or not grievous physical health consequences should be allowed into the bill.

Mr. CANADY of Florida. Mr. Speaker, I yield 1½ minutes to the gentleman from New Jersey [Mr. SMITH].

(Mr. SMITH of New Jersey asked and was given permission to revise and extend his remarks.)

Mr. SMITH of New Jersey. Mr. Speaker, make no mistake about it, abortion is violence against children. The partial-birth method is an extraordinarily heinous manifestation of this violence. Today those who kill babies by jamming scissors in a baby's skull followed by insertion of a hose to suck out their brains have an unfettered license to kill.

Nurse Brenda Pratt Schaffer, who worked with the infamous Dr. Haskell, described the end of the life of one 6-month-old in this way, and I quote:

''The baby's body was moving. His little fingers were clasping together. He was kicking his feet. All the while his little head was still stuck inside. Dr. Haskell took a pair of scissors and inserted them into the back of the baby's head. Then he stuck the high-powered suction tube into the hole and sucked the baby's brains out. I almost threw up,'' she said, ''as I watched him do these things.''

To mitigate this cruelty, Mr. Speaker, this cruelty to children, some States, about 15, have already enacted partial-birth bans into law but litigation has mostly precluded enforcement. Other States are considering such a ban. And in Florida, Missouri, and my own State of New Jersey, where at least 1,500 of these partial-birth abortions are done each year in northern New Jersey alone, the bills were sadly vetoed by our Governors.

Mr. Speaker, the United States needs a national law to ban this violence against kids. Today we can do that. Today we can revoke the license to kill babies in this fashion and protect at least some kids from this kiddie holocaust called abortion on demand. If the President vetoes the bill, he and he alone empowers abortionists to murder kids in this hideous way.

Let's not forget, Mr. Speaker, the leadership of the pro-abortion movement has been savvy in masking the violence and cruelty to baby girls and boys killed by abortion in general and this method in particular. But they have been exposed once again and by one of their own.

Members please recall that Ron Fitzsimmons, the ex-director of the National Coalition of Abortion Providers, has publicly confessed that he ''lied through (his) teeth'' when he told a TV interviewer, according to the New York Times, that partial-birth abortion was ''used rarely and only on women whose lives

were in danger or whose fetuses were damaged.''

According to the AMA News and the New York Times, Mr. Fitzsimmons now says that his party line defense of this method of abortion was a deliberate lie—and that in the vast majority of cases, the procedure is performed on a healthy mother with a healthy fetus that is 20 weeks or more along.

Most in the media believed and amplified as true the falsehoods and lies put out by Planned Parenthood Federation of America, the Alan Guttmacher Institute, the ACLU, NARAL, the National Family Planning and Reproductive Health Association, NOW, the National Republican Coalition for Choice, People for the American Way, Population Action International, Zero Population Growth [ZPG], to name a few signers of an October 25, 1995 letter to Members of Congress which stated:

This surgical procedure is used only in rare cases, fewer than 500 per year. It is most often performed in the case of wanted pregnancies gone tragically wrong, when a family learns late in pregnancy of severe fetal anomalies or a medical condition that threatens the pregnant woman's life or health.

These groups lied to us. And it's not the first time these groups have lied to us. Dr. Bernard Nathanson, a former abortionist and a founder of NARAL has said lying and junk science are commonplace in the pro-abortion movement. It is the way they sell abortion to a gullible public. Dr. Nathanson said that in the early days, they absolutely lied about the number of illegal abortions; today, he says they lie about the link of abortion and breast cancer—there is a link; and they lie about the safety of abortion. And of course, the big lie on partial-birth abortion has been exposed. The procedure is not rare—it is common—and it is used with devastating consequences on perfectly healthy mothers and babies.

In the debate on partial-birth abortion last year, remember the big lie about how anesthesia kills the baby? That falsehood was exposed by the president of the American Society of Anesthesiologists, Dr. Norig Ellison, who explained before the Senate Judiciary Committee:

I believe this . . . to be entirely inaccurate. I am deeply concerned, moreover, that the widespread publicity given to Dr. McMahon's testimony may cause pregnant women to delay necessary and perhaps life-saving medical procedures, totally unrelated to the birthing process, due to misinformation regarding the effect of anesthetics on the fetus. . . .

Mrs. LOWEY. Mr. Speaker, I yield 15 seconds to the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Speaker, of those 15 States that have passed the law the gentleman advocates, 9 have been found to be unconstitutional.

Mrs. LOWEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from Oregon [Ms. FURSE].

Ms. FURSE. Mr. Speaker, we can learn from our elders. Our first citizens, native Americans, have a phrase that I think bears repeating in this place: Do not judge a person until you have walked a mile in their moccasins.

So I say to the Members who are pushing this ban, they are probably very sincere but most of them do not know what they are talking about. They do not know the agony of a late failed pregnancy. They do not know in what circumstances a physician may have to counsel a family in order to protect the health of a particular woman. They do not know about the choices families must make when they have to choose between a woman's health and a badly damaged fetus.

So, my colleagues, I say it is time we step into the shoes of those women, of those families, of those doctors. It is time politicians stop making decisions that are best made by families, by women, by physicians. It is time to get the Government off the backs of our citizens. It is time to listen to the 38,000 Members of the American College of Obstetrics and Gynecology, because they do know and they are opposed to this ban. I would urge my colleagues to join those doctors and oppose this ban.

Mrs. LOWEY. Mr. Speaker, may I inquire of the Chair the time remaining?

The SPEAKER pro tempore. The gentlewoman from New York [Mrs. LOWEY] has 10 minutes remaining, and the gentleman from Florida [Mr. CANADY] has 7 minutes remaining.

Mrs. LOWEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we continue to oppose this bill for two very simple reasons. It endangers the life and health of American women. It is blatantly unconstitutional. The antichoice majority has trumpeted the AMA's support for this bill, but the changes made to this bill to win the AMA's support do nothing, nothing to protect the lives and health of American women.

Again, I want to remind my colleagues, whether one believes that the Constitution should say more or should say less, the point is that 10 courts have struck down, even, or changed abortion bans like the one before us because they violate Roe versus Wade. Ten courts have spoken. Why will not Congress listen? This bill tramples on Roe versus Wade and is a direct assault on the constitutionally protected right to choose.

Mr. Speaker, let me be very clear. As a mother, as a new grandmother, I respect and celebrate life with every ounce of my soul, with every ounce of my being. I find it very offensive when year after year my colleagues and I will go to the leadership, will go to the Committee on Rules and say, let us craft a bill that the President will sign. Let us craft a bill that will focus on postviability abortions, will disallow postviability abortions except as they protect the health and the life of the mother.

But unfortunately, the majority again, time and again, will not work with us to help craft this bill. So year after year this procedure, which they say they abhor, continues when we want to make sure that postviability we are eliminating a procedure except to save the life and health of the mother, which is consistent with Roe versus Wade.

I would ask my colleagues again, work with us. Let us craft the language that the President can sign, and we can get this enacted into law, that we feel is reasonable and that will protect a woman's life and health.

Mr. CONYERS. Mr. Speaker, will the gentlewoman yield?

Mrs. LOWEY. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Speaker, I wanted to thank the gentlewoman for her leadership, not just today but year after year, on this subject matter. I am hoping somebody raises the fact that the AMA has switched its position, because I have got the letter they sent NEWT GINGRICH on the same day they switched their position, detailing what they wanted for the switch.

That AMA, that is the American Medical Association. And what did they want? Well, they wanted some compromises. They detailed a plan to stall or minimize any cuts that might come from the physicians' incomes. Let us not wax lyrical about the AMA is now on the side of the conservatives in this country. They just sold out, very elementary, dear Watson, it happens in the Congress and in the body politic with great frequency.

Once again, we all know that the issue is about the health of the mother. The opponents keep trying to hope they can override our resistance. The Supreme Court still states what the law of the land is, and for all the doctors on the Republican side that do not know the fifth amendment is severely connected to this subject matter, believe me, it is.

Mrs. LOWEY. Mr. Speaker, I thank the distinguished ranking minority leader.

Mr. CANADY of Florida. Mr. Speaker, will the gentlewoman yield?

Mrs. LOWEY. I yield to the gentleman from Florida.

Mr. CANADY of Florida. Mr. Speaker, the gentlewoman raised an issue about proposed amendments dealing with the mother's health. The problem with the amendment that the President has proposed which would deal with the mother's health is that it would first not deal with the vast majority of partial-birth abortions at all, because it is restricted on its face to postviability abortions and most partial-birth abortions occur before viability. Furthermore, the President's proposal would give unfettered discretion to the abortionist to decide.

Mrs. LOWEY. Reclaiming my time, Mr. Speaker, I would rather the gentleman speak on his time since I have limited time.

Mr. Speaker, I yield 2 minutes and 30 seconds to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Speaker, I thank the gentlewoman for yielding me the time and for her extraordinary leadership on a very hard bill to manage and carry, but one that has to be carried.

I want to make three points. One goes to the futility of this bill based on

its unconstitutionality. The other goes to who gets protected. The final goes to the intolerable trade-off that this bill forces and that cannot be condoned under any circumstances. Why are we here on a bill that is unconstitutional on its face?

We have not had to deal with the exception for health of the mother in the Hyde amendment and other matters because we had not focused on postviability. But the Supreme Court has been clear. I want to quote the language, that a bill is unconstitutional if it ''fails to require that maternal health be the physician's paramount concern.'' That is where the Catholic church has always been. That is where all of us have always been, if ever there is that kind of tragic decision to be made.

We must face that now as we have not had to because we are focusing postviability.

Why are we here on a bill that protects physicians and not women? The doctors got language that satisfied them and jumped ship. I thought they were supposed to have a paramount duty to their patients as well.

They better watch out, because there is language in this amendment that I think leaves them in jeopardy as well. It must be found that no other medical procedure would suffice. I can imagine that going before committee of doctors in the hospital, particularly when we consider how reluctant physicians are ever to use this procedure.

And finally, this forces the intolerable tradeoff of mother for fetus. It comes down on the side of fetus. It requires sacrifice of the mother because whatever the state of her health, it cannot be taken into consideration. For these reasons, I do not see how in good faith this body can pass this bill.

Mrs. LOWEY. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, in closing, again I just want to reach out to the gentleman from Florida [Mr. CANADY] and the gentleman from Illinois [Mr. HYDE], and ask them to work with us to craft a bill that would protect the health and the life of the mother. We could have had a bill today. This was first introduced in 1995.

□ 1315

It was vetoed by the President. It came back five times. We could have a bill today.

And I want the gentleman to know that I respect the passion of the opponents on this issue just as I hope the gentleman would respect the passion of women such as myself who have given birth to beautiful children, who is now a grandmother and respects life and celebrates life. I wish the gentleman would have more respect for those women like Claudia Addes, who suffered the pain of losing a child when she desperately wanted a child.

I am saying to the gentleman, with respect, let us sit down and work out a bill that would protect those women, protect all the women who may face this very difficult tragedy in their lives at some future time. I hope no one close to the gentleman ever faces that decision.

Let us work together, let us craft the bill, protect the women and the families who have to face these difficult decisions and, Mr. Speaker, let us not put a doctor in the terrible position of making this decision that he does not or she does not feel is the correct decision.

Mr. CANADY of Florida. Mr. Speaker, I yield the balance of my time to the gentleman from Illinois [Mr. HYDE], chairman of the Committee on the Judiciary.

(Mr. HYDE asked and was given permission to revise and extend his remarks.)

Mr. HYDE. Mr. Speaker, I wish I had more time to answer the gentlewoman from New York. She is a wonderful person. She is a sincere person. Her motives are most noble, and I wish everyone on her side would understand this is not politics. This is a tough issue for anybody.

We happen to believe in protecting the unborn child. We happen to think the health of the mother does not equal the life of the unborn. That is not a good trade-off. That is where we get stuck.

We hear from doctors, like Dr. Hearn, who wrote the book on abortion, that if a woman is pregnant she is in a life-threatening condition. Do we want him to make the decision on what is grievous physical health? We have problems, but it is not that we are not willing to negotiate on them.

Mr. Speaker, abortion is not mentioned in the Constitution. The abortion license was an invention by seven Supreme Court justices. But cruel and unusual punishment is in the Constitution. And by any definition, partial-birth abortion is cruel and unusual punishment, punishment for the capital crime of being unloved and unwanted.

Every abortion happens over somebody's dead body. We hear a lot about the woman, and we should, but we do not hear a scintilla about the little girl baby, the little boy baby whose heart is beating wildly and who is flailing, their having been almost delivered and who want to live. We do not hear about them.

Every abortion results in a violent death, whether the abortionist uses dilatation and curettage or the chemical warfare of saline injection which scalds the little baby to death that is called salting out, or RU–486 chemical warfare against the little baby, or the infamous suction machine, abortion means violent death in the womb. But partial-birth abortion adds a gruesome dimension to this cruelty by reaching the level, or should I say the depth, of infanticide.

A word about truth. America is committed to truth. ''We hold these truths,'' that great Virginian Jefferson wrote. ''The truth will make you free,'' we tell our children. How many times have we sung the majestic words from the ''Battle Hymn of the Republic,'' ''His truth goes marching on?'' Well, Mr. Speaker, the whole case for partial-birth abortion is based on deception and untruth.

And that is not surprising, because the history of the pro-abortion rights movement is replete with one falsehood after another. And I frankly get tired of being lied to.

Bernard Nathanson, a doctor who ran the biggest abortion clinic in America, wrote a book called ''Aborting America.'' And he said ''I cannot escape the notion that I have presided over 60,000 abortions.'' But concerning the number of back-alley abortions, he said we made the figures up. He is a founder of the National Abortion Rights Action League. He and a man named Lawrence Lader concocted figures because they sounded good about back alley abortions as a justification for their organization dedicated to legalizing abortion. ''We made up the figure 10,000 because it had a nice round sound to it.'' That was a lie.

Roe versus Wade was a lie. Norma Jean Corvey, who was Jane Roe, said she never was raped. The case was presented as a rape situation to make it more poignant. But later, when she became pro-life, she admitted that she lied; that she was not raped. So the foundation of Roe versus Wade was a lie.

Then we have partial-birth abortions, where Planned Parenthood told us that anesthesia kills the little baby. The baby does not feel pain. The mother is anesthetized. The anesthesiologists came in and went ballistic. They said enough anesthesia to kill the little baby would kill the mother. ''We do not want people to shy away from taking anesthesia'' they told us. That is a lie.

Then, of course, we have the famous Ron Fitzsimmons, executive director of the National Coalition of Abortion Providers, who in an article in the American Medical News said on the night in November 1995, when he was on ''Nightline,'' he ''lied through his teeth.'' He lied through his teeth about how many of these abortions are done and at what time in the pregnancy. So deception. Lies. I get tired of it.

Now, we are not stopping abortion, as the gentlewoman points out, but we are stopping a loathsome, grisly by-product of the mindset that treats people as things and as objects. We are saying halt this cruelty now and not tomorrow.

I want to address the President, if I may presume to do so. On June 12 in 1987 at the Brandenburg Gate, Ronald Reagan challenged General Secretary Gorbachev. He said, ''Mr. Gorbachev, tear down this wall.'' And as a result of that wall finally coming down, a new birth of freedom, that wonderful phrase, suddenly appeared for millions of people.

Well, there is another challenge that I would like to make, and I do not presume to be Ronald Reagan nor do I ascribe the President as Mr. Gorbachev, but the challenge is as noteworthy as the Berlin Wall, and that is because it means life and death to thousands of endangered tiny defenseless humans, sign this bill, Mr. President, then the prayers of millions and even the inaudible prayers of the little yet-to-be-born will be answered.

Mr. President, stand between them and a gruesome death. Cruel and unusual punishment. We can provide them with life and with hope, and I ask the President if he has not been lied to enough by these people who are so fearful that the abortion license will be encapsulated a little bit more than it is, be a little less free, a little less wanton. They are so fearful of that, they will not give an inch.

This procedure is inhuman. Animals of the forest would not treat their young this way. So all we say is we have been lied to enough. This does not impair abortions. They will go on merrily every day. We will get to them.

Mr. President, sign this bill.

Mr. UNDERWOOD. Mr. Speaker, I rise in strong support for this legislation which bans partial-birth abortions. Over the past year, the House expressed its opposition to this procedure: not once, not twice, but three times. The decision before us today is simple: do we ban this procedure which is incredibly inhumane and incredibly brutal? I join the National Right to Life Committee, the U.S. Catholic Conference, the American Medical Association, and many others in saying no to partial-birth abortions.

According to Ron Fitzsimmons, executive director of the National Coalition of Abortion Providers, and other sources, it is estimated that partial-birth abortions are performed about 5,000 times. Do we really want to sanction the termination, no the killing of 5,000 babies? Have we given up on these unborn babies before they have a chance to live? Sadly, the majority of partial-birth abortions are performed in the 5th and 6th months of pregnancy, on healthy babies of healthy mothers. What has happened to our sense of morality and our sensibility?

The arguments that this bill does not take into account the health of the mother are not valid. This bill is narrowly crafted to outlaw only partial-birth abortions; the bill still leaves in place other legitimate medical procedures to protect the life and health of the mother. In September 1996, the former Surgeon General C. Everett Koop issued a statement that ''partial-birth abortions is never medically necessary to protect a mother's health or her future fertility. On the contrary, this procedure can pose a significant threat to both.''

Mr. Speaker, the babies involved in this procedure are alive and experience great pain when they are subjected to partial-birth abortions. As a civilized society, we should outlaw this medical procedure; we should not be engaged in sanctioning the killing of human beings; once again, we should say no to partial-birth abortions. I urge my colleagues to join me in supporting the ban on partial-birth abortions.

Mr. LEVIN. Mr. Speaker, I do not favor late-term abortions and feel none should be allowed, whatever the procedure, unless necessary to preserve the life of the mother or prevent serious consequences to her health. The bill we are considering today, like a similar bill I opposed last year, not only fails to address all late-term abortions, but it does not protect a woman from the severe health consequences which may be associated with tragic pregnancies.

For the majority, the repeated consideration of this legislation is not about reducing abortions in America. If that were the goal, the majority would allow for the consideration of a bill which protects a mother's health, as required by the Supreme Court in post-viability abortions, and a bill would be passed by this House and signed into law by the President.

We are asking the majority to be sensitive to and protective of the health of mothers who find themselves in medically and personally tragic situations. I am voting against moving the previous question so that we can consider the Hoyer amendment and ban all late-term abortions while ensuring the protection of a woman's life and health.

Mr. ABERCROMBIE. Mr. Speaker, today I rise in opposition to H.R. 1122, the Partial-Birth Abortion Ban Act. H.R. 1122 has been amended in an effort to clarify the bill's intentions. Yet, H.R. 1122 fails to provide women with the basic protections established in Roe versus Wade.

The new definition of what constitutes a partial-birth abortion is vague, convoluted, and confusing. What is a partial delivery of substantial proportion, for example? Doctors and lawyers will not have a clear idea of what is being banned.

H.R. 1122 gives any accused physician the right to have his or her conduct reviewed by the State Medical Board before a criminal trial begins. The provision does not give the State Medical Boards the authority to issue advisory positions. The provision only allows the State Medical Boards to comment on the doctor's conduct with respect to the necessity of saving the life of the woman. They cannot comment on whether or not the procedure meets the definition of a partial-birth abortion. Possible conflict of interest in the makeup of the medical boards is not addressed. The provision falsely implies that doctors have some type of protection; they do not. Doctors still have to go through criminal proceedings.

In Roe versus Wade, the U.S. Supreme Court recognized a woman's constitutional right of choice. Roe also established that this right is limited after viability, at which point States may ban abortion as long as an exception is provided for cases in which the woman's life or health is at risk. H.R. 1122 fails to make the distinction between pre- and post-viability abortion.

Forty States and the District of Columbia ban post-viability abortions. The U.S. Supreme Court has struck a balance between a woman's right to choose and the protection of potential life. H.R. 1122 unfortunately does not clarify the distinction.

Intervening in a lawful medical decision is inappropriate, ill advised, and dangerous. It is always in order to question laws and write legislation which may alter existing statutes. H.R. 1122 does not address what is now lawful in a manner which meets the necessary criteria for changing the law.

Mr. ADERHOLT. Mr. Speaker, I rise today in support of H.R. 1122 as amended by the Senate.

This bill would help to fight what Pope John Paul recently called an abominable crime and the shame of humanity—the crime of abortion.

On the Pope's recent visit to Brazil he asked, ''How many times did we hear Mother Teresa's lips proclaim the priceless value of life from the moment of conception in the maternal womb? Death has silenced those lips, but Mother Teresa's message in favor of life continues to be more vigilant and convincing than ever.''

It is my belief that our creator will not hold this Nation guiltless for our contribution to the killing of the unborn. Indeed, the Bible tells us in Proverbs that God hates ''hands that shed innocent blood.'' Certainly, there can be none more innocent than the unborn.

And this procedure is particularly horrific. It has been called the closest thing to infanticide. I will not go into the gruesome details of this procedure but I believe that it is telling that many who support abortion on demand, do not support this procedure.

There are few moral questions that come before this body that are more clear-cut and simple than this one. The question we will vote on today is whether your support a method of abortion that involves partially delivering a baby and then killing it, or do you support allowing a newborn to live. Pure and simple.

I am proud to stand today with those who support life. I urge my colleagues to honor the words of the Pope and Mother Teresa by supporting life—and to vote in favor of the ban on partial birth abortions.

I yield back the balance of my time.

Mr. NADLER. Mr. Speaker, let there be no mistake. The amendments that we are considering here today do not make this bill acceptable. They do not provide the critical exception necessary to protect women in tragic circumstances from serious harm to their health.

This bill is still unconstitutional, and is still in direct violation of the fundamental rights described in Roe versus Wade.

This bill would still criminalize doctors for using their best medical judgment to protect the lives and health of women.

This bill would still give a father who abused or abandoned a woman the right to sue her if she and her doctor determine that she needs to have this procedure. Not only does this bill infringe on the constitutional right to choose, but it rewards abusive fathers.

This bill is still fundamentally flawed, because it is based on the principle that politicians, not doctors, ought to make medical judgments about what procedures are appropriate.

I would urge every pro-choice Member who may be inclined to vote for this bill to carefully consider exactly why they are pro-choice. If you are pro-choice because you believe it is a woman's decision, not the government's, about whether or not to have an abortion, then I urge you to vote against this bill. If you believe that sometimes abortions are necessary to protect the health of a woman, then you ought to vote against this bill. If you believe that doctors should not be denied the option of using a medical procedure that they deem appropriate, then you must reject this bill. If you believe in the fundamental principles of Roe

versus Wade, then you must not support this bill which severely restricts a woman's right to choose to have an abortion of a fetus that cannot live outside of the womb.

This bill, unfortunately, is not about protecting women's lives. Instead, it is the result of a multimillion dollar campaign aimed at fundamentally limiting women's rights. If this bill becomes law, it will most certainly be challenged in the courts and the result may be a reexamination of Roe versus Wade. So I hope my pro-choice colleagues, who may be inclined to vote for this bill, realize that they are in effect asking the Supreme Court to reexamine the issues resolved by Roe versus Wade.

Make no mistake, this bill is not about one particular procedure. It is about the right to choose. I urge my colleagues to defend a woman's right to choose, and to reject this dangerous bill.

And let me close by quoting a letter from a woman in New York City who faced a tragic situation involving a fetus with a severely deformed heart, and who would have been affected by this legislation had it already become law. She writes,

You must hear our voices before you vote on this misguided bill, as well as the voices of other mothers and fathers who weep over their empty cribs. We are not bad people. We are extremely unfortunate, suffering families trying to cope with personal tragedies. Please don't deepen our wounds by taking away our choices. Please vote against H.R. 1122.

Mrs. LOWEY. Mr. Speaker, I rise in opposition to the bill, and I yield myself such time as I may consume.

This is the fifth time that the House will vote on this issue. Unfortunately, it won't be the last. As my colleagues know, the President will veto this legislation because it does not contain an exception to ensure the health of American women. So we will be back here again next year.

We have repeatedly tried to offer a health amendment to the bill on the floor of this House—and the Republican leadership has consistently blocked us. We offered to sit down and work with the Republican leadership to craft a health exception that we could all accept. The Republican leadership refused. The President will sign this legislation if it contains a health exception—but the Republican leadership won't even give us the chance to put one in.

The GOP leadership doesn't want to ban this procedure—it wants a political issue. Republicans would rather debate this again and again and again rather than send the President a bill that he can sign into law. But don't take my word for it—take Ralph Reed's. On May 21, he told the New York Times that this was a quote, winning gold-plated issue going into the 1996 elections.

No pious words about the defenseless unborn, no handwringing over moral decay. Just a winning gold-plated issue. This is pure politics, plain and simple.

My colleagues, you will hear a great deal today about the AMA and its endorsement of this bill. You will hear that changes made to this bill in the Senate have improved it.

Nonsense. The Senate amendments are window dressing that provide cover to doctors while leaving women out in the cold. Sadly, the AMA struck a very cynical bargain with the Republican leadership to endorse this bill.

Thankfully, Mr. Speaker, the AMA is not the final word on this issue. The American College of Obstetricians and Gynecologists, ACOG, the health professionals who actually deliver babies and care for women, oppose this legislation. And let's not forget, my colleagues, that the AMA represents doctors—not women. So while the changes made to this bill in the Senate may make it marginally more difficult to throw doctors in jail, they will do nothing—absolutely nothing—to save the lives or preserve the health of pregnant women.

So, we are left with the same bill that we have voted on four times before. The same bill that puts the lives and health of women at risk. The same bill that violates the Constitution and tramples on the rights of American women.

Women from around the Nation testified before Congress that this procedure protected their lives and health. Women like Tammy Watts, Claudia Addes, and Maureen Britel. Women who would have been harmed by this bill.

These women desperately wanted to have children. They had purchased baby clothes. They had picked out names. They did not abort because of a headache. They did not choose to abort because their prom dress did not fit. They chose to become mothers and only terminated their pregnancies because of tragic circumstances.

Who in this body will stand in judgment of them? Which of you will stand in the operating room and limit their options? Who, at the agonizing moment, will decide—the Congress of the United States or the women and families of America?

The courts have been very clear on this question, and have consistently found bills of this type to be unconstitutional.

Lawsuits have been filed in 10 States challenging State statutes similar to the bill before us. In 10 States, courts have ruled that the laws were unconstitutional and struck them down, limited their scope, or enjoined them.

Mr. Speaker, when the House debated this issue in March the distinguished gentleman from Florida assured us that this bill was constitutional and consistent with Roe. Since then this ban has been struck down, changed, or enjoined on constitutional grounds in 10 States. Ten States. States have moved ahead and passed these bans—and they have been struck down, again and again. The courts have clearly spoken: This bill violates a woman's constitutionally protected right to choose.

Unfortunately, we know that the anti-Choice majority won't allow a little thing like the Constitution to stand in the way of their abortion ban. Mr. Speaker, the anti-Choice Republican leadership has been waging war on the reproductive rights of American women since taking over this House in 1994. In the last Congress alone the GOP leadership voted to limit abortion rights more than 50 separate times—a new record. It is clear that the Republican leadership wants to ban every abortion, procedure by procedure, trimester by trimester. They want to roll back Roe versus Wade and push women into the back alley.

We have a different vision. We will continue to fight to ensure that women are able to obtain safe, legal abortions. And we will work to reduce the number of abortions by providing women with greater access to family planning and contraceptives. We will work to empower women to make responsible choices about their own bodies.

The Republicans have chosen to make our bodies their battlegrounds. They will not succeed.

Mr. Speaker, I submit the following for printing in the RECORD:

AMERICAN MEDICAL ASSOCIATION,
Chicago, IL, May 19, 1997.

Hon. NEWT GINGRICH,
U.S. House of Representatives,
Capitol Building, Washington, DC.

DEAR SPEAKER GINGRICH: On behalf of the 300,000 physician and medical student members of the American Medical Association (AMA), I am writing to express our strong concern with the level of Medicare payment cuts proposed in the budget agreement with the Administration, as well as many of the specific physician payment changes included in the Administration's 1998 budget proposal.

A balanced budget and solvent Medicare Trust Fund are important goals which the AMA supports. However, we strongly object to reducing Medicare spending by $115 billion over five years almost entirely from cuts to physicians and other providers. It is clear that physician spending is not the problem with Medicare's overall growth. Physician spending growth is already well below overall Medicare growth and below the growth rate for any other major sector of Medicare. The Congressional Budget Office (CBO) estimates that under current law, physician payments per service will fall below current payment rates, while hospital and other Part B services are projected to rise. In fact, physicians are the only provider group who already face payment reductions in Medicare under current law.

More importantly, the combination of payment cuts under consideration, combined with pending payment changes, could seriously undermine the quality of care physicians deliver to Medicare patients and ultimately reduce beneficiary access to care, as low payment rates have resulted in access problems for Medicaid patients. CBO stated last month that ''if payments are too tightly limited, beneficiaries could encounter difficulties in getting care from some providers or might not be able to obtain certain services.'' It is critical that any proposed budget cuts be considered in conjunction with other already pending physician payment changes, including the implementation of the resource-based practice expense, as discussed below.

The AMA believes Congress and the Administration should enact fundamental reforms to the Medicare program, such as those included in the Balanced Budget Act of 1995, instead of merely reducing payments and making minor modifications to the program. We have developed a comprehensive proposal, Transforming Medicare, which addresses both the short and long-term problems with Medicare, without relying on failsafe or lookback provisions. Our plan modernizes traditional Medicare, eliminating the need for Medigap, while preserving the security and quality of care beneficiaries now receive. It would create a broad menu of health plan choices of Medicare beneficiaries to choose from, including Provider Sponsored Organizations (PSOs) and Medical Savings Accounts (MSAs). It includes needed regulatory reforms to fraud and abuse and self-referral provisions, as well as cost-saving professional liability reforms. It also ensures that a healthy Medicare is available for future generations. We are pleased to enclose a copy of our Transforming Medicare proposal for your consideration.

IMPROVING THE PHYSICIAN PAYMENT SYSTEM

There is widespread agreement that the current method of updating physician payments, the Medicare Volume Performance

Standard (MVPS) system, is fundamentally flawed. The Congress, the Administration, and the Physician Payment Review Commission (PPRC) have all proposed replace the current MVPS update formula with a sustainable growth rate (SGR) formula, which uses a real per capita gross domestic product (GDP) formula to adjust for volume and intensity.

In general, the AMA supports implementing the SGR approach as a needed correction for the MVPS. Fundamentally, the question for policymakers is determining the level of annual spending growth for physician services that best balances patient care needs and the federal budget. Under the current MVPS physician update formula, Medicare payments for physicians are actually projected to be rolled back, while hospital and other provider payment rates go up. Although these non-physician services are unlikely to see their full projected increases, their budget savings will be charged against this rising baseline, while further savings from physicians require even deeper cuts.

Physician practice costs, as measured by the Medicare Economic Index (MEI), continue to rise while physician reimbursement under Medicare is projected to fall. While we believe that MEI is the appropriate goal for physician updates, we understand that budgetary constraints may not presently allow for a full MEI update for physicians. We would be willing to accept GDP+2 under an SGR system, as was provided in the Balanced Budget Act of 1995, if there were assurances that this could be increased to cover MEI once the necessary Medicare savings were obtained. In contrast, under GDP+0 as the Administration proposes, physician payments would continue to fall well below MEI, as the chart below indicates.

Physicians are willing to do their part to put Medicare's fiscal house in order, as we have repeatedly done in the past. Physicians, who accounted for 32% of combined physician and hospital Medicare spending from 1987 to 1993, absorbed 43% of Medicare provider cuts over the same time. We are only asking for the opportunity to have Medicare payments keep up with the costs of providing care to Medicare beneficiaries, and are willing to accept the challenge of maintaining low volume growth. Budget reconciliation for Medicare should reflect the fact that physician spending is under better control than any other major Medicare segment. Physicians should not be penalized for having done the right thing in the first place.

SINGLE CONVERSION FACTOR

The Administration's 1998 budget also proposes moving to a single conversion factor and payment update for the physician fee schedule. Medicare payments to physicians are set through a conversion factor that translates the resource-based relative value scale (RBRVS) into dollars. Currently, there is a conversion factor for each of three types of physician services: for 1997 these are set at $40.96 for surgery; $35.77 for primary care; and $33.85 for other services, as well as a separate conversion factor for anesthesiologists discussed below.

The AMA strongly supports the move to a single conversion factor, in conjunction with improvements to the flawed MVPS formula. However, we believe Congress must set the single conversion factor at an adequate level and provide for a reasonable transition in order to minimize the negative financial impact on surgical services and reduce potential financial disincentives for providing care for Medicare patients. We believe that, at a minimum, the conversion factor for 1998 should be set no lower than the default update under the current MVPS formula, and a single conversion factor should be fully phased-in no earlier than the year 2000.

Medicare reimburses anesthesiologists by a different conversion factor methodology than that applied to other physicians services. For 1997, the anesthesiology conversion factor is set at $16.68, and is therefore about 46% of the $36.24 average of the other three 1997 conversion factors. For purposes of determining the annual update, anesthesiology was assigned to the ''other nonsurgical'' category until 1996 when it was moved to the ''surgical'' category. The Administration has proposed to reduce the anesthesiology conversion factor by the same percentage as surgical services when surgery, primary care and other nonsurgical services are combined into a single conversion factor. However, that would clearly be inequitable since the cumulative increases over the life of the RBRVS are almost 17% higher for surgery than for anesthesiology. The AMA therefore supports PPRC's recommendation that in the move to a single conversion factor, the current ratio (46:100) should be maintained between the anesthesiology conversion factor and the new single conversion factor for other specialties.

RESOURCE-BASED PRACTICE EXPENSE

As mentioned above, many physicians face additional extreme payment reductions due to the implementation of the resource-based practice expense in 1998. The Social Security Act Amendments of 1994 requires the Health Care Financing Administration (HCFA) to implement a ''resource-based'' practice expense component of the Medicare fee schedule by January 1, 1998. That is, the payment for this component—which represents over 40 percent of the payment for physician services—is to be based on the actual expenses incurred in delivering each service. Currently, the practice expense allowance is derived from a formula based on the prior reasonable charge payment system.

The AMA supports resource-based practice expenses so long as they reflect actual practice expenses, but is seeking a one-year extension of the implementation date. The 1994 legislation said that HCFA should ''recognize the staff, equipment, and supplies used in the provision of various medical and surgical services in various settings.'' HCFA contracted with Abt Associates to conduct a two-part study of 3,000 physician practices expenses. When the survey was pulled back due to poor response rates, HCFA was left without adequate data to meet the intent of the law.

HCFA is now relying primarily on data derived from clinical practice expert panels, or CPEPs. Early review of the recently-released CPEP findings suggest that they contain a number of errors. HCFA has even rejected certain direct costs that its expert panels found were part of the cost of surgery when doctors supply their own staff and supplies in hospital operating rooms. The AMA and medical specialties are working to identify and correct those flaws but more time is needed.

The cuts HCFA projected in January are so extreme that they would nearly eliminate practice cost reimbursement for some procedures and specialties. Many inpatient surgical procedures and two specialties could suffer cuts of more than 80% in their practice expense values, and at least 40% in their total payments. Under HCFA's projections, payments for many surgical procedures would fall below Medicaid levels. Thus, there is good reason to fear that if Medicare makes deep cuts in its payments for complex procedures, doctors performing these services may find that they can no longer afford to accept Medicare patients.

PPRC has advocated that HCFA should use a three year transition in phasing-in the new resource-based practice expense values in order to reduce the impact. The AMA believes that using a transition is pointless if the underlying data and methodology is invalid. Others argue that any problems can be corrected later through a refinement process similar to the one used when new work values were implemented in 1992. We strongly oppose this approach because we believe it is inappropriate to attempt to correct fundamentally flawed data. HCFA invested nearly three times as much time and money on the design of new work values as it has spent to revise practice expense values. Whereas thousands of doctors were surveyed to come up with the work values, in the end, there has been no broad survey of practice expenses.

Opponents of an extension also maintain that there is no point in waiting another year because the demise of the indirect cost survey shows that it will be possible to collect this information independently. We believe that with another year, HCFA could develop alternative relative values that bear some relationship to actual practice expenses. There would be adequate time to validate and correct the CPEP data. Better indirect cost allocation methodologies could be developed and tested. Missing data could be collected, perhaps through an expansion of existing surveys.

The AMA urges Congress to: (1) extend the resource-based practice expense implementation date by one year to January 1, 1999; (2) require HCFA to develop a new proposed rule to be published at least 8 months before implementation, with 90 days for public comments; (3) direct HCFA to use a new approach to data and methodology which recognizes all staff, equipment and supplies (not just those which can be tied to specific procedures); (4) require that the proposed rule include detailed impact projections which compare proposed payment amounts to data on actual physician practice expenses; and (5) require HCFA to consult with organizations representing physicians regarding resource-based practice expense methodology and data in order to ensure that sufficient input has been received from the affected physician community.

OTHER PHYSICIAN PAYMENT ISSUES

Assistants at Surgery

The Administration is proposing to save $400 million over the next five years by making a single payment for surgery. This means that the additional payment Medicare now makes for a physician assisting the principal surgeon in performing an operation would no longer be made. Instead, the payment amount for the operation would have to be split between the principal surgeon and the assistant at surgery. We believe this provision dangerously imposes financial disincentives for the use of an assistant at surgery and inappropriately interferes with physician medical decision-making. The AMA supports efforts to develop guidelines for the appropriate use of assistants at surgery, but believes that patient care should not be compromised in search of Medicare savings. The professional judgment of surgeons regarding the need for an assistant at surgery for a specific patient must be recognized, even for operations in which an assistant ordinarily may not be required. Congress has considered and rejected this proposal in the past, and we urge you to reject it again.

High Cost Medical Staff

The Administration proposes to reduce Medicare payments for so-called high cost hospital medical staffs. This proposal is not new. In its 1994 Annual Report to Congress, the PPRC concluded that such a ''provision's disadvantages . . . outweigh its advantages.'' The Commission went on to note that such a

provision: ''May have unintended effects on physician behavior, including a shifting of admissions away from hospitals with the high-cost designation. The provision would also increase the cost and complexity [of] administering the Medicare program.''

In some cases, the physicians responsible for a hospital's medical staff being designated ''high cost'' for a given year might simply take their patients elsewhere, leaving the remaining physicians on staff to bear the financial consequences, with potentially serious repercussions for the affected hospital. Finally, the proposal could inappropriately reduce payments to physicians who treat a sicker patient population. In the absence of a sound methodology to measure differences in the severity of illness of the patient population being treated by the medical staff, it is too risky to put in place a formula-driven process that could inappropriately lower payments for treating patients who are more expensive to treat because they are sicker.

Centers of Excellence

The Administration proposes to expand what it calls the ''Centers of Excellence'' demonstration project, under which Medicare makes a bundled payment to participating entities covering both physician and facility services for selected conditions, such as coronary artery bypass operations. We are concerned that these demonstration projects do not offer a potential increase in quality and cost-effectiveness, and that these ''centers of excellence'' in fact emphasize cost-cutting rather than excellence. We also find the name ''centers of excellence'' inappropriate in that it implies that institutions participating in this payment arrangement provide higher quality services than non-participating institutions.

Outpatient Drug Payments

The Administration also proposes to reduce payments for drugs administered in physicians' offices. Today Medicare pays the average wholesale price for these drugs, which include a number of therapies for treating patients who are critically ill with cancer and kidney disease.

Under the President's plan, however, payment would be based on a complicated ''actual acquisition cost'' methodology. Specifically, payment would be based on the lowest price that the physician paid for that type of drug in the previous six month. In addition, payment would be capped at the national median of prices paid for the drug in a period 6 to 18 months earlier. In other words, the so-called ''actual acquisition cost'' has nothing to do with the ''actual cost'' of the drug provided to an individual patient.

By definition, the half of all practices above the national median will be paid less than their purchase price for these drugs. Since all payments will be based on prices that are six to 18 months old, physicians will be forced to undertake a burdensome new tracking system and to absorb any increases imposed by drug manufacturers or wholesalers during that time. More important, patients could suffer as physicians, unable to recover the price of the drug let alone other associated costs, might be forced to discontinue providing the drug in their offices, requiring patients to have their drugs administered in hospitals where costs to the patient and Medicare may be higher. For all these reasons, the AMA urges Congress to reject this unfair and impractical proposal.

FRAUD AND ABUSE

The AMA strongly opposes the Administration's efforts to repeal the fraud and abuse safeguards included in the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Specifically, the Administration has proposed to eliminate the obligation of the Departments of Justice and Health and Human Services to issue advisory opinions on the anti-kickback statute, reduce the government's burden of proof for civil monetary penalties, and repeal the risk sharing exception to the anti-kickback statute.

Fraud and abuse has no place in medical practice and the AMA is committed to setting the highest ethical standards for the profession. The incidence of misconduct can be greatly reduced by setting standards of appropriate behavior, disseminating this information widely, and designing and implementing programs to facilitate compliance. HIPAA provides new and much needed guidance by requiring HHS to establish mechanisms to modify existing safe harbors, issue advisory opinions, and issue special fraud alerts. This guidance will allow physicians, hospitals and insurers to develop efficient and effective integrated delivery systems that will benefit Medicare, Medicaid and the private health care marketplace.

In the area of civil monetary penalties (CMPs), HIPAA requires that the Inspector General establish that the physician either acted ''in deliberate ignorance of the truth or falsity of the information.'' The AMA, along with many Members of Congress, fought long and hard to preserve this clarified standard in the face of strong opposition. This standard makes the burden of proof for imposing CMPs under HIPAA identical to the standard used in the federal False Claims Act, and there is no reason that two enforcement tools designed to address the same fraudulent behavior should have different standards of proof. Moreover, this section provides important protection for physicians who may unwittingly engage in behavior that is impermissible.

The AMA also strongly opposes the Administration's proposal to eliminate the new risk sharing exception to the anti-kickback law provided in HIPAA. The expansion of managed care in today's health care market requires additional exceptions to the anti-kickback laws so that more flexibility in marketing practices and contractual arrangements is afforded. The future of the Medicare and Medicaid programs depends upon the ability of competing plans to offer quality alternatives to the existing program. HIPAA provides a much needed exception to the anti-kickback law for certain risk-sharing arrangements which will facilitate the development of innovative and cost-effective integrated delivery systems.

Finally, the AMA has concerns with some of the proposals in the Administration's ''Medicare/Medicaid Waste, Fraud and Abuse Act of 1997.'' While we have not seen any legislative language on the proposals, we are concerned that some of the provisions are overreaching and could impose unwarranted penalties on unwary physicians.

PHYSICIAN SELF-REFERRAL

The AMA supports reforms for physician self-referral laws (Stark I and II) to remove barriers to arrangements among physicians in the developing health care marketplace, including the development of Provider Sponsored Networks (PSNs). These laws were designed for the fee-for-service world, but now deter the development of risk sharing arrangements where there is no incentive for inappropriate referrals. In addition, inappropriate referrals of Medicare and Medicaid patients to outside laboratories and other designated diagnostic facilities are already prohibited under the federal anti-kickback law. Congress recognized the need for these reforms when it passed the Balanced Budget Act of 1995. We ask you to include these same needed reforms in Medicare legislation in the 105th Congress.

PROVIDER SPONSORED ORGANIZATIONS

The AMA strongly supports federal legislation which would facilitate the development of Provider Sponsored Organizations (PSOs). We believe PSOs should be subject to federally developed standards which account for the distinctions between provider networks that deliver services directly and insurers that purchase health care services and resell them, while also providing tough consumer protection standards for patients. By developing a federal framework, Congress will continue its precedent of encouraging innovative new ventures that stimulate competition and provide cost-saving efficiencies. The 1973 HMO Act created a federal regulatory scheme for HMOs, preempting state laws that interfered with their formation and operation. HMOs argued successfully then, as did the Blue Cross plans previously, that they represented different products and should be evaluated by different standards. In addition, we support PSO standards which allow as much flexibility as possible in the ownership and management structure of a PSO and which do not favor one provider group over another.

PROFESSIONAL LIABILITY REFORM

Medicare reform should also include the professional liability reforms that have been so successful in California, including a limit on non-economic damages of $250,000. Health care liability costs are built into the Medicare system in the form of physicians' and hospitals' liability premiums, defensive medicine, and coverage for distributors of medicines, blood services, and medical devices. In 1995, CBO scored $200 million in federal government savings over 7 years in physician malpractice premium costs alone, without considering similar hospital, HMO and medical supplier liability costs. These are millions of dollars that could go to patient care and extending the life of the HI Trust fund, instead of paying attorney fees and insurance premiums.

GRADUATE MEDICAL EDUCATION

The AMA believes that because all patients benefit from our nation's graduate medical education (GME) system, the private sector should participate in the funding of GME through the development of an ''all payer'' fund. In addition, GME funds should be carved out of Medicare's payments to HMOs (i.e. AAPCC), with all direct medical education (DME) funds paid directly to the entity that incurs the costs of training, whether that entity is a medical school, hospital, nursing home, or ambulatory clinic. However, federal support in the form of the indirect medical education (IME) adjustment should continue to be provided to teaching hospitals which incur higher costs than non-teaching hospitals in providing training and unreimbursed patient care. Finally, a national physician workforce advisory body should be established to monitor and periodically assess the adequacy of the size and specialty composition of the physician workforce in the context of the changing needs of the evolving health care delivery system and evolving patterns of professional practice by non-physician health professionals.

CONCLUSION

Congress can no longer postpone tackling fundamental reform of the Medicare program. Failure to do so is certain to prove even more costly for the millions of Americans who expect to be able to rely on this program in the future, as well as those working Americans who are called upon to help finance it. Chopping away at physician payments in hopes of getting more services for less money will ultimately divorce the Medicare system and its beneficiaries from the mainstream of American medical care.

However Medicare is reformed, it will be our overriding goal to ensure that the change not damage the essential elements of the patient-physician relationship. Above all, reform should not break the bond of trust between a patient and physician that makes medicine unique.

We look forward to working with you and the 105th Congress to enact urgently needed structural reforms to protect Medicare for our seniors and save it for our children.

Sincerely,

P. JOHN SEWARD, MD.

Mr. BENTSEN. Mr. Speaker, today we are considering the Senate amendment to the Late-Term Abortion Ban Act, H.R. 1122. I oppose this legislation because, like the House-passed bill, it is fundamentally flawed and would put at risk the life, health, and fertility of women facing one of the most difficult, anguished, and personal decisions imaginable.

First, let me say that I oppose late-term abortions except, as the U.S. Supreme Court requires, when necessary to protect the life or health of a woman. Both the House and Senate passed bills fall woefully short of meeting this critical standard. This legislation provides only a partial exception to protect the life of a woman, and even this partial exception may be invoked only under a very narrow set of circumstances.

Furthermore, it fails to provide a clear, humane, and necessary exception when a woman faces a severe threat to her health and specifically her ability to have children in the future. This bill bans abortion both before and after viability, and continues to criminalize physicians for using their best medical judgement to protect the lives and health of women. I know the proponents continue to argue that the Senate amendment protects physicians from criminal sanctions in lieu of State action, but it is only a fig leaf which does not preclude criminal prosecution. In short, this legislation sets the dangerous precedent of allowing government to dictate medical procedures and practices to doctors, taking away the authority of a physician to select the best medical procedure for protecting a woman's life and health. This bill substitutes a politician's judgement for that of a physician.

Many of us are troubled by the procedure H.R. 1122 seeks to outlaw, yet believe it is dangerous and wrong to ban a medical procedure that in some circumstances represents the best hope for a woman to avoid serious risk to her health, including her future ability to bear children. Therefore we have attempted to offer a compromise that is consistent with the Supreme Court's rulings on the difficult issue of abortion. This bipartisan bill, which was never debated on the floor—in fact was never allowed to be debated—would ban all late-term abortions, not just one procedure, and also provide a necessary exception when there is a serious threat to the woman's life or health. This compromise bill is consistent with the Supreme Court's Roe versus Wade decision and subsequent rulings. It is consistent with the State law in 40 States, including my State of Texas, as well as the District of Columbia. In Texas, as in other States, late-term abortions are banned except when the woman's life or health is threatened. I believe this bipartisan compromise is consistent with the views of the American people. And I believe it is the right and humane thing to do. That is the approach this legislation should take as well, but I guess it is not the politic thing to do and that is why we are at this point today. The legislation before us today is, unfortunately, not about stopping a particular procedure, but about politics.

We will once again hear a lot of debate today about how often this procedure is performed. But this issue isn't about numbers. It is about each individual woman who faces the awful choice of what to do if she is told that her life, health, or ability to bear children is endangered by her pregnancy. The decision about what medical treatment and procedures are best for that woman should be made by her and her doctor, not the Congress of the United States.

Mr. CONYERS. Mr. Speaker, imagine that you—or your wife—or your daughter, learned when she is 7 months pregnant that the fetus had a lethal neurological disorder and all of its vital organs were atrophying. After consulting with specialists and being told that the pregnancy is seriously jeopardizing the mother's health, and possibly her life, your are told that an intact D&E procedure has the best chance of preserving the mother's health and her ability to become pregnant again.

Or imagine that the mother is 32 weeks pregnant when she learns that the baby has no brain. The fetus has no chance of survival. The mother is diabetic, so a Cesarian section and induced labor are more dangerous to her health and reproductive capacity than an intact D&E procedure.

Would you want 435 politicians to tell you—or your wife—or your daughter, the type of medical procedure she could use in this painful situation? Should Congress be able to determine whether a woman will lose her capacity to reproduce and bear children? Well that is precisely the situation that Coreen Costello and Vicki Stella were in. And if we adopt this bill, we will be telling many, many other women that Washington knows best when it comes to terminating pregnancies that have resulted in tragic circumstances.

H.R. 1122 is unconstitutional, because they contain no exception providing for the physical health of the mother. The Senate amendments on which we are voting today do nothing to correct that problem with the bill. Roe versus Wade, and its progeny, clearly hold that a woman's right to protect her life and health, in the context of reproductive choice, trumps the government, as big brother, in its desire to regulate.

And recently, several similar State statutes banning this procedure have been found unconstitutional. In fact, in my home State of Michigan, on July 31, 1997, Judge Gerald Rosen struck down Michigan's partial-birth abortion ban, finding that the definition of partial-birth was so vague that doctors lacked notice as to what abortion procedures were banned. Moreover, the court found that the State law unduly burdened women's ability to obtain an abortion. It is clear that H.R. 1122 and the Senate amendments violate that well established constitutional law long-settled by Roe.

The majority will try to tell you that this bill is OK, because they have the support of the American Medical Association. But don't let them fool you. The AMA had consistently remained neutral on this issue, and did not take a position on the bill when it was first introduced in 1995. And in mid-May of this year, the AMA stated that it did ''not support any [abortion] legislative proposals at this time.''

Yet, within weeks, the AMA board changed its position. Just like that. Why? Well, no one will really ever knew, but isn't it surprising that the very day that the AMA announced its switcheroo, its executive vice president, P. John Seward, sent an eight-page letter to NEWT GINGRICH that lists the AMA requests in the budget negotiations concerning Medicare spending. In that letter, the AMA laid out a detailed plan to stall or minimize any cuts that might come from physicians. All on the same day that the organization decided suddenly to support the partial-birth abortion bill. Well, well. So don't let them fool you. There was no substantive reason the AMA decided to vote for the bill. It was just another one of those political games.

Yesterday, the minority testified before the Rules Committee seeking an open rule that would make in order two amendments dealing with the physical health of the mother. But our request was denied, and neither amendment was made in order. The first alternative, offered by Mr. HOYER, would ban post-viability abortions unless a physician certifies that continuing of the pregnancy would threaten the woman's life or risk grievous injury to her physical health. The second alternative, an amendment offered by Ms. LOWEY, would provide that the restriction on abortion procedures in the bill would apply only to post-viability abortions and include exceptions to preserve the life of the woman or to avert serious adverse health consequences to the woman.

Both of these amendments comport with the standard established in Roe that the health of the mother should not be jeopardized in any circumstance. Either of them would have made the underlying amendment constitutional and the President would have signed it. But the President cannot, and will not, sign an unconstitutional bill that does not protect a mother's health, and has promised to veto this legislation if it passes.

Of course, the Republican leadership has little interest in developing a credible and serious constitutional proposal that could be signed into law. Instead, they prefer a wedge issue that can divide the American people. That's why they wouldn't make a single amendment concerning health in order.

But H.R. 1122 has no health exception, and we are led to believe that the reason is because its authors have determined that under no possible condition is a mother's health—no matter how serious—to be equated with the potential life of a fetus. To them, the partial birth abortion ban is merely a means of preventing any and all abortions, even where the mother's health is in jeopardy. But the reality is, the bill will do absolutely nothing to reduce the number of abortions performed in this country. Zero. It will only criminalize physicians for pursuing the safest alternative in dealing with a very painful, difficult, and terrifying circumstance when a pregnancy has gone bad, and the mother's physical health is in jeopardy.

Let's take the politicians out of this intensely personal issue. When it comes to a woman's life or health, Washington doesn't always know best.

Mrs. CHENOWETH. Mr. Speaker, I rise today in strong support of H.R. 1122, the Partial-Birth Abortion Ban Act. For over 2 years the abortion industry has conducted a systematic campaign of falsehoods and misinformation about the nature of partial-birth abortion.

Apologists for this abominable practice have attempted to raise a fog of mendacity during our deliberations.

Today we will hear that partial-birth abortions are extremely rare—only about 500 are performed in a year. We will also hear that partial-birth abortions are safe, and absolutely necessary to protect a woman's health.

Mr. Speaker, this information is completely false and an outright lie.

The truth can't be changed no matter how many times it's misrepresented. I would like to remind my colleagues of a leading abortion advocate, along with others in the abortion industry, who knowingly lied about the real reasons women seek partial-birth abortions.

Mr. Speaker, this procedure is medieval, and so is the logic of those who advocate and apologize for it.

The fog has been pierced and the truth has come to light. What everyone can clearly see today, Mr. Speaker, is that partial-birth is a practice that exposes abortion for what it truly is, the killing of an infant.

This debate is not about when life begins, for the infants targeted by this procedure are mostly alive. This debate is over a matter of inches.

And Mr. Speaker, I submit that the constitutional right to life has jurisdiction over those inches.

Our system of laws, our American heritage, is based on the idea that people have certain God-given rights. Those rights are life, liberty, and the pursuit of happiness.

As lawmakers we have a responsibility to protect the lives of our citizens, in this case, the very youngest, most vulnerable of American citizens.

I urge my colleagues to stand against this hideous, repugnant practice.

Let us stand up for a good principle and let us stop partial-birth abortion now.

Mrs. MALONEY of New York. Mr. Speaker, I rise today in opposition to this oppressive, extremist legislation. The American College of Obstetrics and Gynecology has called this ban ''inappropriate, ill-advised, and dangerous.'' I call it an outright assault on women's lives.

Let's put this in perspective. There were more than 50 anti-choice votes in the 104th Congress. There have been over 20 anti-choice votes thus far in the 105th Congress. Choice opponents have said they intend to ban abortion procedure by procedure, and this bill is another step down that slippery slope.

President Clinton has said he would support a ban that includes exceptions to protect the life and health of the mother. Why is it so hard for so-called pro-life zealots to allow for compassionate exceptions, exceptions that could save a mother's life and perhaps her future fertility? The Rules Committee, by taking away our right to amend, refuses to allow us to include anything that would provide the safest, most compassionate way to handle a pregnancy that has no hope.

Let me remind my colleagues of the recent real-life trauma suffered by Coreen Costello. She came to Congress to tell her heart-wrenching story. A conservative, pro-life mother of two, Coreen and her family were devastated to learn that a lethal disease left their much-wanted, unborn daughter unable to survive outside the womb. Coreen attempted to carry the pregnancy to term, but the fetus' body stiffened and wedged dangerously into her body. Under this bill, the critical intact D&E procedure could not have been performed. This bill would have sacrificed Coreen Costello and her future fertility to the politics of anti-choice extremists.

The issue is not how many women undergo this procedure, but how many women who, like Coreen Costello, have no other choice but this particular procedure. The few women who need this procedure deserve our support and sympathy, not congressionally mandated limitations on their medical choices. By not permitting compassionate exceptions to the ban on the late-term procedure, this bill slams the door on a family's future, on a mother's health, and on a mother's life.

This Congress has absolutely no business passing legal judgments on life-saving medical procedures. This Congress has absolutely no business interfering in the decisions made by a woman and her doctor. We should be outraged.

This Congress dares to make criminals of doctors who have taken an oath to save lives. This Congress dares to presume it can legislate this profoundly intimate decision. This Congress dares to protect the natural death of a fetus over the life of a woman, a mother, a wife. Congress has no place in this decision, and no place in these tragedies.

Mr. Speaker, we must protect women's constitutional right to choose. We must protect women's right to life. I urge my colleagues to vote against this amendment.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 262, the previous question is ordered.

The question is on the motion offered by the gentleman from Florida [Mr. CANADY].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CANADY of Florida. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 296, nays 132, not voting 6, as follows:

[Roll No. 500]

YEAS—296

Aderholt	Bono	Condit
Archer	Borski	Cook
Armey	Boswell	Cooksey
Bachus	Boyd	Costello
Baesler	Brady	Cox
Baker	Bryant	Cramer
Ballenger	Bunning	Crane
Barcia	Burr	Crapo
Barr	Burton	Cubin
Barrett (NE)	Buyer	Cunningham
Barrett (WI)	Callahan	Danner
Bartlett	Calvert	Davis (FL)
Barton	Camp	Davis (VA)
Bass	Canady	Deal
Bateman	Cannon	DeLay
Bereuter	Castle	Diaz-Balart
Berry	Chabot	Dickey
Bilbray	Chambliss	Dingell
Bilirakis	Chenoweth	Doolittle
Bishop	Christensen	Doyle
Bliley	Clement	Dreier
Blunt	Coble	Duncan
Boehner	Coburn	Dunn
Bonilla	Collins	Ehlers
Bonior	Combest	Ehrlich
Emerson	Kucinich	Redmond
English	LaFalce	Regula
Ensign	LaHood	Reyes
Etheridge	Lampson	Riggs
Everett	Largent	Riley
Ewing	Latham	Roemer
Fawell	LaTourette	Rogan
Flake	Lazio	Rogers
Foglietta	Leach	Rohrabacher
Foley	Lewis (CA)	Ros-Lehtinen
Forbes	Linder	Roukema
Fowler	Lipinski	Royce
Fox	Livingston	Ryun
Franks (NJ)	LoBiondo	Salmon
Frelinghuysen	Lucas	Sandlin
Gallegly	Maloney (CT)	Sanford
Ganske	Manton	Saxton
Gekas	Manzullo	Scarborough
Gibbons	Martinez	Schaefer, Dan
Gilchrest	Mascara	Schaffer, Bob
Gillmor	McCollum	Sensenbrenner
Gingrich	McCrery	Sessions
Goode	McDade	Shadegg
Goodlatte	McHale	Shaw
Goodling	McHugh	Shays
Gordon	McInnis	Shimkus
Goss	McIntosh	Shuster
Graham	McIntyre	Sisisky
Granger	McKeon	Skeen
Gutknecht	McNulty	Skelton
Hall (OH)	Metcalf	Smith (MI)
Hall (TX)	Mica	Smith (NJ)
Hamilton	Miller (FL)	Smith (OR)
Hansen	Minge	Smith (TX)
Hastert	Moakley	Smith, Linda
Hastings (WA)	Mollohan	Snowbarger
Hayworth	Moran (KS)	Solomon
Hefley	Moran (VA)	Souder
Hefner	Murtha	Spence
Herger	Myrick	Spratt
Hill	Neal	Stearns
Hilleary	Nethercutt	Stenholm
Hinojosa	Neumann	Strickland
Hobson	Ney	Stump
Hoekstra	Northup	Stupak
Holden	Norwood	Sununu
Hostettler	Nussle	Talent
Houghton	Oberstar	Tanner
Hulshof	Obey	Tauzin
Hunter	Ortiz	Taylor (MS)
Hutchinson	Oxley	Taylor (NC)
Hyde	Packard	Thomas
Inglis	Pappas	Thornberry
Istook	Parker	Thune
Jefferson	Pascrell	Tiahrt
Jenkins	Paul	Traficant
John	Paxon	Turner
Johnson (WI)	Pease	Upton
Johnson, Sam	Peterson (MN)	Visclosky
Jones	Peterson (PA)	Walsh
Kanjorski	Petri	Wamp
Kaptur	Pickering	Watkins
Kasich	Pitts	Watts (OK)
Kelly	Pombo	Weldon (FL)
Kennedy (RI)	Pomeroy	Weldon (PA)
Kildee	Porter	Weller
Kim	Portman	Weygand
Kind (WI)	Poshard	White
King (NY)	Pryce (OH)	Whitfield
Kingston	Quinn	Wicker
Kleczka	Radanovich	Wolf
Klink	Rahall	Young (AK)
Klug	Ramstad	Young (FL)
Knollenberg	Rangel	

NAYS—132

Abercrombie	Coyne	Frost
Ackerman	Cummings	Furse
Allen	Davis (IL)	Gejdenson
Andrews	DeFazio	Gilman
Baldacci	DeGette	Green
Becerra	Delahunt	Greenwood
Bentsen	DeLauro	Gutierrez
Berman	Dellums	Harman
Blagojevich	Deutsch	Hastings (FL)
Blumenauer	Dicks	Hinchey
Boehlert	Dixon	Hooley
Boucher	Doggett	Horn
Brown (CA)	Dooley	Hoyer
Brown (FL)	Edwards	Jackson (IL)
Brown (OH)	Engel	Jackson-Lee (TX)
Campbell	Eshoo	Johnson (CT)
Capps	Evans	Johnson, E. B.
Cardin	Farr	Kennedy (MA)
Carson	Fattah	Kennelly
Clay	Fazio	Kilpatrick
Clayton	Filner	Kolbe
Clyburn	Ford	Lantos
Conyers	Frank (MA)	

Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (NY)
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McKinney
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Mink
Morella
Nadler
Olver
Owens
Pallone
Pastor
Pelosi
Pickett
Price (NC)
Rivers
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sawyer
Schumer
Scott
Serrano
Sherman
Skaggs
Slaughter
Smith, Adam
Snyder
Stabenow
Stark
Stokes
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Velazquez
Vento
Waters
Watt (NC)
Waxman
Wexler
Wise
Woolsey
Wynn
Yates

NOT VOTING—6

Gephardt
Gonzalez
Hilliard
Lewis (KY)
Payne
Schiff

☐ 1349

Messrs. FARR of California, TORRES, FORD, and Ms. SANCHEZ changed their vote from ''yea'' to ''nay.''

Mr. KENNEDY of Rhode Island and Mr. PAXON changed their vote from ''nay'' to ''yea.''

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMERICAN LAND SOVEREIGNTY PROTECTION ACT

The SPEAKER. Pursuant to the order of the House of Tuesday, October 7, 1997, and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 901.

☐ 1352

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 901) to preserve the sovereignty of the United States over public lands and acquired lands owned by the United States, and to preserve State sovereignty and private property rights in non-Federal lands surrounding those public lands and acquired lands, with Mr. SUNUNU in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole House rose on Tuesday, October 7, 1997, the Chair had been advised that the amendment regarding specific biosphere reserves would not be offered.

Pursuant to the order of the House of that day, no further amendments are in order.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to the order of the House of yesterday, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: Amendment No. 5 offered by the gentleman from California [Mr. FARR]; amendment No. 51 offered by the gentleman from Minnesota [Mr. VENTO]; and an unnumbered amendment offered by the gentleman from California [Mr. MILLER].

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. 5 OFFERED BY MR. FARR OF CALIFORNIA

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment No. 5 offered by the gentleman from California [Mr. FARR] on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:.

Amendment No. 5 offered by Mr. Farr of California:

On page 10 of the bill, after line 8, insert the following:

''(d) Subsection (b) shall not apply to California Coastal Ranges Biosphere Reserve.''

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 200, noes 226, not voting 7, as follows:

[Roll No. 501]

AYES—200

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Bereuter
Berman
Bilbray
Blagojevich
Blumenauer
Bonior
Borski
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Castle
Clay
Clayton
Clement
Clyburn
Condit
Costello
Coyne
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gilchrest
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hinchey
Hinojosa
Holden
Hooley
Horn
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E.B.
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Leach
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McKinney
McNulty
Meehan
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Porter
Poshard
Price (NC)
Rahall
Ramstad
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Schumer
Scott
Serrano
Shays
Sherman
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stokes
Strickland
Stupak
Tanner
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOES—226

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Berry
Bilirakis
Bishop
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Conyers
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson, Sam
Jones
Kasich
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Lewis (CA)
Linder
Livingston
LoBiondo
Lucas
Manzullo
Martinez
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Portman
Pryce (OH)
Quinn
Radanovich
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)