

of the Senate Judiciary Committee. Let the Senate quit playing partisan politics with judicial nominations. Let us do our constitutionally mandated job and proceed to confirm the judges we need for the Federal system.

EXHIBIT 1

In 1987 I heard from Tom Jipping, a student at the University of Buffalo Law School. The faculty had imposed a speech code that was more contemptuous of the First Amendment than even most of the politically correct gag rules proliferating on campuses around the country.

"Remarks," said the code, "directed at another's race, sex, religion, national origin, sexual preference" et al. would be severely punished. There was no further definition of "remarks." Also prohibited were "other remarks"—not defined—"based on prejudice and group stereotype." Any prejudice?

Unique to this law school code—unanimously passed by the administration and faculty—was a provision that the administration would provide the rap sheets of any guilty student to the character and fitness committees of any bar association to which the pariah might apply.

Tom Jipping, though vilified by a prominent faculty member and other speech police, fought the code, sending news of it to the outside world. (I wrote about it in *The Post*, and William Bennett spoke about it.) Eventually, after Jipping was graduated, this embarrassment to the law school faded away.

Jipping is now in Washington, where he directs the Judicial Selection Monitoring Project, an offspring of the Free Congress Foundation.

In his official role, Jipping sent a letter to all 100 senators, demanding they act to purge those "activist" federal judges who do not agree with Jipping's interpretations of the Constitution. On Feb. 4 a follow-up letter went to Sen Partick Leahy (D-Vt.).

In the letter, Jipping reminded Leahy that the senator had previously received "a letter from the largest coalition in history to oppose judicial activism. . . . Please find enclosed an opportunity to express your position on this critical issue."

He then quoted a resounding call for purges by Orrin Hatch, chairman of the Senate Judiciary Committee: "Those nominees who are or would be judicial activists should not be nominated by the President or confirmed by the Senate, and I will do my best to see to it that they are not."

Jipping went on to warn Sen. Leahy that if he did not sign the "Hatch Pledge"—which Sen. Hatch will not sign because he doesn't sign pledges—the forces of judicial correctness will be unleashed. They will let Leahy's perfidy be known "to the more than 260 national and state organizations and dozens of talk show hosts in our growing coalition." The talk show hosts can surely be depended on the assess Leahy's character and fitness.

Leahy must have enjoyed writing his answer to Jipping: "I do not take pledges demanded by special interest groups on either the right or the left. Nor do I appreciate your thinly veiled threat that you will employ talk show hosts and national organizations to pressure me into making such a pledge.

"These tactics to force others to adopt your narrow view of political correctness are wrong, and reminiscent of a dark period from our history."

The ever-vigilant Judicial Selection Monitoring Project should alert the dozens of talk show hosts that a relentless judicial activist, Chief Justice William Rehnquist, insists that "the idea of an independent judi-

ary, with authority to finally interpret a written constitution. . . . is one of the crown jewels of our system of government." Then there was a Founder, Alexander Hamilton, who wrote in the *Federalist Papers* that "the complete independence of the courts of justice is peculiarly essential" because the duty of the courts "must be to declare void all acts contrary to the manifest tenor of the Constitution. Without this, all the reservations of particular rights or privileges would amount to nothing."

Copies of the *Federalist Papers* might well be distributed to members of the Senate, particularly those hunting "judicial activists" and demanding their impeachment.

When Gerald Ford (R-Mich.) was in the House, he anticipated the current jihad with a rousing speech calling for the impeachment of Justice William O. Douglas. Ford, not a noted constitutional scholar, said that "an impeachable offense is whatever a majority of the House of Representatives considers it to be at a given moment in history."

That was spoken like the stunningly overbroad University of Buffalo Law School speech code. Majority Whip Rep. Tom DeLay (R-Tex.), a leader of the judge-baiters, recently quoted Ford's definition of impeachment approvingly in a letter to the *New York Times*.

It is a wonder that the Constitution, however battered from time to time, survives the U.S. Congress.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. I ask unanimous consent I be able to speak for 10 minutes as in morning business.

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

Mrs. HUTCHISON. Mr. President, I rise today to talk about Amtrak. I realize we have gone now from judges and we are going into other types of debate, but I want to introduce the Amtrak reauthorization and reform bill.

(The remarks of Mrs. Hutchison pertaining to the introduction of S. 738 are located in today's *RECORD* under "Statements on Introduced Bills and Joint Resolutions.")

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, May 13, 1997, the Federal debt stood at \$5,337,494,540,137.51. (Five trillion, three hundred thirty-seven billion, four hundred ninety-four million, five hundred forty thousand, one hundred thirty-seven dollars and fifty-one cents)

One year ago, May 13, 1996, the Federal debt stood at \$5,094,151,000,000. (Five trillion, ninety-four billion, one hundred fifty-one million)

Five years ago, May 13, 1992, the Federal debt stood at \$3,889,146,000,000. (Three trillion, eight hundred eighty-nine billion, one hundred forty-six million)

Ten years ago, May 13, 1987, the Federal debt stood at \$2,272,432,000,000. (Two trillion, two hundred seventy-two billion, four hundred thirty-two million)

Fifteen years ago, May 13, 1982, the Federal debt stood at \$1,061,721,000,000 (One trillion, sixty-one billion, seven

hundred twenty-one million) which reflects a debt increase of more than \$4 trillion—\$4,275,773,540,137.51 (Four trillion, two hundred seventy-five billion, seven hundred seventy-three million, five hundred forty thousand, one hundred thirty-seven dollars and fifty-one cents) during the past 15 years.

Mr. BENNETT addressed the Chair.

The PRESIDING OFFICER (Mr. GREGG). The Senator from Utah is recognized.

EXTENSION OF MORNING BUSINESS

Mr. BENNETT. Mr. President, I ask unanimous consent that the time for morning business be extended by 10 minutes.

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

Mr. BENNETT. Mr. President, I ask that I be allowed to speak for up to 10 minutes as if in morning business.

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

NOMINATION OF LT. GEN. GEORGE T. BABBITT, JR.

Mr. BENNETT. Mr. President, I rise today to discuss the nomination that is before the Senate of Lt. Gen. George T. Babbitt, Jr. to be promoted and receive an additional star to become general in the U.S. Air Force.

When this nomination came to the Senate at an earlier time several months ago, I notified the majority leader that I would like to be informed prior to its coming to a vote. In Senate parlance, that is called putting a hold on this nomination. It was never my intention to hold up General Babbitt from receiving his additional star. But it was my intention to focus seriously on the policy of the Air Force which General Babbitt will be called upon to implement. Accordingly, I told the majority leader that I do not want this nomination to go forward until we have had an opportunity to discuss that policy in some length. The majority leader responded appropriately to my request, and we have had a series of events that I think satisfy my requirement for full discussion. I would like to outline those for the Senate today before I make it clear that I will have no further objection to proceeding with the nomination of General Babbitt. I speak entirely for myself. There are a number of other Senators who have also put holds on this nomination. What they will do with their holds is something that they will, of course, speak to on their own. I am speaking entirely, as I say, for myself on this matter.

I have been criticized by some Members of this body for putting a hold on a nomination for a member of the uniformed services, and was told, "No. This should apply only to civilian personnel in the Department of Defense. You are using the uniformed services for a political purpose."

Mr. President, if anyone has been using the uniformed services for political purposes and political gain it has been the Department of Defense, not the Senator from Utah. The Department of Defense, under instructions from the Base Realignment and Closure Commission—or BRCC—was told to close two of its five air logistics centers. That would be the best result for the uniformed services; in this case the Air Force.

A Member of this body, the then senior Senator from Maine, Senator Cohen, stood on this floor and berated the Department of Defense for its failure to abide by BRCC recommendations. He said very clearly that the Department of Defense was in violation of the BRCC recommendation by their attempts to keep two of those air logistic centers operating under the guise of privatization for competition. They invented a new term of art. They call it privatization in place. "We will privatize the facility right where it is, which means we will not, as BRCC ordered us to, send the work that is currently going on in those facilities to the other facilities that can handle the work." That was what BRCC intended. That is what Senator Cohen attacked. And, yet, that is the policy that Secretary Cohen is now carrying out. That is the policy that I protested when I said that I do not want the nomination of General Babbitt to go forward until we can have a full airing of this issue.

I am happy to report to the Senate that the full airing for which I called has, indeed, taken place. We had a hearing before the Armed Services Committee, particularly before the Readiness Subcommittee, chaired by the Senator from Oklahoma [Mr. INHOFE].

In addition, we had a hearing before the Appropriations Committee, and in those hearings we found that, according to the General Accounting Office, the GAO, that the Air Force proposal for privatization in place will cost this country an additional \$500 to \$700 million—maybe even \$800 million. At a time of tight defense budgets, at a time when we are talking about balancing the budget, it seems perverse for the Defense Department to say that we are going to waste that much money.

The Air Force in those hearings said, "No. We will not waste that much money." But to the question of how much money will you save with your proposal of privatization in place, the Air Force has been basically silent. And their response has been overwhelmingly "Trust us. We will not tell you how much money we will save, but trust us. We will save some, and the General Accounting Office figure is wrong."

"How wrong?"

"Well, we do not know."

"Why wrong?"

"Well, they don't understand our business."

Mr. President, the General Accounting Office is the arm of the Congress

created by law to be the fiscal watchdog of the executive branch. There can be no better example of the value of the General Accounting Office than this one, as they have gone behind the trust me facade created by the Air Force and come up with numbers—lowest level \$500 million, highest level \$800 million, with \$700 million being the guess about where it will finally come out.

So, by virtue of the hold that I put on General Babbitt's nomination, we have had those two hearings and have gotten that information into the public and on the record for the Senate.

In addition to those hearings, in response to my request to the majority leader, the Secretary of the Air Force last week met with me and two other Senators, Senator NICKLES and Senator INHOFE. And we had a full and frank discussion about this issue. To be honest with you, Mr. President, there was not much encouragement to come out of that discussion. Essentially, Secretary Widnall said, "There is no problem. Therefore, we will not discuss with you any solution." She said to me, "Please remove your hold on General Babbitt because it is having a corrosive effect on the personnel of the Air Force to have them continue without a commander." I said to her, and I repeat here today, there is a corrosive effect in this area certainly. But it is not caused by the fact that there is no confirmed commander. The corrosive effect is being caused by the Air Force's callous disregard for the needs of their personnel in the surviving air logistics centers, and for their refusal to abide by the BRCC process.

Following the meeting with Secretary Widnall today, I had a meeting again with Senator NICKLES, Senator INHOFE, and with General Babbitt. Where the Air Force said there was no problem relating to overcapacity in the air logistics centers, General Babbitt acknowledged that there is a big problem, and pledged himself to do the best he could to try to resolve it. He made it very clear, as he appropriately should, that he was not going to violate Air Force policy; that, as a uniformed officer, he would carry out his orders in this regard. And we would expect nothing less from him. But he did acknowledge, as the Air Force has not, to my satisfaction, that there is a serious problem of overcapacity, and that it calls for serious management solutions. And he pledged himself to provide those solutions to the degree he could within the policy dictated by his civilian superiors.

The Air Force has refused, as I have indicated, to give us any numbers. They have taken basically a trust me stance on this issue. General Babbitt, on the contrary, agreed, when I told him that we would want to see numbers, that he would make numbers available to the Congress. I said, "General, as you proceed down this program of privatization in place, surely you are going to get some financial informa-

tion that will tell you whether you are or are not saving money." And the financial information out of the Air Force should be available to us in Congress to compare with the analysis of the General Accounting Office. The Air Force, as I have said, Mr. President, has always refused to give us those numbers in the past. General Babbitt pledged that those numbers would be made available to Congress.

I consider this a significant act of good faith on the part of the general, because, once we have those numbers in front of us in the Congress, we can appropriately deal with this issue. And, if we find that the Air Force is correct, and they are saving the taxpayers hundreds of millions of dollars of privatization in place, and the General Accounting Office is wrong, I will be the first to come to the floor and congratulate the Air Force, because certainly I, like every other Senator, want to see to it that we save the taxpayers' money. But, if we find that, once we have the real numbers, the Air Force is wrong and the General Accounting Office is right, then I will be the first to come to the floor and once again demand that the Air Force try to solve this problem more intelligently.

The Air Force told us essentially there will be no change in policy regardless of whatever Congress does, regardless of your interpretation of the BRCC rules, and regardless of Senator Cohen's analysis, Secretary Cohen will insist that there be no change.

Mr. President, I ask unanimous consent that I be allowed to continue for another 3 minutes.

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

Mr. BENNETT. General Babbitt agreed that he would do whatever he could within the constraints of the policy laid down by the Air Force to give us intelligent management of this problem. That is the first sign of cooperation that I have seen out of this administration since this issue first arose.

So, Mr. President, because General Babbitt has made it clear, now that we have had our hearings in the Armed Services Committee, we have had our hearings in the Appropriations Committee, we have had our meeting with the Secretary of the Air Force, and we have had our meeting with him, that he will do what he can to address the issue within the constraints placed upon him by his civilian superiors to try to solve the problem, I am announcing my willingness to no longer insist that his nomination be held up. The purposes for which I made that insistence in the first place have been fulfilled. I will allow him to go forward to his additional star and his command, and I look forward to staying in touch with him in the spirit of the pledges he made to me and the other Senators this morning to see that this issue is properly resolved once and for all in the long term.

In sum, Mr. President, I am in no way backing down from my conviction

that this administration is shamelessly playing politics on this issue and has involved the uniformed services in a way that is totally inappropriate. I do not wish to be accused of doing the same thing in response because my desire is to solve the problem. I am hoping the administration will address it in the same spirit.

Mr. President, I ask unanimous consent that following my remarks the additional views of Senator WILLIAM S. COHEN on S. 1673 be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

[Excerpt From a Senate Report]

ADDITIONAL VIEWS OF SENATOR WILLIAM S. COHEN ON S. 1673

The FY97 National Defense Authorization Senate Armed Services Committee report includes a provision that changes the allocation of maintenance workloads between the public depots and the private sector from a 60/40 to a 50/50 split. Like most compromises, it will probably not satisfy everyone with an interest in this issue. I do not believe that the depot maintenance issue should be addressed this year as a result of the inability of the Department of Defense (DOD) to articulate its depot policy and its failure to adequately answer depot-related questions Congress requested in last year's National Defense Authorization Act. It appears that DOD is not interested in providing Congress with the data it needs to make an informed decision.

There is a need to reform how the Pentagon operates. Finding more efficient ways to support our war-fighters could result in billions of dollars in savings that can be transferred to support the modernization of our forces. DOD has proposed three methods of savings to fund modernization—procurement reform, base closings, and privatization. I am highly skeptical about significant savings accruing from any of these. The Congress has given DOD three revolutionary procurement reform acts in the last two years which could generate savings but I am fearful these may fail to achieve the desired effects due to management inertia. Likewise, the savings from BRAC may prove illusory if the Administration continues to come up with proposals which are designed not for cost savings but to avoid the pain doled out in BRAC to politically important communities.

With regard to privatization, I believe the Pentagon has a misplaced sense of priorities. In the private sector, which DOD claims to emulate, organizations most frequently contract out for building management, fleet management, and information technology to better focus on their "core competencies". DOD has decided to turn this on its head by first outsourcing core competencies—for example, maintaining advanced weapon systems—while keeping most commercial business processes in-house.

If we are truly going to maximize the benefits of the commercial marketplace, I believe we should instead focus on those areas where the private sector has chosen to outsource, such as data processing, accounting, audit, transportation, and inventory. But the Pentagon wants to continue to operate its own data processing centers, develop its own software for financial systems when it can buy them off-the-shelf, like most private companies do, and manage its own inventory so the taxpayer ends up spending \$36 billion more on goods that DOD does not need. And yet, the Pentagon wants to move quickly to privatize depots that were slated for closure by

BRAC and further contribute to the excess capacity problem at public depots that have served our country so well since 1799.

On the point of privatizing closing facilities, there also seems to be a misunderstanding about the intent of the BRAC and the closure of the Air Logistics Centers at Kelly AFB and McClellan AFB. First, let there be no misunderstanding about the fact that the BRAC decisions were made under the assumption that 60 percent of the workload would go to public depots. The need to change this ratio to accommodate the Administration's plans to shift work to Kelly and McClellan illustrates that what we are doing in this bill is a clear circumvention of the BRAC process. To change the 60/40 criteria as the Armed Service Committee has agreed to will deteriorate critical warfighting capabilities, impede investment in the public domain, and most likely require further closures beyond what has been accomplished in BRAC.

The BRAC did not recommend or authorize "privatization-in-place" at Kelly or McClellan. Indeed for those facilities where the BRAC thought there was a unique capability that could lend itself to privatization-in-place (such as those at the Naval Air Warfare Center in Indianapolis or the Naval Surface Warfare Center in Louisville), a recommendation was made to that effect. The BRAC made no such identification or recommendation for facilities at the Kelly or McClellan Air Logistics Centers. Perhaps, it can be argued that the BRAC made a mistake and that it did not adequately recognize the unique potential of these two facilities. I would then argue that the BRAC did not adequately recognize the unique capabilities of Loring AFB in Presque Isle, Maine and I am sure some of my colleagues could argue the same for facilities in their states. The fact of the matter is that the BRAC made a recommendation and the Congress and the Administration accepted that recommendation with all of its consequences for national security and the economic impact on these communities.

Because of the implications of any change to 60/40 on excess capacity and concerns over DOD's direction on the privatization of defense depots, Congress asked the DOD to prepare a depot policy report. If Congress agreed with this policy, it would repeal the 60/40 rule. DOD ignored their deadline and sent up a policy just four weeks ago. The report did not meet the requirements that were outlined in last year's National Defense Authorization Act and was rejected by the Senate Armed Services Committee.

The Department of Defense's depot policy report was non-responsive and it was clear from DOD's April 17th testimony before the Senate Armed Services Readiness Subcommittee that DOD's policy was not well developed or supported. DOD's definition of core capability is so general that it is virtually meaningless. The report did not address how new weapons systems would be introduced in depots, or how public depots would be kept cost-efficient. There was a complete lack of detailed statistical data supporting the Pentagon's policy decisions and no data on past depot maintenance performance in which to support privatization decisions. In addition, there were neither plans to assure effective competition in a market where 76 percent of contracts are now let on a sole-source basis, nor a risk assessment on how plans for privatization-in-place would affect existing excess capacity and overall maintenance costs.

With the move to 50/50, the Senate Armed Services Committee is now saying DOD does not have a depot policy and Congress does not have the data to adequately develop its own policy, but we are going to repeal 60/40

anyway because it meets the short-sighted political agenda of the day. By repealing 60/40 at this time, we are rewarding DOD for not adequately responding to a congressionally mandated requirement. DOD's policy and the repeal of 60/40 were inextricably linked. To reject DOD's policy as the Armed Services Committee has done, is to reject DOD's call for a repeal of 60/40.

I do not believe we should give DOD any more flexibility in this area until DOD establishes a coherent policy on depot maintenance. It was apparent that this position was not universally accepted by my colleague on the Senate Armed Services Committee. When a compromise was offered to change the mix to 50/50, I reluctantly accepted it as I felt this was the best way to continue to maintain our nation's investment in the unique capabilities the public depots provide our armed forces in war and peace.

The committee report does provide some direction to require DOD to develop a rational depot policy. The final Committee agreement again asks DOD to report in detail on the provisions where it has failed to adequately respond. The committee directs DOD to provide answers to crucial questions needed by Congress in order to support an informed decision about maintaining a core logistics capability in the public sector. Some of the questions include:

What workloads should be "core" in each service?

What procedures will be used to conduct public-private and public-public competitions?

What is DOD's maintenance plan for new weapon system?

What level of organic work is necessary to provide efficient capacity utilization of the public depots that remain?

How does DOD plan to improve the productivity of the remaining public depots?

What are the estimated savings that will result from increased privatization?

This last question is crucial as DOD is proclaiming savings from consolidating depots, but then plans to keep more excess capacity with its policy of privatization-in-place. While DOD risks future modernization on savings supposedly generated by privatization of depot maintenance, these savings are unproven. DOD's estimated savings of 20-30% from depot privatization rely on past studies of the privatization of commercial type functions in the government where there is significant competition for contracts. This is in stark contrast to the marketplace for depot maintenance activities. In fact, the General Accounting Office found the Air Force is implementing a privatization plan at facilities at the Newark AFB that will most likely increase maintenance costs and not save the taxpayer any money as promised.

I would have preferred to delay any decision on depot maintenance until we secured all of the facts from DOD. However, the Senate Armed Services Committee has agreed to a compromise that I fully supported. Given the fact that the committee report allows DOD to shift to 50/50 while not obligating DOD to provide an adequate response to Congress, my continued support is dependent on the degree to which DOD satisfies the Committee's request for information on DOD's depot policy between now and the conference with the House of Representatives over the Fiscal Year '97 National Defense Authorization bill. I look forward to the Chairman and Ranking Member's letter directing DOD to provide this information. The Senate Armed Services Committee rejected DOD's proposed policy this year and is offering DOD another opportunity to get it right. DOD does not plan to meet the 60/40 ceiling for several years, so I believe we have the time to ensure that a coherent depot maintenance plan

that will truly save taxpayer dollars and effectively meet wartime surge requirements and readiness needs can be properly developed and implemented.

Mr. BENNETT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. BOXER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mrs. BOXER. I thank the Chair. I wonder if the Presiding Officer could tell me what the order of business is before the Senate?

The PRESIDING OFFICER. We are in morning business. The order was to close morning business and go to H.R. 1122, but that has not been laid down yet so we are still in morning business.

Mrs. BOXER. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SANTORUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

PARTIAL-BIRTH ABORTION BAN ACT OF 1997

The PRESIDING OFFICER. The clerk will report H.R. 1122.

The assistant legislative clerk read as follows.

A bill (H.R. 1122) to amend title 18, United States Code, to ban partial-birth abortions.

The Senate proceeded to consider the bill.

Mr. SANTORUM. Mr. President, as I spoke last night, we are now moving to consideration of the partial-birth abortion ban that has passed the House of Representatives with a constitutional majority, more than two-thirds I should say, more than two-thirds majority in the House, which means, if there is a Presidential veto, we would be able to override it in the House. It now comes to the Senate where we have an assured majority of the votes to be able to pass this legislation. The question really is whether we are going to have 67 votes necessary to do it. So we commence the debate today. I am hopeful, now that this bill has 42 cosponsors, we will have a spirited debate with many people participating, adding their thoughts on this subject.

I have a unanimous-consent request first. I ask unanimous consent that Donna Joy Watts be allowed access to the Senate gallery. This is an exception to the Senate regulations govern-

ing access to the gallery because Ms. Watts is not yet 6 years of age.

Mrs. BOXER. Reserving the right to object, I would like to ask my colleague for what purpose does he wish—how old is the child?

Mr. SANTORUM. Five and a half.

Mrs. BOXER. A 5½-year-old child to be in the gallery during this debate?

Mr. SANTORUM. She is very interested in this subject. I will discuss her case, and she would like to hear the debate.

Mrs. BOXER. I am going to object on the basis of my being a grandmother, and I think that it is rather exploitive to have a child present in the gallery at this time.

The PRESIDING OFFICER. Objection is heard.

Mr. SANTORUM. Mr. President, I do not think we are off to a very good start on this debate. I was hopeful that the Senator from California would continue to try to assure the comity that is usually accorded Members when it comes to these kinds of situations. I know that that unfortunate incident occurred a few weeks ago with a unanimous-consent request. I would hate to see that this kind of occurrence becomes a normal course.

Mrs. BOXER. Will the Senator yield?

Mr. SANTORUM. We have coarsened the comity of this place to the point where someone sitting in the gallery, who is literally months away from the age that has been set by the Senate rules, who has a particular interest in this piece of legislation would not be accorded the decency of being able to at least observe. But I respect the Senator's right to do what she wants to do, and she certainly is within her rights to do it. I think it is unfortunate that a young girl who has had as close to a personal encounter with this issue as possible and still be here to talk about it is not able to listen to a procedure to protect others from what she was threatened with. And that is certainly within the discretion of the Senator from California.

I will proceed with my opening statement.

Mrs. BOXER. Will the Senator yield?

Mr. SANTORUM. I will yield for a question.

Mrs. BOXER. Thank you so much. I just want the Senator to understand that this is nothing to do with a lack of comity. It is my deep belief, in my heart, that this is a very emotional debate. People can watch it here. They can watch it on television. I just, really, in my heart believe this—and I would not do it otherwise. It has nothing to do with comity—that given the fact that you have expressed here, I think I am acting in the best interests of that child.

That is my opinion. You have a different one. It is just some colleagues, some moms and dads, and in my case a grandmother, who has a different view of it. I ask the Senator to respect that, just as I respect his view.

Mr. SANTORUM. If I can, I find myself almost incredulous, to believe that

you are—in arguing, as I know you have in the past, and other Members have, that we have no right here in the U.S. Senate to dictate what other parents should be able to do with their children with respect to whether they should be able to abort them or not. But when a mother seeks to share with her daughter, mother and father, share with her daughter some information that is important to her in a very profound way and that you are going to stand up, as a Member of the U.S. Senate, and suggest that you know what is better for her daughter than she does, I think is rather troubling. But again, it is your right as a Senator to object to these things. I respect that right. I just don't happen to agree with the characterization that allowing their daughter the opportunity to witness something that is very important to all of their lives is in any way exploiting her. But that is—your objection is so noted.

Mr. President, I think it is important as we start this debate that we understand what we are debating, that is partial-birth abortion. So I am going to explain what a partial-birth abortion is, when it is used, who it is used on, and why it is used.

There has been a lot of talk about this procedure and the facts around the procedure. We have seen in recent months how some of the facts in fact did not turn out to be facts, particularly things that were used and said by Members here on this Senate floor as to what partial-birth abortion was all about, when it was used, who it was used on, why it was used. So this debate unfortunately a year ago was shrouded in a cloak of inaccuracies. In this debate, as much as many of us tried to articulate what we knew to be the facts, we were countered with arguments that in fact have turned out not to be true. So I am hopeful that with this new information having been brought to light, that the facts as we now know them—and I cannot attest, because some of the facts have been provided by the abortion industry themselves, who are opposed to this bill, so I cannot verify the information we have been given is in fact accurate. All I can verify is that they have admitted to at least this. But what we do know is that those set of facts that they now admit to are different than what they were saying before, and different in a material enough way that Members who relied on that information last time, if they rely on the different set of facts this time, can come to a different conclusion.

That happened in the House of Representatives. Several Members who voted against the partial-birth abortion ban based on a set of facts as they knew them provided by the abortion industry, when those facts were shown to be inaccurate, changed their position in light of those, that new information, and supported the legislation and supported it to such a degree that it passed with over 290 votes, which is the necessary vote to override the Presidential veto.