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 President, I ask unanimous consent that the order for the quorum call be rescinded.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 President, I ask unanimous consent that the order for the quorum call be rescinded.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

So, let us look at what partial-birth abortion is. By the way, the drawings that I am going to use are drawings that were copied—derived from drawings that Dr. Haskell, who was the inventor of this procedure, had. Dr. Haskell, by the way, is not an obstetrician and gynecologist—people whose business it is to deliver babies. Dr. Haskell is a family practitioner who does abortions, and he invented this procedure. This procedure is not in any medical textbook. This procedure is not taught in any medical school. This procedure has not been peer reviewed. In other words, no other doctors have looked at this to see whether this is safe and healthy and a proper procedure. It has not been recognized as a legitimate procedure. But he has invented this thing, this monstrosity, and he wrote a paper on it. From the description and from the pictures in that paper we reproduced this, these drawings.

Dr. Haskell, when asked about these particular drawings, the ones you are going to see, said they were accurate, from a technical point of view. So any comments that these drawings are somewhat of a fabrication or whatever does not hold water.

I also suggest when you see the drawings of the baby in these pictures, the drawing of the baby in these pictures is a drawing of a 20–24 week gestation baby. It is not a big baby or has not been blown up to look like it is more life size than it is. It is the exact size. If you look at the size of the baby relative to the size of the doctors' hands, which is the way you can judge size, you can see a baby at that gestation which is when most of the partial-birth abortions are performed. In fact, it is at the low end of when they are performed because they are performed in the fifth and sixth month, and this is fifth month. So, it is the small end of when these abortions are performed.

This is a 3-day procedure. You are going to hear about life of the mother, health of the mother, we need to do some things to protect the life and health of the mother. This is a 3-day procedure. The mother is given drugs the first 2 days to dilate her cervix, to open her womb so the doctor can then reach in as you see here to grab the baby. I would just ask this question, and you don't have to be a doctor to answer it. If a woman presents herself to a physician in a life-threatening situation, would anyone do a 3-day procedure? Second, if the woman presented herself in a health-threatening situation, would any doctor do a procedure that says: Take these pills, come back tomorrow; take these pills that are going to dilate your cervix, open your womb up to infection, which is in fact a risk, and call back?

So, when you hear these, ''we have to keep this legal because there may be some circumstance,'' let me assure you—and I will have a quote that I will share with you—there is never a case, there is never a case where this procedure has to be performed to protect the life or health of the mother. Period. Having said that, the bill still provides for a life-of-the-mother exception. So I would just want Members to understand that this procedure is a 3-day procedure. It is done on an outpatient basis. When the mother presents herself in the third day—and this was the reason Dr. Haskell developed this, was so he could bring her in, the dilation of the cervix would be done, and simply he would perform the procedure. He wouldn't have to wait and have her in the clinic and do these other procedures which are done in 1 day. So this is done for the convenience of the doctor, the abortionist, not for the health of the mother, not for the safety of the baby or anybody else, because you are going to kill the baby. Now you understand why it is done.

Guided by an ultrasound, the abortionist grabs the baby with forceps by the feet or leg. Babies at this time, generally they move around, but they are generally in a head-down position. So the doctor has to reach around, grab the baby by the foot, turn the baby around inside the womb, inside the amniotic sack.

Second, they then grab the baby's leg and pull it breach. For those of you who are not physicians—I think there is only one physician in the Senate, the Senator from Tennessee—a breach birth, as any mother or parents know, is a very dangerous occurrence, when a child is delivered breach. To deliberately turn a baby and deliver the baby breach is a risk unto itself. But they deliberately turn this baby and then they pull the baby by the leg out of the uterus, out through the cervix to where the baby is delivered, the entire body except for the head. So you have a baby, now, that is outside the uterus with the exception of the head and, as nurse Brenda Shafer said when she witnessed this procedure, the baby's arms and legs were moving.

You might ask, why are they doing this? Why are they delivering this baby in this fashion? Why do they not just take the baby that is head down and just deliver the baby head first and then do what I am going to describe next to the baby? Why don't they do that?

The reason they don't deliver the baby out and kill the baby is because once the head exits the mother, it is considered a live birth and has protection. So, if you delivered it in a normal fashion and the baby's head were out and the rest of the body were in, you couldn't kill the baby. The only reason you do this is so it is easier to kill the baby and it is then legal to kill the baby—at least it is if we do not pass this law.

So just understand the difference here is a matter of which end comes out first. If the head came out first you can't touch that baby. It is a live birth, protected under the Constitution. Unfortunately, its feet are not protected by the Constitution nor its leg nor its trunk—just its head. At least that is what the courts have said.

So now we have this little baby that is outside the mother and a doctor takes some scissors and jams it right here, right in the back of the base of the skull, that soft baby's skull. You know, those of you who have children, how soft that skill is. And they thrust the scissors into the base of the skull.

Nurse Brenda Shafer described what the baby did in the partial-birth abortion that she saw. She said the baby's arms and legs flew out, like when you are holding a baby and you drop it and it goes like this. It just doesn't know what to do, it just sort of shoots its legs out, that nervous—nerve reaction. She said it shot its legs out, its arms and leg—for those who believe that the baby doesn't feel anything. And then they went limp.

To finish the procedure the doctor takes a suction tube, a high-pressure suction catheter, inserts it in the baby's skull, and suctions the brains out of the baby. That causes the head to collapse, and then the baby is delivered.

This is what we are trying to ban. Nothing else; nothing else. This is what we are trying to ban. I cannot help but think, as I look around and see the statues of the Vice Presidents of the United States that ring the Senate Chamber, that if we had been on the Senate floor 30 years ago, 50 years ago, 100 years ago and talked about this as something that was legal in America, we would have had 100 percent of the U.S. Senate saying, ''Why is this bill even here? This is obviously something that is so barbaric that we cannot allow to have happen.''

But, unfortunately, we have reached the point in our country where this is defensible. This is defensible, treating a little baby like this, a fully formed little baby, not a blob of protoplasm, not a tissue that many would like to believe, this is a baby fully formed, and in many cases viable, that we treat like this, that we murder like this. Let's call it what it is. And we are saying in this country, it's OK.

Now, if we did this procedure, if you would take these graphics out and leave some of the definitions out there, if we did this procedure of jamming scissors in the base of the skull and suctioning out the brains on someone who had raped and murdered 30 people, the Supreme Court and every Member of this Senate would say, ''You can't do that, you can't do that, that's cruel and inhumane punishment.'' Oh, but if you are a little baby, if you haven't hurt anybody, if you are nestled up in your mother's womb, warm and safe—supposedly safe—we can do that to you. In fact, it is our right, it is my right that I can do that.

The thing about this debate that is probably the most important thing—and you will hear rights, you will hear rights, my right to do this, my right to do that, it's my body, I can do whatever I want, I can kill this baby, it's my baby. Rights. Well, in this case, we are having an abortion debate on the

floor of the U.S. Senate where you cannot miss the other side of this debate. You cannot miss the baby in a partial-birth abortion. It is not hidden from view anymore. It is not the dirty little secret we tell ourselves to survive, to live with ourselves that we allow this kind of murder to occur in this country.

We cannot hide anymore from the truth of what is happening out there. We cannot lie to ourselves that this is not what we are doing. In fact, Ron Fitzsimmons said, the person who blew the whistle on the abortion industry, we have to face up to the fact that abortion is killing a living being. Let's face up to it. If you want to defend it, defend it, but defend it on what it is: It is killing a little baby who hasn't hurt anybody, who just wants a chance like all of us to live.

One of the great ironies that struck me as I walked on the floor today—I walked on the floor and I passed the Senator from Vermont, the Senator from Tennessee, and the Senator from Iowa, who had been so instrumental in the bill that we just passed on the Senate floor. Do you know what bill we just passed on the Senate floor? The Individuals With Disabilities Education Act. Individuals with disabilities.

The principal reason that the people who oppose this ban use for defending this procedure is, You know, a lot of these children have deformities. They might have Down's syndrome or they might not have any arms or legs or they might not even live long, they might have hydrocephaly, they might have all these maladies. And that, of course, is a good reason to kill them. That is the argument. That was the argument that was made over and over and over again, that fetal abnormality is a good reason —in fact, the courts, unfortunately, have legitimized this reason saying it is a legitimate reason to do a third-trimester abortion.

I just found it absolutely chilling that a Member could stand up here and rightfully, passionately argue that children are all God's children and perfect in his eyes, and while they may not be perfect, they deserve the dignity of being given the opportunity to maximize their human potential. That is what IDEA is all about, the ability to protect their civil rights to maximize their human potential—except to be born in the first place. Because some of the most passionate defenders of IDEA, some of the most passionate defenders of ADA, the Americans with Disabilities Act, say it is OK to kill a baby because it is not perfect, any time in a pregnancy—any time in a pregnancy—by using this, the most barbaric of measures.

We are going to educate you if you make it, if you survive this. If you survive, if you are lucky enough that your mother loves you enough to give you a chance at life, then we will protect you, but you are on your own until then; you are on your own; we're not going to protect you. You don't deserve protection.

Abraham Lincoln, quoting Scripture, said that a house divided against itself cannot stand. I just ask every Member who proudly stands and supports the disabled among us how you can then stand and allow this to happen to those very same children and say that you care? The ultimate compassion here is at least giving them a chance to live. I guarantee you that if you gave a lot of disabled people the choice of whether they would rather be educated or live, it is a pretty easy call. But somehow or another, that is lost here. Well, it is not lost on me, and I don't think it is lost on the American public. You cannot legitimately argue both ways. So this is the debate.

You will hear a lot about health exceptions—and I want to address that issue right up front—that we need this procedure to be legal because there might be instances in which the life and health of a mother are in danger and this procedure would have to be done. I am going to put a quote up from a group of close to 500 physicians, almost all of whom are obstetricians, people in the field:

While it may become necessary—

This is a quote from a letter—

While it may become necessary, in the second or third trimester, to end a pregnancy in order to protect the mother's life or health, abortion is never required.

I want to repeat that:

. . . abortion is never required—i.e., it is never medically necessary, in order to preserve a woman's life, health or future fertility, to deliberately kill an unborn child in the second or third trimester, and certainly not by mostly delivering the child before putting him or her to death. What is required—

And this is important—

What is required in the circumstances specified by Senator Daschle is separation of the child from the mother, not the death of the child.

What do they mean by that? Sometimes you might have to induce and deliver the baby. Sometimes you may have to do a cesarean section to deliver the baby. But you never have to kill the baby in order to protect the mother's life. You can at least give the baby a chance. Give him or her a chance. If it is not viable, then he will not live or she will not live very long, but you have at least dignified one of our human beings, one of us, your son, your daughter.

I just suggest to any mother or father that if you found out that your child was going to die, had a particular virulent form of cancer and the child was 5 years old and the child, according to the doctors, would almost certainly not live more than a few weeks, would you, would any parent in America say, ''Well, my child's going to die, I might as well kill them now''? Would any parent deliberately kill their child because they may not live long? Or, worse yet, would they kill their child because they were in a car accident and lost a leg? Or were in a car accident and are going to be in a wheelchair the rest of their lives and maybe has brain damage and does not have a whole lot of mental capacity, but some, or even none, would you deliberately kill your child? And in doing so, would you do the procedure that I suggested? Would you puncture their skull and suck their brains out? Would you do that?

Well, if you would not do that for a 5-year-old son or daughter, why would you do it to a 5-month-old son or daughter? Why? You don't have to.

If there is any message, whether this bill passes or not—I say passes, becomes law—that is so important, but it is so important for people to understand that you don't have to kill the baby. You don't have to do that. I know. There is always a more dignified way to treat another human being than to deliberately kill them.

So the debate will rage on this afternoon, but just remember these facts—facts: Partial-birth abortion is never necessary to protect the life or health of the mother. Fact: It is never medically indicated. It is not an accepted procedure.

It is rare, according to the abortion industry. It is only 3,000 to 5,000 a year, as if that's OK, only killing 3,000 to 5,000 children a year and that is not very many. I guess against 1.4 million or so, it is not many, but can you imagine what we would do in the U.S. Senate if we knew 3,000 children were going to die this year and we could stop it? What lengths would we go? What lengths would we go for 1,000? What lengths would we go for one? I don't know anymore. I wonder whether we can muster up the moral courage to stand up to the powerful lobbies out there and do the right thing.

This procedure does not have to be there for any reason—no reason other than for the convenience of the doctor doing the abortion. This procedure is not done at major medical facilities. This procedure is done at abortion clinics, period, and, in most cases, not even by—at least the people who developed it were not even obstetricians.

So I hope that we can have a debate on the facts. Because on the facts, if you look at the facts, there is no reason for this procedure to be legal—none. And if you look at the heart, what kind of message are we sending out to the young people all over the country?

You know, we have debates here on the floor, and we have committee meetings even to talk about juvenile crime, talk about generation X and how they have no respect for our institutions or even each other, that they think everybody is in it for themselves. The cynicism is so rampant.

If you want to know why that occurs, tune in to this debate. Children are not oblivious to what is going on in this country when it comes to the issue of abortion. Ask why a child should be any more concerned about shooting their neighbor if Members of the U.S. Senate and the President of the United States says we can kill a little baby.

What is the difference? There is no difference. We are going to have all sorts of problems with this future generation. I hear all the time, ''Oh, they have no values. They don't have any direction. They don't have any purpose. They are so self-centered.'' Gee, I wonder why.

What is more self-centered than what I have just described? We are sending a message. A message is being received. And 1.5 million abortions is a very loud message to everybody in our country, particularly the young, the impressionable. And we wonder why, we wonder what the problem is.

We can begin to send a positive message today. We can begin to say, you know, there are rights and wrongs—not just rights—rights and wrongs. And this is wrong.

I yield the floor.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER (Mr. HUTCHINSON). The Senator from California.

Mrs. BOXER. Thank you very much, Mr. President.

When my colleague from Pennsylvania started this debate, he asked that a 5½-year-old be allowed in the gallery, that the Senate rules be waived. And then he went on—and I am quoting very much from his text—he went on to talk about what he believes that a medical procedure, which he has called a barbaric act, a procedure that doctors tell us is used to save the life of the woman, to spare her irreparable harm—and he calls that a ''murderous act''—his words. He used the term over and over about ''killing a baby.'' He ascribed it to the President of the United States. He wanted a 5½-year-old to hear that.

He said, you will hear words like ''rights,'' and then he quoted women, and he said, ''I can kill this baby.'' Is that what he thinks women want to do? And he wants a 5½-year-old to hear that?

Talk about messages that we are sending out, this is the greatest country in the world. We ought to approach these issues as a family, not turn one group against another, one gender against another.

Mr. President, this is the third time we are having this debate. And every time it is more painful than the one before. And the reason it is so painful is because the basic assumption of the Santorum bill is that women do not deserve the full range of medical options available to them in order to have a safe and legal abortion.

I know that every Senator in this U.S. Senate who calls himself or herself pro-choice believes, as the President of the United States believes, that abortion must be safe, legal, and rare.

Mr. President, I truly believe—and I will explain it in the body of my statement—that what the Santorum bill is really about is outlawing one procedure, and then they will go after the next procedure, and then they will go after the next and the next. And that will be the way abortion is made illegal in this country at any stage.

Mr. President, that is not the view of the American people. They believe very strongly that Government does not belong in this debate.

Mr. President, the Santorum bill prohibits the use of a specific abortion procedure, the intact dilation and extraction regardless of the medical needs of the woman. But some doctors consider that procedure the safest for the women. I am not saying that every doctor says that; I am saying many, many doctors believe that. And yet, the Santorum bill would outlaw this procedure.

The American College of Obstetricians and Gynecologists, an organization representing more than 37,000 physicians stated that an intact dilation and extraction ''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.''

That is 37,000 doctors who are trained in obstetrics and gynecology.

Doctor Charles Bradley, medical director of Planned Parenthood in Santa Barbara, CA, wrote to me and said:

> The intact dilation and extraction procedure presents several advantages over the other techniques available for late-term abortion. Foremost among these, the procedure is short and the risk of damage to the mother's tissues and, therefore, the risk to her life and health is considerably reduced.

Dr. Seymour Romney, chair of the Society for Physicians for Reproductive Choice and Health sent me a letter. And he wrote:

> In complicated and some potentially tragic obstetrical situations, intact dilation and extraction can be the safest therapeutic procedure. In competent hands, it carries the least risk of bleeding, perforation, infection or trauma to the birth canal.

So this is a procedure that many doctors say is the safest, and yet the Santorum bill would outlaw it.

Mr. President, this is not a perfect world. If we could make it so, every child would be planned, every child would be wanted, every pregnancy would be uncomplicated, every fetus would be viable, would be healthy, every father would be proud to take responsibility, every mother would be physically and mentally healthy, there would be no rape or no incest. That is the world we should strive for. That is the world we want.

But, Mr. President, we are not there. This is not a perfect world. Families must make tough choices, and sometimes must decide, of course, to take, when things go tragically wrong—we must not pass reckless legislation which moves politicians into the hospital rooms where we do not belong. Mr. President, we do not belong in a hospital room.

We have laws in this land. We have court decisions in this land. And the laws relating to pregnancies are set. And they say, as follows: Before viability in the early stages of a pregnancy, a woman gets to decide, with her family and her doctor and with her God, what her options are. It is her choice. It is not Senator BOXER's choice. It is not Senator SANTORUM's choice. It is not Senator HELMS' choice. It is not Senator FEINSTEIN's choice. It is her choice. She will make this decision with her family, with her loving family, with her doctor. She decides. And that is it. And that is what the law says. And it was decided in 1973, in a previability situation, a woman has the right to choose.

There are those in this Chamber who want Government to enter this debate and stop that constitutionally protected right. And to do that they need a constitutional amendment. And for many years now they have not tried that because the American people do not support it. So they will go to procedures one at a time. They will do what it takes so in essence this constitutionally protected right will become meaningless to the women of this country.

How does the Santorum bill, endorsed by the antichoice groups in this country, treat a woman in the early stages of her pregnancy where, under law, it is her constitutional right to decide?

The Santorum bill says to the doctor that a particular procedure called intact dilation and extraction—and as Senator SANTORUM has given it a name of his own, partial-birth abortion, which is in no medical dictionary—that procedure is banned at any time. Any time in the pregnancy, before viability or after viability, it would be banned. And we know right off the bat that outlawing procedures in the previability stage of pregnancy before the fetus can live outside the womb, with or without life support, is a clear violation of Roe versus Wade, on which the constitutional right to choose is based.

So let us be clear. The Santorum bill infringes on a woman's right to choose in the earliest stages of her pregnancy and is clearly unconstitutional and against the law of the land.

In the late term what do the laws say? Postviability, the court decisions say that the Government does have a legitimate interest and can legislate, can legislate postviability, but with a caveat. And that is, that always the health of the woman and the life of the woman must be considered.

Let me repeat. Postviability, the Government can act to regulate abortion, but always the health of the woman and her life must always be protected.

What does the Santorum bill do in the late term? It outlaws the procedure and fails to give a health exception. My colleagues, this is dangerous. There is no health exception in the Santorum bill. And that is callous toward the women of this country.

Court cases have always ruled that any laws passed regarding abortion—

and there are many of these in the States; and my colleague, Senator FEINSTEIN, has become a real expert on studying what the States have done—they always make an exception for the health of the woman. And this U.S. Senate, under this bill, would be so radical as to not address the health of a woman.

This is very troubling to me, Mr. President. And I believe it shows a lack of concern for the women of this country, many of whom want their stories told.

In the interest of time, I am not going to go into all the stories that I have, but I am going to talk about one. And perhaps in the debate later on I will give you the other stories, because we must put a face on this issue.

This is Coreen Costello with her family. She happens to be a registered Republican. She describes herself as very conservative. And she is very clear that she and her family do not believe in abortion.

In March 1995, when she was 7 months pregnant—actually this is a photograph of her when she was pregnant—she was 7 months pregnant with her third child, and she had premature contractions and was rushed to the emergency room.

She discovered through an ultrasound that there was something seriously wrong with her baby. The baby, named Katherine Grace—she named her baby Katherine Grace while she was carrying her baby—had a lethal neurological disorder and had been unable to move inside Coreen's womb for almost 2 full months. The movements Coreen had been feeling were not that of a healthy, kicking baby. They were nothing more than fluid which had puddled in Coreen's uterus. The baby had not moved for a long time—not her eyelids, not her tongue. The baby's chest cavity was unable to rise or fall. As a result of this, her lungs were never stretched to prepare them for air. Her lungs and chest were left severely underdeveloped to the point of almost nonexistence. Her vital organs were atrophied.

The doctors told Coreen and her husband the baby was not going to survive, and they recommended termination of the pregnancy. To Coreen and Jim Costello, termination of the pregnancy was not an option. Coreen wanted to go into labor naturally. She wanted the baby born on God's time and did not want to interfere.

The Costello's spent 2 weeks going from expert to expert. They considered many options, but every option brought severe risks. They considered inducing labor, but they would be told it would be impossible due to the baby's position and the fact that the baby's head was so swollen with fluid it was already larger than that of a full-term baby. They considered a cesarean section, but the doctors were adamant that the risk to her health and her life were too great. Coreen said, ''There was no reason to risk leaving my two children motherless if there was no hope of saving Katherine Grace.''

These are the women my colleague stands and talks about as wanting to kill their babies? I am ashamed of that. It is unnecessary to talk about the mothers of America, the women of America in such a fashion.

Coreen and her husband faced a tragedy that most people, thank God, never have to face. In the end, they made a decision which saved Coreen's life. She underwent a late-term abortion.

In December of last year, I showed you this picture of Coreen and her family, and I reminded you at the time of this photo, Coreen was pregnant with Katherine Grace. Now I want to show another picture of the Costello family. Here is Coreen and her family with their newest addition, her son, Tucker.

Coreen writes that she is against abortion. She is a registered Republican. She says she is a conservative. She writes to us, ''This would not have been possible without this procedure. Please give other women and their families a chance. Let us deal with our tragedies without any unnecessary interference from our Government.'' She writes, ''Leave us with our God, our families and our trusted medical experts.''

Now, that is one story. To me, it just says it all, that this Santorum bill, if it became the law of the land, could have resulted in this woman dying or being impaired or losing her fertility. We stand here and talk as if the mothers of this country, the women of this country, want to end these pregnancies, when, in fact, these women—again, I have many of these stories which I will tell tomorrow, story after story—the last thing they wanted was to end the pregnancy. They wanted these babies.

Mr. President, I want to put the face of these women into the debate. I know those who wish to ban this procedure want the face of the woman gone. I want to show you what the New York Times quotes Ralph Reed, the head of the Christian Coalition, as saying in a March 23, 1997 article. This appeared:

> ''Mr. Reed said that by focusing on the grizzly procedure itself—and on the potential viability of a fetus—abortion foes undercut the primacy of the woman and made her secondary to the fetus.''

In other words, what Mr. Reed is quoted as saying, in what I consider to be an unguarded moment, is the reason he was so excited about this debate is that for the first time, the woman was made secondary to the fetus.

Those who are pushing this bill want us to forget about the women. As Ralph Reed is quoted as having said, to forget about our daughters, our sisters, our nieces. They want us to forget about them.

Why, the Senator from Pennsylvania, in his opening remarks, portrayed women as killers. His words: ''I have a right to kill this baby,'' as if that is what a woman wants to do.

If they succeed in outlawing this procedure, they will go to the next and the next, as I have said. With all due respect to my colleagues on the other side of this debate, they are very good at getting votes and they are very good at winning elections. But I do not think they are worth a whit in the gynecological operating room. I do not want them in that operating room telling a doctor what procedure to use for my daughter or my niece or, frankly, even for their daughter or their niece.

If a loved one—and I ask all Americans to think about this. Think about it, think of a woman in your life of child-bearing age. Think of that woman, be it your wife, be it your aunt, be it your sister, be it your niece, be it your daughter, be it your granddaughter, think of that woman, have that woman in front of your face, and think if that woman was in trouble with a pregnancy gone tragically wrong like Coreen's pregnancy. I will put her and her family's picture back up. Suppose you found out that she was carrying a fetus whose brain was growing outside the head, where the doctor has said to you the baby would live but a few moments, maybe, and in torture, and that your loved one, if this particular procedure were not used, because many have said it is, in fact, the safest, might suffer irreparable harm, irreparable harm, never to be able to have a child again, maybe could be blinded, maybe could be paralyzed. In your heart of hearts, you would not want Senators making that decision. You would want the decision to be made by the medical experts, the best in the world.

I do not want that doctor afraid at that moment that he or she might be hauled off to jail if he acted to help a family to spare a woman's life or health. I do not want that loved one in despair, pain, and grief to be told that her openings were narrowed because her doctor was afraid to do what he or she really thought had to be done to save her fertility or to save her life or to save her health.

Who decides? Senator SANTORUM? I hope not. Who decides? Senator BOXER? I hope not. I know politicians have big egos, but we are not doctors. We can show drawings done by a doctor, but that does not qualify us. Where is the humility around here? Why do we not just do our job? I think every woman in this country deserves a free range of options when she is in deep, deep trouble.

Mr. President, Senators FEINSTEIN, MOSELEY-BRAUN, and I have a bill that I believe is the most humane and the most sensible and the most constitutional of those that will be before the Senate. It zeros in on the timeframe that concerns most Americans, and that is the late term of a pregnancy, after viability, and is consistent with Roe versus Wade, which says the Government has an interest after viability. Our bill outlaws all post-viability abortions—all procedures, not just one. The Santorum bill does not do that. It zeros in on one procedure. We say after the

fetus is viable, no abortion, no procedure except to protect the woman's life or to spare her serious adverse health consequences.

Life and health are constitutional requirements, and it is the right thing to do for the women of this country. Mr. President, if we abandon the principle that a woman's health and life must always be considered when an abortion is considered, we are harming women, plain and simple, women like Coreen Costello and the other women that I will talk about.

Mr. President, the day we start passing laws that harm half of our population—women are more than half of our population—the day we start passing laws that harm more than half of our population is the day I will worry about the future of this, the greatest country in the world.

Mr. President, I just celebrated my second Mother's Day as a grandmother, and my daughter celebrated her second Mother's Day as a mom. This is the greatest thing for our family. And everyone who always said to me, ''When you are a grandmother, you will see how great it is,'' including Senator FEINSTEIN, who told me that years ago, I thought, well, maybe they are exaggerating. You know what? They are not. To see your baby have a baby, to get the continuity of life is an extraordinary feeling.

I happen to believe as I watch my daughter be a great mother that America's moms deserve to be honored every day. We just celebrated Mother's Day. They deserve to be honored every day.

Senator BYRD came down right before Mother's Day and talked about the incredible job that our moms are doing, working moms, supermoms, working hard so that families have the resources to educate their children, to give their children the American dream. It is hard for me to imagine why we would want to pass legislation that will harm women.

Now, it is interesting to me, in the Santorum bill, this procedure is outlawed. As a matter of fact, the Senator from Pennsylvania called it a barbaric act, and yet in his own bill he says, ''The procedure can be used when it is necessary to save the life of the mother'' if you can't find another medical procedure.

So, first, he says it is barbaric. And then he admits in his legislation that it may be necessary to save the life of the mother.

So what is this really all about? It is about banning one procedure and then the next and then the next. Women as moms and future moms should not be put at risk because the big arm of Government wants to reach further into their private medical and family physician.

We can pass a bill that respects women and their families, that is caring and trusting toward American moms and future moms while protecting a baby in the post-viability stage of pregnancy. We can pass a bill that is consistent with Roe.

That is what the Feinstein-Boxer-Moseley-Braun bill is about. This bill should not be about what the New York Times article quotes Ralph Reed as saying, which reveals, I think, a real malice toward the women of this country—that a woman should be secondary to a fetus. This should not be about mothers versus fetuses. This should be about all of us together as a society passing laws that help our families cope with tragedy and urgency in a way that is moral and in a way that is respectful of everyone involved.

So this is a painful debate, Mr. President, but my intent is clear. I will not allow the fate of the woman to be lost in this debate. I will tell story after story after story about the Coreen Costellos of our Nation who are loving, caring moms, many of whom would never have an abortion at any stage unless they were told they had to have one to spare their life or to preserve their fertility so they can be alive for their families, for their other children.

I will do all I can to spare families long-lasting, horrible pain that I think would come about as a result of the Santorum bill putting Senators into a hospital room and making decisions they are not qualified to make. I think this bill will cause pain to innocent, caring, and loving families in the name of sparing pain. It is a first step toward making all abortions illegal.

If you ask those who are on the floor and if you study their record, you will see they are on record as wanting to ban all abortions from the first second.

So, Mr. President, although this is a very painful debate for all of us, I will be here throughout this debate. I will work with my colleagues to put the fate of the woman on this debate, to never let anyone forget what we are doing if we pass this bill, which is to hurt American families. That is my deep belief.

If you are really about making sure that there is no abortion post-viability in the late term, you have the Daschle proposal that deals with it, and you have the Feinstein-Boxer-Moseley-Braun proposal. If you really want to do something about what Americans care about, that is what you should do. But don't go to a procedure which you say is barbaric, but then you allow it in the case of a woman's life, ban that and tell the American people you are doing something about the late term which, in fact, you are not when, in fact, what you are doing is interfering with medical treatment of women who—all of these women—are put in tragic circumstances where they could have lost their life or their health.

Thank you very much.

Mr. President, I yield the floor.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, I rise once again to support the ban on the procedure known as partial-birth abortions.

Mr. President, we have heard a lot in the last year or two about this procedure. We have heard the graphic details, the details which are certainly not very pleasant. But we know that they are true. They are indisputable. We know exactly what this ''procedure'' consists of. Senator SANTORUM earlier this afternoon very graphically described it. It is unconscionable.

Mr President, the public reaction to disclosure about this ''procedure''—the disclosure of what partial-birth abortion really is—has been loud and convincing. There is a good reason for this. Yes, this procedure is barbaric. There is simply no other way to describe it.

Many people have asked the question. Why? Why does it take place? Why is it done? Why do they do this procedure? Is it really necessary?'' Then the question is, ''Why do we as a people allow this to happen?''

The opponents of this measure argue that it is medically necessary. Mr. President, this is simply not true. This is not a valid argument, when you have probably the single most respected physician in this country, Dr. C. Everett Koop, who says exactly the opposite. Dr. Koop in an interview with the American Medical News on March 3 of this year says: ''In no way can I twist my mind to see that the late-term abortion as described . . . partial birth, and then destruction of an unborn child before the head is born—is a medical necessity for the mother.''

Mr. President, America's most respected physician is not alone in this view.

Dr. Nancy Romer, chairman of OB–GYN and professor at Wright State University Medical School in Ohio says: ''This procedure is currently not an accepted medical procedure. A search of medical literature reveals no mention of this procedure, and there is no critically evaluated or peer review journal that describes this procedure. There is currently no peer review or accountability of this procedure. It is currently being performed by a physician with no obstetric training in an outpatient facility behind closed doors and no peer review.''

Dr. Romer also says, Mr. President: ''There is no medical evidence that a partial-birth abortion procedure is safer or necessary to provide comprehensive health care to women.''

Let me stress, Mr. President, what the doctor said, ''no medical evidence''; none.

Just this week the American Medical Association also endorsed this view. This is what they say. They said there were no situations in which partial-birth abortion ''is the only appropriate procedure''; no circumstances, Mr. President, where partial-birth abortion ''is the only appropriate procedure.''

I think it is often instructive to look at what those who perform the abortions have to say. One of the most famous or infamous abortionists is Martin Haskell. He has admitted—this is uncontroverted; no one disputes this—Dr. Haskell, who has performed hundreds of thousands of these probably,

admits that at least 80 percent of the partial-birth abortions he performed are elective. And the late Dr. James McMahon, a person who performed many abortions, says he performed nine of these partial-birth abortions because the baby had a cleft lip.

Let me repeat that. Nine were performed, according to Dr. James McMahon, for no other reason than the baby had a cleft lip.

Medical necessity, Mr. President? Medical necessity? So much for medical necessity.

Why then is this procedure performed? Is it because some of these fetuses are deformed?

Betty Friedan, in a televised debate, called such little babies ''monsters''; ''monsters.'' She said it not once but twice.

Are we now in the business of killing people for being defective, Mr. President? My colleague from Pennsylvania has pointed out very eloquently the irony of this argument, the fact that today—we tried earlier this week to protect people with handicaps, protect them in school to make sure they had a full education, but at the same time abortions are being performed, partial-birth abortions are being performed not for medical necessity but rather this child is somehow not ''perfect,'' at least as we see perfection.

Are we now, Mr. President, in the business of killing people for being defective? I would submit that the world has gone down that path once already in this blood-soaked 20th century. Are we really willing to go down that road again? Are we willing to go down that road again in this country that is based on the sanctity of human life, the sanctity of human rights? I hope not.

Mr. President, when the child which is subject to a partial-birth abortion exits the birth canal, once he or she is out, the child, of course, is protected by the U.S. Constitution. If the doctor performing the abortion slips, sneezes, something happens, and as a result the child's head exits the mother's body, then that doctor cannot legally kill that child.

Mr. President, do we as a nation really believe that those few inches between being inside the mother and being outside the mother, do we really believe that defines the difference between a legitimate medical procedure and barbaric murder? I hope and believe that we are better than that, that even our jaded, contemporary public morality would rebel in calling this a legitimate medical procedure.

Mr. President, the defenders of this procedure used to try to change the subject. They used to say that it rarely happens, so we shouldn't get all worked up about it.

Well, it is funny. You do not hear much of that argument anymore. The reason we do not hear that argument much anymore is because of the shocking confession made by a leader in the abortion rights movement. Ron Fitzsimmons is the executive director of the National Coalition of Abortion Providers. In 1995, when the Senate was considering the partial-birth abortion bill, he was helping lead the fight against this very bill. He went on ''Nightline'' to argue that the procedure ought to remain legal. At that time, he said the procedure was rare and was primarily performed to save the lives or the fertility of the mothers.

You know, a funny thing happened after that. Apparently his conscience starting gnawing at him. He says now that he felt physically ill about the lies he had told. He said to his wife the very next day, ''I can't do this again.''

Meanwhile, President Clinton was using Mr. Fitzsimmons' false statements to buttress his case for vetoing the partial-birth abortion bill that this Senate passed.

But a couple of months ago Mr. Fitzsimmons admitted that, in his own words, he ''lied through his teeth.'' The facts, as he now publicly acknowledges them, are clear. Partial-birth abortion is not a rare procedure. It happens tragically all the time. And it is not limited to mothers and fetuses who are in danger. It is performed on healthy women, it is performed on healthy babies—all the time.

Remember Dr. Haskell's quote that 80 percent of the abortions he performed are elective.

Mr. President, it is true that everyone is entitled to his or her opinion. Everyone is entitled to their own opinion. But people are not entitled to their own facts.

Ruth Padawer of the Record newspaper in Bergen, NJ, reported last September 15 that 1,500 of these partial-birth abortions happened in one local clinic in 1 year.

Once you confront the reality of what partial-birth abortion really is, you realize that from a moral perspective one of these atrocities is as bad as 1,500, but let nobody say this procedure is somehow de minimis, that it does not happen often enough to deserve legal notice.

Let me now describe briefly some of the proposed amendments to this legislation. I know we will have the opportunity later during this debate to talk about this at length. Let me just for a moment talk about several of the amendments at least as I now understand them.

Under the Boxer-Feinstein amendment, the exceptions swallow the rule. It is the old trick. Make it sound good, but then put an exception in there that, in reality, the way it really works as interpreted already by courts, the exception swallows up the entire rule and really makes the bill, in this case the amendment, meaningless. Under the Bolton precedent, the Bolton case, the ''health'' language clearly has unlimited meaning. So once the term ''health'' is in there, as interpreted by the Court, it swallows up the entire amendment and makes it useless. It is determined by the existence of health circumstances as decided by the very same doctor who performs the abortion. That is who does the decision. That is who makes the decision about the health under the Boxer-Feinstein amendment. Clearly that exception renders the bill meaningless.

Furthermore, if this really is about maternal health, then why do we have to kill the baby? Senator SANTORUM very eloquently talked about this a few minutes ago. No doctor, no witness, no Senator has yet offered any evidence that tells us why, when the health of the mother is in danger, you have to kill the baby. Why? Why can't we, if it is threatening the mother's health, deliver the baby and, if possible, save it? Why does this child have to be killed?

Senator SANTORUM earlier read in part from this letter, the letter from the Physicians Ad Hoc Coalition for Truth. I want to read one of the paragraphs because it addresses this very issue, and this is what the doctors said:

> As specialists in the care and management of high-risk pregnancies complicated by maternal or fetal illness, we have all treated women who during their pregnancies have faced the conditions cited by Senator DASCHLE. We are gravely concerned that the remarks by Senator DASCHLE and those who support the continued use of partial-birth abortion may lead such women to believe that they have no other choice but to abort their children because of their conditions. While it may become necessary, in the second or third trimester, to end a pregnancy in order to protect the mother's life or health, abortion is not required—i.e., it is never medically necessary, in order to preserve the woman's life, health or future fertility, to deliberately kill an unborn child in the second or third trimester, and certainly not by mostly delivering the child before putting him or her to death. What is required in the circumstances specified by Senator DASCHLE is separation of the child from the mother, not the death of the child.

Why then can't we as a society, if the child is threatening the mother's health, deliver the child and, if possible, to try to save it? Why does that child have to be killed? There is no medical answer for that, there is no medical reason. But let me submit a reason that I think is critically clear from the debate and, more importantly, from the evidence and, more importantly, from the words of the doctors who perform these abortions. Why is it done? Why does the child have to be killed? The child has to be killed because that is the goal. That is the goal. That is what the doctor wants to do.

Now, Dr. Haskell, who has performed hundreds and hundreds and hundreds of these, has said as much. In an interview with the American Medical News, he said:

> You could dilate further and deliver the baby alive, but that's really not the point. The point is you are attempting to do an abortion. And that's the goal of your work, is to complete an abortion. Not to see how do I manipulate the situation so that I get a live birth instead.

Dr. Haskell admits it. He admits what the goal is. He admits why it is done. Why can't we on the Senate floor?

An abortion is legal in this country. I happen to be pro-life. But nothing says we have to allow this procedure simply because it allows the doctor to speed up the procedure and move on to the next one. These are done for the doctor's convenience.

Let me specifically go back to the issue of the Daschle amendment, and again we will have the exact language in the Chamber, I am sure, and we will have the opportunity to more thoroughly debate this. Let me address the third trimester ban that is proposed by this amendment. The reality is that the exceptions are simply too numerous and the way they will be applied it will again swallow up the amendment.

The facts are that the vast majority of these partial-birth abortions occur in the fifth and sixth months. All the abortionist has to do under this amendment is to certify that either the baby is not viable, just certify it, or that the abortion is medically necessary. The conditions are spelled out apparently in the amendment. In practice, this means there will be no limit on the will of the abortionist. The same person who will be certifying is the person such as Dr. Haskell who has described why he performs this procedure. In practice, there will be no limit to what the abortionist does. Our colleague, my friend from Pennsylvania, Senator SANTORUM, has compared it—he does it better than anybody I have heard—to passing an assault weapons ban and then entrusting gun dealers to decide what constitutes an assault weapon. Would anybody propose to do that? I think not.

Viability has also been proposed as a standard. I fail to see what viability has to do with whether this procedure should really be permitted. Whether it should be permitted is a question of humaneness or arguably a question of health. If one can show that the fetus threatens maternal health and that abortion is the only way to save the mother's health, the opponents of the ban are still confronted with the insufferable difficulty of proving this specific procedure, partial-birth abortion, is the only way to accomplish that goal.

As Dr. Koop and Dr. Romer have testified, there is absolutely no way the partial-birth supporters can meet that test because this procedure is never medically necessary. The proponents of partial-birth cannot hide behind a false claim of medical necessity. There is no medical necessity. The evidence is abundantly clear.

Let us again, because I think it is so instructive, hear what Dr. Martin Haskell says, the abortionist who has performed so many of these abortions and who, frankly, has been so very candid about what he does and why he does it. Let us hear Dr. Haskell describe this procedure, again a procedure that is not medically necessary. This is what he says, not MIKE DEWINE, not Senator SANTORUM, not Senator BOXER. This is what Dr. Martin Haskell, who performs these abortions, has to say.

I just kept on doing D&Es because that is what I was comfortable with up until 24 weeks. But they were very tough. Sometimes it was a 45-minute operation. I noticed that some of the later D&Es were very easy so I asked myself why can't they all happen this way. You see the easy ones would have a foot-length presentation, you'd reach up and grab the foot of the fetus, pull the fetus down and the head would hang up and then you would collapse the head and take it out. It was easy.

It was easy, Mr. President, it was easy for Dr. Haskell. Dr. Haskell does not say it was easy for the mother. I suspect that he really does not care. His goal is to perform abortions.

Under these proposed amendments, is Dr. Martin Haskell, a man who has said—you have heard what he had to say—is he the person we are going to trust to decide whether abortions are necessary? He has a production line going. Nothing is going to stop him from meeting his quota.

Dr. Haskell concludes, again quoting:

I would reach around trying to identify a lower extremity blindly with the tip of my instrument. I'd get it right about 30–50 percent of the time. Then I said, ''Well, gee, if I just put the ultrasound up there I could see it all and I wouldn't have to feel around for it.'' I did that and, sure enough, I found it 99 percent of the time. Kind of serendipity.

Kind of serendipity, Mr. President.

Let me conclude. I believe we need to ask ourselves, what does our toleration of this procedure as a country, as a people, say about us? What kind of a people are we? What kind of a nation are we? I think you judge a country not just by what it is for. I think you also judge a country and a people by what we are against, and we judge a country and the people by what we tolerate. We tolerate a lot in this country, unfortunately. This is one thing that we should not have to tolerate. Where do we draw the line? At what point do we finally stop saying, oh, I really don't like this, but it doesn't really matter to me so I will put up with it? It really doesn't affect me so I will put up with it.

At what point do we say, unless we stop this from happening, we cannot justly call ourselves a civilized nation. I think it is very clear what justice demands. That is why I strongly support this ban. That is why I strongly support this bill to ban a truly barbaric procedure.

I look forward to the opportunity as this debate continues to debate the various amendments and talking about this bill further. At this point I yield the floor.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. I thank the Chair.

Mr. President, it has often been said that one is a product of one's life experiences. Because this is a bill about so-called partial-birth abortion, and because there is no medical definition of partial-birth abortion, and because most of us believe that what is being referred to is a procedure either called intact D&E or intact D&X—but that is not reflected in the bill—and because the bill affects more than just the third trimester of a pregnancy but also goes into the second trimester, and because it carries with it criminal penalties, I want to share with this body how I am a product of my life experiences with respect to abortion.

I well remember my early days. In college during the 1950's, abortion was illegal, and I knew young women who were in trouble. I knew one who committed suicide. I knew others who passed the plate to those of us in a dormitory—and this was Stanford University—to go to Mexico for an abortion.

Later in the 1960's, I spent 8 days a year for 5 years sentencing women in the State prison, and I sentenced abortionists because abortion was still illegal in California in the early 1960's. I remember these cases particularly well. I remember the crude instruments used. I remember women who were horribly damaged by some of these illegal abortions. I remember mortality as well. And I always thought maybe one day we will get past this and not have to go back to it.

What concerns me about this debate is that I see it as the opening wedge of a long march to take us back 30 years, back to the passing of the plate at Stanford, back to the back-alley abortionists.

I will never forget one woman because abortion carried with it a maximum sentence of 10 years in State prison at the time. I sentenced this woman—I remember her name, I am not going to say it here—to the maximum sentence because she had been in and out of the State institution. This was her third time. Every time she went out I asked her why she continued. She said, ''Because women were in such trouble and they had no other place to go, so they came to me because they knew I would take care of them.'' That was the reality of life from 1960 to at least 1966 in California. I do not want women, young women, to have to go back to those days again.

So basically I am pro-choice. I am also a member of the Judiciary Committee of the Senate, so I have been present at all of the hearings on this so-called partial birth abortion bill. Essentially, I believe that abortion should be a matter for a woman, for her doctor, for her faith, for medicine, and not for politicians. One of the most perplexing things in my life has always been why men are so desperate to control a woman's reproductive system.

Nonetheless, about 4½ years ago, I became a grandmother of a little girl who is the light of my life. Her birth was not uncomplicated. My daughter had a pregnancy-related condition. It was a condition that women bleed to death from. You have, essentially, about 20 minutes from the time you begin to hemorrhage before your life is extinguished, and that of the child.

This case of my daughter's is really only related to this whole debate in

that it caused me to really think. I never thought that my daughter would be in a situation of this type. I began to think of the ''whens'' and ''ifs,'' and whether one could really predict all of the exigencies that a woman in pregnancy is subject to. I could not with my own daughter, because I never would have dreamt that this would have happened. For her, she was a lucky one. Although at home I am a block and a half from the hospital, they would not let her stay with me. She stayed in the hospital right next to an operating theater, so that for 2 months the baby grew in her womb, and then at 35 weeks she was able to have a C section. And we have a wonderful little granddaughter—bright eyed, bushy tailed—and the story came out OK.

But I came to a few conclusions. The conclusion is, no matter how all-seeing we think we are, no one can possibly know all of the circumstances one may find themselves in. So, if we are going to pass laws, laws need to be flexible enough to anticipate the circumstances and to provide for a worthy exception. I basically believe that this intact D&E, or intact D&X, whichever one chooses to call it, is a procedure that should not be used. That is my basic belief and I think the AMA is beginning to come to grips with this and set down some precepts, as to when one should consider a late-term abortion.

I believe that abortions post-viability should not take place except in the rarest of circumstances. And that the only case for a post-viability abortion is either to protect the life and health of the mother or in cases where there is such a serious, severe fetal abnormality that the abnormality is inconsistent with life. In other words, the child could not survive outside of the womb for any period of time.

So, with my colleagues, Senator BOXER and Senator MOSELEY-BRAUN, we will offer a substitute at the appropriate time to the Santorum bill and one that will also be a substitute to the Daschle bill. Our bill will have the following provisions:

It will prohibit all abortions after viability in a way that will meet the test of constitutionality. The provision for life and health of the mother does just that.

The health requirement is drawn to correspond with the mandate of Roe versus Wade, to prevent serious adverse health consequences to the mother and not to restrict the judgment of the physician.

Additionally, the goal is to provide for post-viability abortions only in cases of serious fetal anomalies—or abnormalities incompatible with life.

The penalties of the bill will be civil but substantial. They will be limited to the physician. The penalty for the first violation will be up to $100,000, along with referral to a State licensing board for possible suspension of the license. For a second offense, a fine up to $250,000 and referral to a State licensing board for possible revocation of the license. Unlike the Daschle substitute, we would not withhold Medicaid funds. But we would allow the State to, essentially, register its will.

I am very much persuaded by the fact that some 41 States have already passed legislation limiting late-term abortions. In Arizona, no abortion may be performed after viability; in Arkansas, same thing; in Connecticut, no abortion may be performed after viability; and on and on.

So I, for one, have a very hard time understanding why it is necessary for the Federal Government to get involved in this area at this time. But, if we do, I think we ought to do it in a way that does not limit the doctor, that prohibits post-viability abortions, and contains an exception that accounts for those rare cases when the fetus has a severe abnormality that is not consistent with human life.

So, we would offer this as a substitute for that offered by the distinguished Senator from Pennsylvania, and as a substitute to the Daschle legislation as well.

I would like to illustrate the ways in which this bill that the three of us would offer would differ from that of the Senator from Pennsylvania. Most profoundly, our legislation would fully comport with the Supreme Court's landmark decision, Roe versus Wade, which affirms a woman's constitutional right to choose whether or not to have an abortion. According to Roe, in the first 12 to 15 weeks of pregnancy, when 95.5 percent of all abortions occur, that procedure is medically the safest. The Government cannot, under Roe, place an undue burden on a woman's right to have an abortion.

In the second trimester, when the procedure in some situations provides a greater health risk, abortion may be regulated but only to protect the health of the mother. This might mean, for example, requiring that an abortion be performed in a hospital or performed by a licensed physician.

In the later stages of pregnancy, at the point the fetus becomes viable and able to live independently from the mother, Roe recognizes the strong interest in protecting potential human life. On that basis, abortions can be prohibited, except in cases where the abortion is necessary to protect the life and health of the woman. The life or the health of the woman. Thus, Roe strikes a delicate balance in protecting the fetus as well as the mother.

Our bill will fully comport with Roe. It applies only to post-viability abortions, not pre-viability abortions. And it contains exceptions to protect the health as well as life of the mother.

In my humble opinion, the bill before us now, presented by the distinguished Senator from Pennsylvania, is unconstitutional and it represents a direct challenge to Roe. It provides no exception for cases where the banned procedure may be necessary to protect a woman's health. It ignores the viability line established in Roe and reaffirmed in Casey. Although the term ''partial-birth abortion'' is not a medically recognized term, the bill's focus on a particular procedure means that this procedure will be banned even if performed pre-viability, during the second trimester. Roe does not permit abortions to be banned prior to viability. That is the constitutional framework here.

I think the proponents of this bill know well the challenges to Roe that this legislation presents. The magnitude of this bill is enormous for the long-term preservation of safe and legal abortion in this country. The Santorum bill would have an immediate and direct effect on the lives of women facing tragic and health-threatening circumstances, even in the second trimester of pregnancy. The bill also holds a doctor criminally liable unless he or she can prove that the banned procedure was the only one that would have saved the woman's life. Not the woman's health, but the woman's life.

The vagueness of the term ''partial-birth abortion'' makes the use of criminal penalties particularly troublesome. Doctors will not necessarily know when they are violating the law, since no precise procedure is referred to in the law.

During last year's hearing before the Judiciary Committee, none of our medical experts who testified had heard of the term partial-birth abortion. Since then, of course, times have changed. But none could point to a medical text that used the term.

Georgetown law professor, Michael Seidman, stated in hearings last year:

If I were a lawyer advising a physician who performed abortions, I would tell him to stop because there is just no way to tell whether the procedure will eventuate in some portion of the fetus entering the birth canal before the fetus is technically dead, much less being able to demonstrate that after the fact.

This is the catch-22 in the bill of the distinguished Senator from Pennsylvania. It can be applied to much more than just the procedure we think is at hand. The use of criminal penalties in conjunction with a vague term such as ''partial-birth abortion'' is likely to make the Santorum bill unconstitutionally vague and, therefore, unenforceable.

Our bill, instead, provides civil penalties for any post-viability abortion performed without sufficient medical justification. I believe that these civil penalties will effectively deter any physician who would perform a post-viability abortion for anything other than the most serious reasons.

Women's health, I think, should be of great importance to this body, and I would also hope that every woman in the United States would want a Congress to legislate based on what we thought would help their health, rather than create situations which would

deny them the opportunity prevent long-term damage to their physical health.

Late in certain types of highly troubled pregnancies, there are only limited options available to physicians, and I would like to give some examples of rare medical conditions that could necessitate a post-viability procedure for which there are no other alternatives available.

One example would be a fetus that has a greatly enlarged hydrocephalic head, three times the normal size, the cranium filled with fluid. The head is so large the woman physically cannot deliver it. Labor is impossible because the fetus cannot get through the birth canal. A caesarean may well be impossible for medical reasons.

Let me give you an actual case, the case of Viki Wilson. She stated:

Then I had a final ultrasound at 36 weeks, just 4 weeks from my due date, and the world came crashing down around us. Our child was diagnosed with encephalocoele. Most of her brain had grown outside her head, and what did form was abnormal. Abigail could not survive outside the womb, and she was already suffering from seizures. At first I said, let's do a C-section, let's get her out of there! My doctor said, sadly, ''Viki, we do C-sections to save babies. I can't save Abigail, and I can't justify the risks of a C-section to your health when you are going to lose your daughter no matter what.'' So even though my medical training—

And this woman was a nurse—

told us that there was no hope, my husband and I went to several specialists in the desperate belief that there was someone out there with a magic wand who would say, ''I can help save your daughter.'' No one did, no one could. Finally, we made a decision, based entirely on love, to end the pregnancy.

This is one of those situations that no one knows beforehand that they may be in.

There is also a case of a rigid fetus caused by arthrogryposis. This kind of fetus cannot move through the birth canal. It risks rupturing the woman's cervix. With prolonged intense pushing, the mother's heart is placed at risk.

Other health conditions can prevent a woman from being able to tolerate the stress of labor or surgery. They include cardiac problems like congestive heart failure, severe kidney disease, renal shutdown, severe hypertension, and so on.

In fact, it is certain health-related concerns that has caused me to part ways with Senator DASCHLE's approach. In many regards, the bill which we are introducing is similar to Senator DASCHLE's in several respects, but in one it is different.

We are alike in that both bills would limit all forms of post-viability abortions. The principal difference is the health exception. Our bill would allow third trimester abortions only in cases where the life of the mother is at issue or where an abortion is necessary to avert serious adverse health consequences to the mother. The Daschle bill, as I understand it, would allow an exception only in cases where continuation of the pregnancy would risk grievous injury to the mother's physical health. Grievous injury is defined as a seriously debilitating disease or impairment specifically caused by the pregnancy or an inability to provide necessary treatment for a life-threatening condition.

I believe that the Daschle substitute would not allow the abortion procedure for certain serious conditions that, although they are not caused by the pregnancy, are exacerbated by the pregnancy. I believe the limiting language of this bill could foreclose a doctor's option in certain situations that cannot be anticipated, and that is my concern. Who knows what situation one may be in or if the situation may not arise until labor or delivery?

For example, one House witness testified that her baby had a brain improperly formed, pressured by a backup of fluid, a greatly enlarged head, a malformed and failing heart, a malfunctioning liver, and a dangerously low amount of amniotic fluid. A physician, we believe, needs the latitude to deal with these complex emergency situations as they are trained to do.

I also believe it is important to understand, and I hope if I am wrong that the Senator will correct me, that the Daschle substitute makes no provision for a severely malformed fetus incompatible with life, if that baby can be delivered in a live condition even for a matter of minutes or days.

Roe simply states if the State is interested in protecting fetal life after viability, it may go so far as to proscribe abortion during that period, except when it is necessary to preserve the life or health of the mother.

I think that is a very important constitutional mandate, that any bill passed here in the next day or so must meet the test of constitutionality.

So we will, at an appropriate time, present a bill that we hope will meet this test.

Let me just end by saying that everything that I have read, everything that I have seen indicates that post-viability abortions are extremely rare, and that the vast majority, over 99 percent of abortions, are performed very early in pregnancy. The latest data that we have from the Guttmacher Institute, whose figures are relied upon by the Centers for Disease Control, indicates that 99 percent of all abortions are performed before 20 weeks of gestation; 90 percent are performed within the first 12 weeks; and less than 1 percent are performed after 20 weeks. Only four-hundredths of 1 percent performed after 20 weeks are performed during the third trimester. So this means there is a total of about 400 to 600 abortions performed annually during the third trimester of pregnancy.

According to the Centers for Disease Control, 98.9 percent of all abortions are performed by the simple curettage procedure, which simply involves the scraping of the interior of the uterus.

So any way you view it, we are looking at a very small number of cases. I guess my plea is for those circumstances which cannot be anticipated, for circumstances where the mother's life and health truly are at risk and—as I learned firsthand with my own daughter—nobody really understands or can have a looking glass to indicate what those circumstances may be.

As I said, I basically believe that the intact D&E or intact D&X, whatever one may choose, should not be used. I am hopeful that the medical profession will take that view, and I believe that there are ongoing discussions on that subject.

But I believe that when we pass legislation that affects every single woman in the United States who can possibly be at issue in this case, that to pass a piece of legislation which would mandate that a seriously abnormal fetus, unable over time to sustain life outside the womb, would have to be delivered regardless of the health impacts on the mother, is not a piece of legislation that I, in good conscience, can support. So, Madam President, at the appropriate time, Senators BOXER, MOSELEY-BRAUN, and I will present a substitute amendment.

I thank the Chair and yield the floor.

Mr. SANTORUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SANTORUM. Thank you, Madam President. I will just say in response to the Senators from California, I just need to reiterate what we stated earlier, and Senator DEWINE read earlier, that there is no health reason where this is the only option. AMA said that today. They came out with a report saying that today. The American College of Gynecologists and Obstetricians have said so.

This is not going to limit anybody's access to abortion if that is what they choose to do. It eliminates a procedure, a procedure, as I said before, that is not medically recognized, it is not in the literature, it is not peer reviewed, it is not taught anywhere in any medical school. It eliminates a procedure which many of us believe, and I believe the vast majority of the American public believes, goes too far, is too brutal, is outside the realm of what we should allow in a civilized society.

So I keep hearing the concerns that, ''Well, maybe there's something out there, maybe there's a case out there that this is necessary.'' I know that the Senator from California started with the case of Viki Wilson and talked about one of those instances being the case of hydrocephaly. I am going to talk about a case of hydrocephaly. I am going to talk about a case where a mother involved with a little baby in her womb, diagnosed with hydrocephaly, was confronted with the very same problems that Viki Wilson was confronted with, the very same challenges Viki Wilson was confronted with, the very same challenges that not just Viki Wilson or Laurie Watts

were confronted with, but, unfortunately, lots of mothers and fathers are confronted with.

I suggest that there is a different way, that there are other options, options that are much more fulfilling, more decent, more human, more humane than the option of a partial-birth abortion.

We hear so much talk about the people who came to the White House and stood with the President. The Senator from California, Senator BOXER, is very fond of putting up charts of individual families that have gone through this very difficult time. I have often talked about the millions of children who die because of abortion, and the thousands of abortions of partial-birth abortion. But somehow or another, that does not seem to lock on, at least with the media or, in some respects, even with the American public. It reminds me of what Joseph Stalin once said. He said:

A single death is a tragedy—a million deaths is a statistic.

I think for far too often, we have been arguing statistics here, about the numbers of millions of children, and maybe, oddly, we can learn something from Joseph Stalin.

So today I am going to talk about what could have been a single tragedy, what could very well have been a Viki Wilson, what could have been a whole host of other mothers and fathers who are confronted with this terrible dilemma of having a child who just might not survive.

Let me tell you the story about Donna Joy Watts and Lori and Donny Watts. The Watts live in Green Castle, PA. They did not always live there. They lived, until just a month or so ago, in western Maryland.

Seven months into her third pregnancy, Lori Watts learned that her child would not be normal, that there was a problem. A sonogram showed that her child had a condition known as hydrocephalus, the same condition that the Senator from California has just described with one of the cases the President points to as the reason for keeping this procedure legal. Hydrocephaly is an excessive amount of cerebral fluid in the skull, also known as water on the brain.

Lori's obstetrician said, after the sonogram was done, that he was going to refer her to a genetics counselor. I could talk for a long time about genetics counselors. But I think this story sums up, unfortunately, what far too many genetics counselors do.

Lori Watts phoned the clinic to ask directions and what they planned to do. The staff member told her that most hydrocephalic fetuses do not carry to term so that she should terminate her pregnancy. When she asked, how could you do an abortion so late in pregnancy at 7 months, she was told that the doctor could use a skull-collapsing technique that we refer to as partial-birth abortion.

Donny Watts demanded to know why they had been referred to a facility that counsels for abortion when talking to his obstetrician, whom he called. And the obstetrician said, ''Well, you know, there are doctors there who didn't encourage abortion. I thought you would talk to them, and you talked to the wrong person.''

It is amazing—but not amazing—that you can call a clinic, and depending on who you talk to is what kind of advice you are going to get as to whether to terminate your pregnancy or not. But I am, frankly, pleased that at least there are some counselors who will suggest other alternatives. Far too many do not in cases as severe as was confronting the Watts family.

In that conversation with their obstetrician, he advised the Watts to see a specialist in high-risk obstetrics. I can say that in conversations with the Watts, they were amazed at the attitude of the people they confronted.

The obstetrician, the original obstetrician, said that he could not take care of the baby anymore; it was too complicated. So they went and asked doctors at Johns Hopkins. They said they—well, they would not even see them. All they wanted to do was an abortion. They would not deliver the baby.

Then she went to Union Memorial Hospital, same thing. You hear so much talk about, well, we cannot get availability for abortions. How about availability for delivery?

She finally went to the University of Maryland Hospital in Baltimore. They were very quick to dismiss her also. They said the baby's chances for survival were nil, that she would be ''a burden, a heartache, and a sorrow.''

Where have we come in this country where we have so little respect for the little children among us who just may not be perfect, that they can be disposed of, that you can look into the eyes of a mother who desperately wants her child and tell her, ''It would just be a burden to you''?

I do not know of any child that is not at times a burden. Children are joys and struggles. I mean, that is just part of life. If you are not ready to have some burdens with your children, then you better not get pregnant in the first place and try to have children.

Where have we arrived?

She went through four separate occasions. They were discouraging her even from delivering her child, as desperately as she wanted to do so, not unlike what Viki Wilson ran into.

Lori Watts did not give up. Lori Watts finally found somebody who would do it, someone who was not going to say that it was a burden, a heartache, or a sorrow, or as the other doctors said, ''If you didn't abort, you would be jeopardizing your own fertility, your own health.''

So after all that treatment, they finally found someone who would do it.

In the process of the care, prior to the delivery, they found out that the fetus had occipital meningo-encephalocele, which is exactly again what Viki Wilson had. Part of the brain was developing outside of the skull.

There was an article from today's Washington Times, on page 2, about the Watts family. In that article, Mrs. Watts is quoted saying at this time in her life that ''everyone on the other side talks about choice, but they didn't want to give us a choice. They said they would not deliver her.''

Imagine, people wonder how far we have gone. People wonder how we can be debating partial-birth abortion on the floor of the U.S. Senate and have people get up and argue that it should be legal.

Listen to this. They would not even deliver her at four places—four places. They did finally find someone who would deliver the baby at the University of Maryland Hospital. They delivered through a cesarean section. The Watts' third daughter, Donna Joy—Donna, named after her dad, Donny; Joy, for obvious reasons—was born on November 26, 1991.

Yes, she was born with a lot of problems, a lot of serious problems. But let me describe to you what they had to confront now after they fought and did not give up to give their daughter a chance. Donna Joy was born with hydrocephaly.

That is a picture of her shortly after her birth.

For 3 days—for 3 days—they refused to drain the water off her brain. They said she was going to die, and so they refused to put a shunt in and drain the water. For 3 days they hydrated her, gave her fluids, but they did not feed her because they said she was going to die.

Mrs. Watts said in this article, ''The doctors wouldn't operate on her to save her life. I just about had to threaten one of the doctors physically. And I was seconds from throwing him against the wall. She was already born and they were still calling her a fetus.''

But Lori and Donny Watts did not give up. They did not cave in to what our culture around sick babies is any more, and they fought on. They had the surgery performed. They began the feeding. Initially, she fed the baby with breast milk in a sterilized eyedropper. Then, at 2 weeks of age, the shunt that was put in failed, and Donna Joy was readmitted to the hospital.

A tray of food was delivered by mistake to her room. It had some cereal and bananas and some baby formula on it. And so Lori decided that she would mix this together to form a paste, put it in an eyedropper, and place a drop in the back of Donna's tongue.

You see, Donna Joy was born with about 30 percent of her brain. Donna Joy was born without a functioning medulla oblongata, with a deformed brain stem. She had no control over her sphincter muscle, so things that were given to her would come straight back up. There was nothing to hold the food in her stomach. So Mrs. Watts came up with the idea of getting something that was heavy, pasty, and putting it way back. And it worked.

You want to talk about a burden and a joy? For the next several months, they had to feed Donna Joy that way. It took an hour and a half to feed their daughter; an hour-and-a-half break and then an hour-and-a-half feeding, 24 hours a day. She had to fight. She had to fight.

Four months later, a CT scan revealed she also suffered from lobarhaloprosencephaly, a condition that results in the incomplete cleavage of the brain.

She also suffered from epilepsy, a sleep disorder, and continuing digestive complications. The neurologist suggested that ''We may have to consider a gastronomy tube [a gastronomic tube] in order to maintain her nutrition and physical growth.''

She was suffering from apnea, a condition which spontaneously stops breathing.

At 18 months, Donna Joy had another brush with death. She contracted encephalitis, which is the inflammation of the brain. So a little girl, with 30 percent of her brain, who has to take medicine so she does not have seizures, hit with another problem of encephalitis.

As a result of high temperature—she had a 106 temperature—it was a big setback. Up until that time, she was developing along, using sign language. She was not talking, but she was communicating. That temperature wiped out, that encephalitis wiped out her memory. She could not walk or talk. She was laying in bed having all sorts of difficulty, could not focus on anybody, and had deteriorated substantially.

Then a miracle. Lori would tape shows late at night and put them on to give some diversion for Donna Joy to direct her attention. Nothing seemed to work, until one day a television show came on, a tape of a television show called Quantum Leap. The star of the show, Scott Bakula sings a song ''Somewhere in the Night.''

Upon hearing that song, she reacted as follows, according to the newspaper: ''The child stopped crying. Mrs. Watts rewound the piece and played it again. This time Donna sat up and tried crawling toward the television. The more she watched Quantum Leap the more Donna improved. She would only eat and drink when the TV character was on the screen. Just before she turned 2, she took her first steps toward Scott Bakula on the TV set.''

At 2 years, Donna Joy had already undergone eight brain operations, most of which occurred at the University of Maryland hospital. Finally, they received news about Donna Joy's prospects. The neurologist who examined her after her seizure in 1996 noted that at 4½ years of age Donna Joy could speak, walk, and handle objects fairly well. He also thanked a colleague for ''the kind approval for the follow-up in allowing me to reassess this beautiful young child who is, remarkably, doing very well in spite of significant malformation of the brain.''

Today, the story of Donna Joy Watts has inspired many, many people. She can do a lot in spite of her disabilities. She has cerebral palsy, epilepsy, tunnel vision, and Arnold-Chiari Type II malformation, which prevented development of her medulla oblongota. She walks, runs, plays. In fact, she was in my office most of the afternoon playing with my children. I know she has very good dexterity because we have Hershey kisses and Three Musketeer bars in the front of the office, and she can unwrap them as fast as any 5-year-old I have seen.

Prior to Donna Joy moving to Pennsylvania, the Governor of Maryland, Parris Glendenning, honored her with a Certificate of Courage commemorating her fifth birthday. The mayor of Hagerstown, MD, Steve Sager, proclaimed her birthday Donna Joy Watts Day. Members of the Scott Bakula fan club sent donations and Christmas presents for the Watts children. People from all over the world who learned about Donna Joy on the Internet have been moved to write and send gifts. Perhaps the most important is that the Watts' determination has inspired a Denver couple to fight for their little boy who was born with similar circumstances.

I asked the Watts if there are other children whom they know who have survived and done this well. Mrs. Watts looked back at me and said, ''Other children with this condition are aborted. We don't know. We don't know.'' We don't know the power of the human brain. I hear the story all the time about how you do not use all your brain. Well, I guess you do not need it all to be a functioning human being in our world. She is very functional.

There is a lot of talk that we need to have the abortions, particularly in the case of hydroencephaly to prevent future infertility. In June 1995, Lori and Donny Watts welcomed another child, Shaylah, into the family. Mrs. Watts looked at me very proudly and said, ''On the first try.''

I had the opportunity to walk over here with Donna Joy, hold her hand, ride the subway with her, go up the escalator, which was a big treat, and come up and be in the Senate gallery for only a brief time. She is now back in my office. I encourage anybody who would like to meet her, any one of my colleagues, I encourage all of them to go and talk to the Watts family and to look into the eyes of this little girl, this little girl who could have died through a partial-birth abortion. You want a face on partial-birth abortions? All of the faces are not here to be seen. They die. Brutal. This is the little girl who was saved from partial-birth abortion at 5½ years of age.

I will read the end of Tony Snow's article about this situation of the Watts. Lori and her husband, both children of steelworkers, had to overcome the contempt of snobbish doctors and social workers as they painstakingly built their own miracle. They never got any help from feminists, liberal Democrats or the President. These days, Don works the 4 p.m.-to-midnight shift in the local corrections facilities so he can spend time with his four kids. Lori educates them in the evening while he is gone. Unfortunately, they went bankrupt a couple years ago and have moved to Pennsylvania, Greencastle, a beautiful community in Franklin County, where they live in a 2-bedroom bungalow on a friend's farm.

As for choice, here is what Lori has to say: ''Choice they didn't give me. I had to beg for a choice. Why did I have to go out of my way when they wanted to kill my baby, when they didn't want to operate or feed her? I didn't get to choose anything.''

As I mentioned earlier today, I rose and asked unanimous consent to have little Donna Joy Watts sit up there with her mom and dad and watch this proceeding and watch Members debate whether we are going to allow a procedure that could have been used to kill her still be legal in this country. When I asked for that unanimous consent, the Senator from California, Senator BOXER, objected. Donna Joy Watts is only 5½ years of age, although I suggest she has lived a lot in those 5½ years. But you have to be 6 years of age to sit in the Senate gallery unless you can get unanimous consent in the Senate to do otherwise, and Senator BOXER rose and objected. She said, and I quote, ''I think I am acting in the best interests of that child.'' Oh, how many times has Lori Watts heard that? How many people have said to her, ''I am doing this for the best interests of your child.'' But she did not listen to them. If she had listened to them she would not be here today, sitting here in Washington, and Donna Joy would not be on this Earth. Thank God Lori did not listen to all of the voices, thank God Donny didn't listen to all of the voices that said, ''I think I'm acting in the best interests of your child.''

There is no reason—there is no reason—for the conditions that the Senator from California outlined as medically necessary reasons to do partial-birth abortions. There is no reason. Those are not good reasons. Here is an example of why it is not a good reason. You do not have to kill the baby. You can deliver the baby. You can do a cesarean section. You may at times—in this case, it was not the case—you may at times have to separate the mother from the child, but you never have to kill the child in the process. You do not have to do it.

So for all the arguments out there, for all the people who wanted to have a face, that is a beautiful face. It is a beautiful addition, a beautiful contribution to the human spirit. Does it not make you just feel good to know that people love their children so much, love life and respect it so much, that they will get up every 3 hours for an hour and a half every day to feed their children painstakingly one drop at a time? It ennobles us all. It lifts us all up.

What is the alternative? Death, destruction of a little baby. I do not see how that elevates any of us. How does that add to the human condition? How does that improve the quality of life in America? How are we ennobling our culture by this? How are we standing as a civilization on righteousness with this? There are beautiful tales to be told. Just give these children a chance.

That is what this bill does. It outlaws a barbaric procedure that is never, never, never, never, never necessary. Hold that thought. Believe that truth, then ask yourself why, why do we have people on the floor of the U.S. Senate, the greatest deliberative body on the face of the Earth, defending such cruelty, such barbarism, to some of the most vulnerable among us?

I yield the floor.

Mr. FRIST addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. FRIST. Madam President, I rise today to speak on the issue of partial-birth abortions. We know that public opinion on abortion is deeply divided, and reasoned debate too often degenerates into the shouted distortions of polarized parties. As elected leaders, we have a responsibility to resist the temptation of knee-jerk politics and carefully sift the facts from among the chaff of many fictions.

Americans, pro-life and pro-choice, Democrat and Republican, have united in opposition to partial-birth abortions because this issue transcends the politics of abortion. As a society, we have been shocked to realize we have allowed doctors to perform a procedure that is a mere 3 inches from infanticide. The nature of this brutal procedure has so shocked us that many pro-choice Americans fear that women and their circumstances will be forgotten in a backlash.

Fear has driven many activists to turn to deception for a defense. Understandable possibly, but unfortunate. As a physician, I know that women's health will never be served in the long term by myth and by deceit. Therefore, as we debate this procedure this afternoon, this evening, and tomorrow, I appeal to my colleagues to represent the facts accurately. Again and again, we have had to come to the floor to address the fallacies perpetuated by the opponents of the ban.

As a case in point, I would like to read an excerpt to illustrate the first myth, the myth that we have heard again and again, and the myth is that partial-birth abortion is necessary to preserve the health of the mother.

This myth really has been used as the primary objection, to the ban on partial-birth abortion. President Clinton has cited the absence of a health exception as his primary reason for carrying out the veto of the ban last year. In an Associated Press interview on December 13, 1996, President Clinton described a hypothetical situation where, without a partial-birth abortion, a woman could not ''preserve the ability to have further children.'' He said that he would not ''tell her that I am signing a law which will prevent her from having another child. I am not going to do it.''

The scenario described by President Clinton is heart wrenching, and is something that people listen to. It grabs their attention. But his claim about partial-birth abortion is entirely fictional. Partial-birth abortion is never necessary to preserve the health of a woman.

The College of Obstetricians and Gynecologists recently issued a statement admitting that their select panel on partial-birth abortion ''could identify no circumstances under which this procedure would be the only option to save the life or preserve the health of the mother.''

Madam President, I ask unanimous consent to have printed into RECORD the entire statement of policy.

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

ACOG STATEMENT OF POLICY AS ISSUED BY THE ACOG EXECUTIVE BOARD

STATEMENT ON INTACT DILATATION AND EXTRACTION

The debate regarding legislation to prohibit a method of abortion, such as the legislation banning ''partial birth abortion,'' and ''brain sucking abortions,'' has prompted questions regarding these procedures. It is difficult to respond to these questions because the descriptions are vague and do not delineate a specific procedure recognized in the medical literature. Moreover, the definitions could be interpreted to include elements of many recognized abortion and operative obstetric techniques.

The American College of Obstetricians and Gynecologists (ACOG) believes the intent of such legislative proposals is to prohibit a procedure referred to as ''Intact Dilatation and Extraction'' (Intact D & X). This procedure has been described as containing all of the following four elements: (1) deliberate dilatation of the cervix, usually over a sequence of days; (2) instrumental conversion of the fetus to a footling breech; (3) breech extraction of the body excepting the head; and (4) partial evacuation of the intracranial contents of a living fetus to effect vaginal delivery of a dead but otherwise intact fetus.

Because these elements are part of established obstetric techniques, it must be emphasized that unless all four elements are present in sequence, the procedure is not an intact D & X.

Abortion intends to terminate a pregnancy while preserving the life and health of the mother. When abortion is performed after 16 weeks, intact D & X is one method of terminating a pregnancy. The physician, in consultation with the patient, must choose the most appropriate method based upon the patient's individual circumstances.

According to the Centers for Disease Control and Prevention (CDC), only 5.3% of abortions performed in the United States in 1993, the most recent data available, were performed after the 16th week of pregnancy. A prelimary figure published by the CDC for 1994 is 5.6%. The CDC does not collect data on the specific method of abortion, so it is unknown how many of these were performed using intact D & X. Other data show that second trimester transvaginal instrumental abortion is a safe procedure.

Terminating a pregnancy is performed in some circumstances to save the life or preserve the health of the mother. Intact D & X is one of the methods available in some of these situations. A select panel convened by ACOG could identify no circumstances under which this procedure, as defined above, would be the only option to save the life or preserve the health of the woman. An intact D & X, however, 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. The potential exists that legislation prohibiting specific medical practices, such as intact D & X, may outlaw techniques that are critical to the lives and health of American women. The intervention of legislative bodies into medical decision making is inappropriate, ill advised, and dangerous.

Mr. FRIST. Madam President, in addition, the AMA task force entitled ''The Report of the Board of Trustees,'' convened on this very issue, concluded that ''There does not appear to be any identified situation in which intact D&X''—their attempt to coin a phrase the procedure we call partial birth abortion—''is the only appropriate procedure to induce abortion,'' and they admitted that ''ethical concerns have been raised about intact D&X.''

Madam President, I will read the second myth. It comes directly from a Planned Parenthood press release. It says: ''The D&X abortion is a rare and difficult medical procedure. It is usually performed in the most extreme cases to save the life of the woman or in cases of severe fetal abnormalities.''

That is taken from Allen Rosenfeld, dean of the Columbia School of Public Health, Planned Parenthood Federation of America, press release of June 15, 1995.

This simply is not true. I direct my colleagues' attention to the recent admissions of Ronald Fitzsimmons, executive director of the National Coalition of Abortion Providers. Mr. Fitzsimmons has shown amazing integrity and courage by stepping forward and really coming clean on this misinformation campaign surrounding this bill. While he himself opposes and is very adamant when he speaks to all of us that he opposes the ban on philosophical reasons, he admits that he ''lied through his teeth'' when he said that partial-birth abortion was used rarely and only on women whose lives were in danger or whose fetuses were damaged.

He said he just went out there to ''spout the party line.'' In a recent American Medical News article in March of 1997, he explained that he could no longer justify lying to the American people, saying, ''You know they're primarily done on healthy women and healthy fetuses, and it makes you feel like a dirty little abortionist with a dirty little secret.''

I admire him for his integrity in coming forth.

Let me quote another partial-birth practitioner, Dr. James McMahon. He aborted nine babies simply because they had a cleft lip. Many others, at

least 39, were aborted because of the psychological and emotional health of the mother, despite the advanced gestational age and health of the child. Another practitioner, Dr. Martin Haskell claims that 80 percent of the partial-birth abortions he performed were for ''purely elective'' reasons.

So, in summary, we can categorically dismiss claims that the procedure is necessary for the health of the mother and that most of these babies are severely deformed.

Women always have safe and effective alternatives to partial-birth abortion in any trimester. The Washington Post put it this way: ''It is possible—and maybe even likely—that the majority of these abortions are performed on normal fetuses, not on fetuses suffering genetic or developmental abnormalities. Furthermore, in most cases where the procedure is used, the physical health of the woman * * * is not in jeopardy.''

That is from the Washington Post of September 17, 1996.

I submit that part of the confusion on this issue is due to the deliberate manipulation of the collective sympathy that we all have when we talk about the health of the mother. When the President of the United States defends his veto of the partial-birth abortion ban on the grounds that he wants to protect women's health, most people assume that he is talking about women's physical health. I imagine that most Americans would actually be surprised to learn that babies in the late second and early third trimesters may be legally aborted for reasons other than the life and/or the physical health of the mother. What the President does not tell you is that under Doe versus Bolton, a 1973 Supreme Court case, health is defined to include ''all factors—physical, emotional, psychological, familial, and a woman's age—relevant to the well-being of the patient.''

A broad definition of health.

People in the abortion industry understand that there are many late-term abortions performed for social reasons as well as health reasons. A 1993 National Abortion Federation internal memorandum acknowledged, ''There are many reasons why women have later abortions,'' and they include ''lack of money or health insurance, social-psychological crises, lack of knowledge about human reproduction, et cetera.'' So when you see legislation come to the floor of the U.S. Senate to allow late-term abortions if the mother's health is at risk, just remember how health is being defined—so broadly that you can drive a truck through it.

Unfortunately, opponents of the bill don't stop there. You will hear a third carefully crafted myth that goes something like this.

This procedure, if not wildly accepted, could possibly be the best procedure in a particular woman's situation.

As a physician, I have a sworn commitment to preserve the life and health of every single patient. So I have taken the liberty of calling and checking with people around the country, checking with key obstetricians and abortion providers all across this Nation. From the outset, I will admit that it has been difficult for me to imagine how a procedure that is not taught in residency programs where obstetricians are trained—it is not taught today; it is not referenced in our peer review journals, which is really the substance, the literature through which we teach each other, and share information; it is not in peer review journals—it is a little bit hard for me to understand how people could argue that this is the best procedure available. Really until the recent controversy, many practitioners who you talk to had never heard of this particular procedure.

On the other hand, a lot of my medical colleagues—they rightly fear the Government coming in and trying to control everything that they do in their practice—have said that this procedure could be the best alternative in a given situation. They have not endorsed it. They have not listed specific medical indications for the procedure, and they have not even recommended that it be used in most circumstances, but they have said—again, with this great fear that the Federal Government will come in and control everything that they do—that the physician should retain the right to use this procedure if a circumstance should hypothetically arise in which an individual might think it is the best option.

But when questioned about this very specific issue, the ACOG president of the Society of Obstetricians and Gynecologists, Dr. Fredric Frigoletto, maintains that, ''There are no data to say that one of the procedures is safer than the other.'' When asked why the statement then said that the procedure ''may be the best'' in some cases, Dr. Frigoletto answered, ''or it may not be.''

That interview is from the American Medical News, March 3, 1997.

Moreover, Dr. Warren Hern, author of the textbook Abortion Practice, the Nation's really most widely used textbook on abortion procedures and abortion standards, said, ''I have very serious reservations about this procedure * * * You really can't defend it * * * I would dispute any statement that this is the safest procedure to use.''

Dr. Hern specializes in late-term abortions.

Incidentally, Madam President, I would like to note that it is difficult from a medical perspective to categorically describe late-term surgical abortions as the best option. In the first place, medical, nonsurgical, late-term abortion methods are generally regarded as superior to surgical methods.

Second, the National Abortion Federation concedes that at this point in time residents may not receive enough training in abortion to ''be truly competent.''

Third, Dr. Haskell who, is considered to be one, if not the creator, of the creators of the procedure we are talking about, specifically acknowledged in his paper that a disadvantage of the partial-birth procedure was that it requires a ''high degree of surgical skill.''

So let me just recap briefly. You have a brutal, basically repulsive procedure designed to kill a living infant outside of the birth canal—except for the head. Leading providers of women's obstetrical and gynecological services condemn it. They recommend it not be used. They refuse to endorse it. They highlight its risks, and say that there are other safe and effective alternatives available. But for political reasons—and I understand the politics involved—they urge us not to ban it because that would be violating the sanctity of the physician-patient relationship.

Madam President, as a physician and as a father, I submit that any provider who performs a partial-birth abortion has already violated that sanctity of the physician-patient relationship.

Another myth: Medical procedures should never, under any circumstances, be criminalized.

It is a myth that I thought about. I would like to defer to this matter to the American Medical Association which concedes that there are circumstances where Government intervention, even in the form of criminalization of specific medical procedures, is appropriate.

I am quoting now from the letter of AMA Executive Vice President P. John Seward, M.D., to Representative CARDIN: He says:

> AMA's generic policy calls for opposition to the criminalization of medical procedures and practices. Therefore, on the surface, it would seem obvious for the AMA to oppose this bill. However, our policy cannot be applied without context. For example, the AMA has a strong ethical and policy position against . . . the practice some have called ''physician-assisted suicide'' and we have opposed efforts to legalize such activities even though current law could be considered the criminalization of a medical procedure.

The context in the case of partial-birth abortion, as in the case of physician-assisted suicide, is the time-honored Hippocratic principle, ''First do no harm.'' An additional component of the context is the reality that this procedure is not endorsed by the medical academy, and is made unnecessary by other widely used, safe and effective options.

Those of us in this room have followed this debate for 2 years now, some for much longer. From day one, there has been a pattern of manipulation, deception, misinformation, and coverup; even at the risk of harming women's health.

There is one final myth that has been perpetuated, and then I will yield the floor.

Those of us in opposition to the partial-birth abortion have had to dispel the notion—actually dangerous to women's health—that their babies

would be killed if they took anesthesia for any reason during pregnancy.

Let me quote again from some pro-choice literature trying to appease women's fears about partial-birth abortion by asserting that the baby is already dead when the doctor plunges the scissors into the back of the baby's head.

''The fetus dies of an overdose of anesthesia given to the mother intravenously.''

That is from a Planned Parenthood fact sheet.

No. 2. ''Neurological fetal demise is induced, either before the procedure begins or early on in the procedure, by the steps taken to prepare the woman for surgery.''

That is from the National Abortion Federation news release July 1995. It is simply not true. I will turn to the president of the American Society of Anesthesiologists who personally came to Capitol Hill to refute this argument, and he basically, in testifying before the Senate Judiciary Committee, said that intravenous anesthesia would not kill the baby. He said:

''In my medical judgment, it would be necessary in order to achieve neurological demise of the fetus in a partial-birth abortion to anesthetize the mother to such a degree as to place her own health in serious jeopardy.''

Now, in closing, we have heard many eloquent statements today, and we will likely hear them tomorrow, in defense of this brutal and inhumane procedure, but in the words of the great poet Milton, ''All is false and hollow.'' Despite the preponderance of evidence, we are compelled to again listen to arguments designed solely to ''make the worse appear the better reason,'' and we must continue to address deceptions designed to ''perplex and dash'' honest counsel. There is no excuse at this stage of the game for not knowing the truth, the absolute truth. There is no room—no room any longer to pretend that this procedure is necessary for the health of the mother or that it might be the best. It is time, as Mr. Fitzsimmons so plainly put it, for ''the [abortion] movement to back away from the spins and half truths.''

Partial-birth abortions cannot and should not be categorized with other medical procedures or even other abortions. They should not be allowed in a civilized country. With the reintroduction of the partial-birth abortion ban legislation in the Senate, we have the opportunity to right now to right a wrong, and now once again the American people are calling on us to listen not to political advisers, not to radical interest groups—but to our conscience. It will take moral courage to put a stop to the propaganda, but we all have the means at our disposal to do the right thing. For the sake of women, for the sake of their children, and for the sake of our future as a society, we must put a stop once and for all to partial-birth abortion.

I yield the floor.

(Mr. FAIRCLOTH assumed the chair.)

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

I do not doubt that the President made that statement about the rarity of the procedure and its utility, relying in good faith on information provided at the time by certain organizations involved in this debate. We now know, however, that the information given the President was of questionable value, if not downright inaccurate.

A number of pro-abortion organizations, for example, had suggested that partial-birth abortions totaled only about 500 a year and that they were limited to very serious and tragic cases where there was no alternative.

This is how the Planned Parenthood Federation of America characterized partial-birth abortion in a November 1, 1995, news release: ''The procedure, dilation and extraction (D&X), is extremely rare and done only in cases when the woman's life is in danger or in cases of extreme fetal abnormality.'' Let me quote that again, done only—only—in cases when the woman's life is in danger or in cases of extreme fetal abnormality.

The organization repeated this several times. In a press release issued on March 26, 1996, Planned Parenthood said, ''The truth is that the D&X procedure is only used when the woman's life or health is in danger or in cases of extreme fetal anomaly.'' The statement is absolute: the procedure is only used under these conditions, said the organization.

In fairness, I will point out that Planned Parenthood was not the only group to make such sweeping statements at that time.

Within the last few months, however, the story has started to unravel. On February 26, the New York Times reported that Ron Fitzsimmons, executive director of the National Coalition of Abortion Providers, admitted he ''lied in earlier statements when he said [partial-birth abortion] is rare and performed primarily to save the lives or fertility of women bearing severely malformed babies.'' According to the Times, ''He now says the procedure is performed far more often than his colleagues have acknowledged, and on healthy women bearing healthy fetuses.''

Mr. Fitzsimmons told American Medical News the same thing—that is, the vast majority of these abortions are performed in the 20-plus week range on healthy fetuses and healthy mothers. He said, ''The abortion rights folks know it, the anti-abortion folks know it, and so, probably, does everyone else.''

I ask unanimous consent that the full text of the New York Times and the American Medical News articles be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. KYL. Mr. President, Ron Fitzsimmons' admission is really not all that surprising. Even at the time of the debate in the Senate last year, the preponderance of evidence suggested that the procedure was more common than some of its defenders wanted the public and Congress to believe. Consider, for example, that Dr. Martin Haskell, who authored a paper on the subject for the National Abortion Federation, said in a 1993 interview with American Medical News, ''in my particular case, probably 20 percent—of the instances of this procedure—are for genetic reasons. And the other 80 percent are purely elective.'' He suggested at the time that an estimate of about 4,000 partial-birth abortions a year was probably accurate.

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

The Record of Bergen County, NJ published an investigative report on the issue last year and reported that in New Jersey alone, at least 1,500 partial-birth abortions are performed annually, far more than the 450 to 500 such abortions that the National Abortion Federation said were occurring across the entire country.

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

Mr. President, evidence overwhelmingly indicates that partial-birth abortions are performed far more often than President Clinton suggested when he vetoed the Partial-Birth Abortion Ban Act last year. But what about his comments about the need to protect the life and health of the mother?

Here is what the former Surgeon General of the United States, Dr. C. Everett Koop—a man who President Clinton singled out for praise as someone trying ''to bring some sanity into the health policy of this country''—had to say on the subject. He said that ''partial-birth abortion is never medically necessary to protect a mother's health or future fertility. On the contrary, this procedure can pose a significant threat to both.''

That is consistent with testimony that the Judiciary Committee received in late 1995 from other medical experts. Dr. Nancy Romer, a practicing ob-gyn

from Ohio, testified that in her 13 years of experience, she never felt compelled to recommend this procedure to save a woman's life. ''In fact,'' she said, ''if a woman has a serious, life threatening, medical condition this procedure has a significant disadvantage in that it takes three days.''

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

The American College of Obstetricians and Gynecologists, which, many will recall, supported the President's veto last year, was quoted by columnist Charles Krauthammer on March 14 as conceding that there are ''no circumstances under which this procedure would be the only option to save the life of the mother and preserve the health of the woman.'' I would point out that, in the event that a doctor determined that a partial-birth abortion was the only procedure available to save a woman's life, he should or could proceed since the legislation includes a life-of-the-mother exception.

Mr. President, I know that there are several other concerns that have been expressed about the legislation. For example, some have questioned its constitutionality, and that is a legitimate question. Of course, we all can speculate about how the U.S. Supreme Court might rule on the matter. But as Harvard Law School Professor Lawrence Tribe noted in a November 6, 1995 letter to Senator BOXER, there are various reasons ''why one cannot predict with confidence how the Supreme Court as currently composed would rule if confronted with [the bill].'' He noted that the Court has not had any such law before it. And he noted that ''although the Court did grapple in 1986 with the question of a State's power to put the health and survival of a viable fetus above the medical needs of the mother, it has never directly addressed a law quite like [the Partial-Birth Abortion Ban Act].''

Mr. President, neither Roe versus Wade nor any subsequent Supreme Court case has ever held that taking the life of a child during the birth process is a constitutionally protected practice. In fact, the Court specifically noted in Roe that a Texas statute that—making killing a child during the birth process a felony—had not been challenged. That portion of the law is still on the books in Texas today.

Remember what we are talking about here: ''an abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery.'' That is the definition of a partial-birth abortion in the pending legislation.

So we are talking about a child whose body, save for his or her head, has been delivered from the mother—that is, only the head remains inside. No matter what legal issues are involved, I hope no one will forget that we are talking about a live child who is already in the birth canal and indeed has been partially delivered.

Even if the Court did somehow find that a partially delivered child is not constitutionally protected, the Partial-Birth Abortion Ban Act could still be upheld under Roe and Planned Parenthood of Southeastern Pennsylvania versus Casey. Under both Roe and Casey, the Government may prohibit abortion after viability, except when necessary to protect the life or health of the mother. As I indicated earlier in my remarks, medical experts, including the former Surgeon General, Dr. C. Everett Koop, have said that this procedure is never medically necessary to protect a mother's health or future fertility. Others have even questioned its safety, calling it ''potentially dangerous.''

By contrast, in cases prior to viability, Casey allows regulation of abortion that is reasonably related to a legitimate State interest, unless the regulation places an ''undue burden'' on a woman's right to choose an abortion. But as I just indicated, the pending bill would only ban one type of procedure, involving the partial delivery of a child before it is killed. Other procedures would still be available if a woman's health were threatened. And the bill would allow a doctor to proceed with a partial-birth abortion if the woman's life were threatened.

Mr. President, Notre Dame's Professor of Constitutional Law, Douglas W. Kmiec, made the point in testimony before the Judiciary Committee on November 17, 1995, that ''even in Roe the Court explicitly rejected the argument that a woman 'is entitled to terminate her pregnancy at whatever time, in whatever way, and for whatever reason she alone chooses' [410 U.S. at 153].'' Professor Kmiec went on to note that under Casey, there is an elementary difference between banning all abortions and banning one procedure that medical testimony indicates is not at all necessary to save a mother's life.

Mr. President, although I believe the law would be upheld by the Court, I will concede that no one can say with certainty how the Supreme Court will rule until it has ruled. Until then, I suggest that we not use that as an excuse to avoid doing what we believe is right.

Mr. President, the other issue I want to address briefly before closing involves the question of when this procedure is performed. Some people, suggesting a way to compromise on the legislation, are now focusing on the third trimester, proposing that limitations on the procedure be restricted to that time period. Of course, all of the evidence suggests that the vast majority of partial-birth abortions—some 90 percent—occur during the second trimester of pregnancy. And as Ron Fitzsimmons put it, they are performed for the most part on healthy women and healthy babies.

A third-trimester partial-birth abortion ban would be a hollow gesture at best, and at worst, a cynical hoax on an American public that is outraged at the barbarity of this procedure.

It seems to me that a third-trimester limitation is merely a way for defenders of the status quo to make it appear that they are doing something to end this horrifying procedure without doing anything at all.

Mr. President, the spotlight is on this body. The facts are on the table. Let us do what is right and put a stop to what our colleague, Senator DANIEL PATRICK MOYNIHAN, has appropriately characterized as infanticide. Let us pass this bill.

EXHIBIT I

[From the New York Times, Feb. 26, 1997]

AN ABORTION RIGHTS ADVOCATE SAYS HE LIED ABOUT PROCEDURE

(By David Stout)

WASHINGTON.—A prominent member of the abortion rights movement said today that he lied in earlier statements when he said a controversial form of late-term abortion is rare and performed primarily to save the lives or fertility of women bearing severely malformed babies.

He now says the procedure is performed far more often than his colleagues have acknowledged, and on healthy women bearing healthy fetuses.

Ron Fitzsimmons, the executive director of the National Coalition of Abortion Providers, said he intentionally misled in previous remarks about the procedure, called intact dilation and evacuation by those who believe it should remain legal and ''partial-birth abortion'' by those who believe it should be outlawed, because he feared that the truth would damage the cause of abortion rights.

But he is now convinced, he said, that the issue of whether the procedure remains legal, like the overall debate about abortion, must be based on the truth.

In an article in American Medical News, to be published March 3, and an interview today, Mr. Fitzsimmons recalled the night in November 1995, when he appeared on ''Nightline'' on ABC and ''lied through my teeth'' when he said the procedure was used rarely and only on women whose lives were in danger or whose fetuses were damaged.

''It made me physically ill,'' Mr. Fitzsimmons said in an interview. ''I told my wife the next day, 'I can't do this again.'''

Mr. Fitzsimmons said that after that interview he stayed on the sidelines of the debate for a while, but with growing unease. As much as he disagreed with the National Right to Life Committee and others who oppose abortion under any circumstances, he said he knew they were accurate when they said the procedure was common.

In the procedure, a fetus is partly extracted from the birth canal, feel first, and the brain is then suctioned out.

Last fall, Congress failed to override a Presidential veto of a law that would have banned the procedure, which abortion opponents insist borders on infanticide and some abortion rights advocates also believe should be outlawed as particularly gruesome. Polls have shown that such a ban has popular support.

Senator Tom Daschle of South Dakota, the Democratic leader, has suggested a compromise that would prohibit all third-trimester abortions, except in cases involving

the ''life of the mother and severe impairment of her health.''

The Right to Life Committee and its allies have complained repeatedly that abortion-rights supporters have misled politicians, journalists and the general public about the frequency and the usual circumstances of the procedure.

''The abortion lobby manufactures disinformation,'' Douglas Johnson, the committee's legislative director, said today. He said Mr. Fitzsimmon's account would clarify the debate on this procedure, which is expected to be renewed in Congress.

Mr. Fitzsimmons predicted today that the controversial procedure would be considered by the courts no matter what lawmakers decide.

Last April, President Clinton vetoed a bill that would have outlawed the controversial procedure. There were enough opponents in the House to override his veto but not in the Senate. In explaining the veto, Mr. Clinton echoed the argument of Mr. Fitzsimmons and his colleagues.

''There are a few hundred women every year who have personally agonizing situations where their children are born or are about to be born with terrible deformities, which will cause them to die either just before, during or just after childbirth,'' the President said. ''And these women, among other things, cannot preserve the ability to have further children unless the enormity—the enormous size of the baby's head—is reduced before being extracted from their bodies.'' A spokeswoman for Mr. Clinton said tonight that the White House knew nothing of Mr. Fitzsimmons's announcement and would not comment further.

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, Mr. Fitzsimmons said. ''The abortion-rights folks know it, the anti-abortion folks know it, and so, probably, does everyone else,'' he said in the article in the Medical News, an American Medical Association publication.

Mr. Fitzsimmons, whose Alexandria, Va., coalition represents about 200 independently owned clinics, said coalition members were being notified of his announcement.

One of the facts of abortion, he said, is that women enter abortion clinics to kill their fetuses. ''It is a form of killing,'' he said. ''You're ending a life.''

And while he said that troubled him, Mr. Fitzsimmons said he continues to support this procedure and abortion rights in general.

[From the American Medical News, Mar. 3, 1997]

MEDICINE ADDS TO DEBATE ON LATE-TERM ABORTION—ABORTION RIGHTS LEADER URGES END TO ''HALF TRUTHS''

(By Diane M. Gianelli)

WASHINGTON—Breaking ranks with his colleagues in the abortion rights movement, the leader of one prominent abortion provider group is calling for a more truthful debate in the ongoing battle over whether to ban a controversial late-term abortion procedure.

In fact, Ron Fitzsimmons, executive director of the National Coalition of Abortion Providers, said he would rather not spend his political capital defending the procedure at all. There is precious little popular support for it, he says, and a federal ban would have almost no real-world impact on the physicians who perform late-term abortions or patients who seek them.

''The pro-choice movement has lost a lot of credibility during this debate, not just with the general public, but with our pro-choice friends in Congress,'' Fitzsimmons said. ''Even the White House is now questioning the accuracy of some of the information given to it on this issue.''

He cited prominent abortion rights supporters such as the Washington Post's Richard Cohen, who took the movement to task for providing inaccurate information on the procedure. Those pressing to ban the method call it ''partial birth'' abortion, while those who perform it refer to it as ''intact'' dilation and extraction (D&X) or dilation and evacuation (D&E).

What abortion rights supporters failed to acknowledge, Fitzsimmons said, is that the vast majority of these abortions are performed in the 20-plus week range on healthy fetuses and healthy mothers. ''The abortion rights folks know it, the anti-abortion folks know it, and so, probably, does everyone else,'' he said.

He knows it, he says, because when the bill to ban it came down the pike, he called around until he found doctors who did them.

''I learned right away that this was being done for the most part in cases that did not involve those extreme circumstances,'' he said.

The National Abortion Federation's Vicki Saporta acknowledged that ''the numbers are greater than we initially estimated.''

As for the reasons, Saporta said, ''Women have abortions pre-viability for reasons that they deem appropriate. And Congress should not be determining what are appropriate reasons in that period of time. Those decisions can only be made by women in consultation with their doctors.''

BILL'S REINTRODUCTION EXPECTED

Rep. Charles Canady (R. Fla.) is expected to reintroduce legislation this month to ban the procedure.

Those supporting the bill, which was also introduced in the Senate, inevitably evoke winces by graphically describing the procedure, which usually involves the extraction of an intact fetus, feet first, through the birth canal, with all but the head delivered. The physician then forces a sharp instrument into the base of the skull and uses suction to remove the brain. The procedure is usually done in the 20- to 24-week range, though some providers do them at later gestations.

Abortion rights activists tried to combat the images with those of their own, showing the faces and telling the stories of particularly vulnerable women who have had the procedure. They have consistently claimed it is done only when the woman's life is at risk or the fetus has a condition incompatible with life. And the numbers are small, they said, only 500 to 600 a year.

Furthermore, they said, the fetus doesn't die violently from the trauma to the skull or the suctioning of the brain, but peacefully from the anesthesia given to the mother before the extraction even begins.

The American Society of Anesthesiologists debunked the latter claim, calling it ''entirely inaccurate.'' And activists' claims about the numbers and reasons have been discredited by the very doctors who do the procedures. In published interviews with such newspapers as American Medical News, The Washington Post and The Record, a Bergen County, N.J., newspaper, doctors who use the technique acknowledged doing thousands of such procedures a year. They also said the majority are done on healthy fetuses and healthy women.

The New Jersey paper reported last fall that physicians at one facility perform an estimated 3,000 abortions a year on fetuses between 20 and 24 weeks, of which at least half are by intact D&E. One of the doctors was quoted as saying, ''we have an occasional amnio abnormality, but it's a minuscule amount. 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.''

A Washington Post investigation turned up similar findings.

'SPINS AND HALF-TRUTHS'

Fitzsimmons says it's time for his movement to back away from the ''spins'' and ''half-truths.'' He does not think abortion rights advocates should ever apologize for performing the procedure, which is what he thinks they are doing by highlighting only the extreme cases.

''I think we should tell them the truth, let them vote and move on,'' he said.

Charlotte Taft, the former director of a Dallas abortion clinic who provides abortion counseling near Santa Fe, N.M., is one of several abortion rights activists who share many of Fitzsimmons' concerns.

''We're in a culture where two of the most frightening things for Americans are sexuality and death. And here's abortion. It combines the two,'' Taft said.

She agrees with Fitzsimmons that a debate on the issue should be straight-forward. ''I think we should put it on the table and say, 'OK, this is what we're talking about: When is it OK to end these lives? When is it not? Who's in charge? How do we do it? These are hard questions, and yet if we don't face them in that kind of a responsible way, then we're still having the same conversations we were having 20 years ago.''

Fitzsimmons thinks his colleagues in the movement shouldn't have taken on the fight in the first place. A better bet, he said, would have been ''to roll over and play dead, the way the right-to-lifers do with rape and incest.'' Federal legislation barring Medicaid abortion funding makes exceptions to save the life of the mother and in those two cases.

Fitzsimmons cites both political and practical reasons for ducking the fight. ''We're fighting a bill that has the support of, what, 78% of the public? That tells me that we have a PR problem,'' he said, pointing out that several members of Congress who normally support abortion rights voted to ban the procedure the last time the measure was considered.

From a practical point of view, it also ''wasn't worth going to the mat on. . . . I don't recall talking to any doctor who said, 'Ron you've got to save us on this one. They can't outlaw this. It'd be terrible.' No one said that.''

He added that ''the real-world impact on doctors and patients is virtually nil.'' Doctors would continue to see the same patients, using an alternative abortion method.

In fact, many of them already do a variation on the intact D&E that would be completely legal, even if the bill to outlaw ''partial birth'' abortions passed. In that variation, the physician makes sure the fetus is dead before extracting it from the birth canal. The bill would ban only those procedures in which a live fetus is partially vaginally delivered.

Lee Carhart, MD, a Bellevue, Neb., physician, said last year that he had done about 5,000 intact D&Es, about 1,000 during the past two years. He induces fetal death by injecting digoxin or lidocaine into the fetal sac 72 hours before the fetus is extracted.

DAMAGE CONTROL

Fitzsimmons also questions whether a ban on an abortion procedure would survive constitutional challenge. In any event, he concludes that the way the debate was fought by his side ''did serious harm'' to the image of abortion providers.

''When you're a doctor who does these abortions and the leaders of your movement appear before Congress and go on network

news and say these procedures are done in only the most tragic of circumstances, how do you think it makes you feel? You know they're primarily done on healthy women and healthy fetuses, and it makes you feel like a dirty little abortionist with a dirty little secret.''

Saporta says her group never intended to send this message to doctors.

''We believe that abortion providers are in fact maligned and we work 24 hours a day to try to make the public and others understand that these are heroes who are saving women's lives on a daily basis,'' she said.

When Fitzsimmons criticizes his movement for its handling of this issue, he points the finger at himself first. In November 1995, he was interviewed by ''Nightline'' and, in his own words, ''lied,'' telling the reporter that women had these abortions only in the most extreme circumstances of life endangerment or fetal anomaly.

Although much of his interview landed on the cutting room floor, ''it was not a shining moment for me personally,'' he said.

After that, he stayed out of the debate.

DON'T GET ''SIDETRACKED'' BY SPECIFICS

While Fitzsimmons is one of the few abortion rights activists openly questioning how the debate played out, it is clear he was not alone in knowing the facts that surround the procedure.

At a National Abortion Federation meeting held in San Francisco last year, Kathryn Kohlbert, one of the chief architects of the movement's opposition to the bill, discussed it candidly.

Kohlbert, vice president of the New York-based Center for Reproductive Law and Policy, urged those attending the session not to get ''sidetracked'' by their opponent's efforts to get them to discuss the specifics of the procedure.

''I urge incredible restraint here, to focus on your message and stick to it, because otherwise we'll get creamed,'' Kohlbert told the group.

''If the debate is whether the fetus feels pain, we lose. If the debate in the public arena is what's the effect of anesthesia, we'll lose. If the debate is whether or not women ought to be entitled to late abortion, we probably will lose.

''But if the debate is on the circumstances of individual women . . . and the government shouldn't be making those decisions, then I think we can win these fights,'' she said.

PUBLIC REACTION

The abortion rights movement's newest strategy in fighting efforts to ban the procedure is to try to narrow the focus of the debate to third-trimester abortions, which are far fewer in number than those done in the late second trimester and more frequently done for reasons of fetal anomaly.

When the debate shifts back to ''elective'' abortions done in the 20- to 24-week range, the movement's response has been to assert that those abortions are completely legal and the fetuses are considered ''pre-viable.''

In keeping with this strategy, Sen. Thomas Daschle (D. S.D.), plans to introduce a bill banning third-trimester abortions. Clinton, who received an enormous amount of heat for vetoing the ''partial birth'' abortion ban, has already indicated he would support such a bill.

But critics counter that Daschle's proposed ban—with its ''health'' exception—would stop few, if any, abortions.

''The Clinton-Daschle proposal is constructed to protect pro-choice politicians, not to save any babies.'' said Douglas Johnson, legislative director of the National Right to Life Committee.

Given the broad, bipartisan congressional support for the bill to ban ''partial birth'' abortions last year, it's unlikely Daschle's proposal would diminish support for the bill this session—particularly when Republicans control both houses and therefore, the agenda.

And given the public reaction to the ''partial birth'' procedure—polls indicate a large majority want to ban it—some questions occur: Is the public reaction really to the procedure, or to late-term abortions in general? And does the public really make a distinction between late second- and third-trimester abortions?

Ethicists George Annas, a health law professor at Boston University, and Carol A Tauer, PhD, a philosophy professor at the College of St. Catherine in St. Paul, Minn., say they think the public's intense reaction to the ''partial birth'' abortion issue is probably due more to the public's discomfort with late abortions in general, whether they occur in the second or third trimesters, rather than to just discomfort with a particular technique.

If Congress decided to pass a bill banning dismemberment or saline abortions, the public would probably react the same way, Dr. Tauer said. ''The idea of a second-trimester fetus being dismembered in the womb sounds just about as bad.''

Abortions don't have to occur in the third trimester to make people uncomfortable, Annas said. In fact, he said, most Americans see ''a distinction between first-trimester and second-trimester abortions. The law doesn't, but people do. And rightfully so.''

After 20 weeks or so, he added, the American public sees a baby.

''The American public's vision of this may be much clearer than [that of] the physicians involved.'' Annas said.

The PRESIDING OFFICER. The Chair recognizes Mr. CAMPBELL, the Honorable Senator from Colorado.

Mr. CAMPBELL. I thank the Chair. We in the Chamber may agree or not agree with our colleague from Pennsylvania, but, frankly, I know of no one who would ever question his commitment to his beliefs or the ability to take on a tough, difficult, emotional issue such as we face today. It is an issue to which there probably is no universal right answer in the eyes of our fellow Americans.

I know that many people have very strong opinions, sometimes driven by religion, by culture, by their own experiences, and perhaps I am no different than they are, but I do wish to commend the Senator from Pennsylvania for bringing this to the floor.

I wish to speak for a few moments about this extremely emotional and difficult issue of partial-birth abortion. As the Senators from California know—they are not on the floor. I had hoped they would be. But as they know, I have defined myself over the years as pro-choice and have supported their efforts in protecting the rights of women in almost every debate in the last 10 years which I have known Senator BOXER and in the last 5 that I have known Senator FEINSTEIN. In fact, I, like them, have had a 100 percent voting record for NARAL.

Last year, I voted with them in opposition to the ban, this ban. I have always believed that all the laws in the world will not prevent a woman from aborting an unwanted fetus. Efforts to prevent it I think simply drive it underground. In fact, I saw that in graphic results years ago on a couple of occasions when I was a policeman in California prior to Roe versus Wade.

Last year, before the override of the President's veto of the bill came about, I listened very carefully to those who hold very strong views on both sides of the issue. I think I learned a great deal from conversations with the medical community about this procedure and its implications. I am certainly not an expert, not a doctor, as is our previous speaker, but I think like most Americans I respect doctors and listen to their views very carefully when it deals with health.

Certainly I will never suffer the tragic decision a woman has to make when she decides whether to terminate or not to terminate a pregnancy. But it did become clear to me that the procedure which would be banned is inflicted on a fetus so far along in its development that it is an infant, not a fetus, in the eyes of a layman like me.

We are subject, of course, to very emotional debate, charts and graphs that are very explicit and tragic when we look at them, but we have to make a decision based on conscience, and last year I thought I did. When the vote, however, to override came about, I found myself confined to a hospital bed in the little town of Cortez, CO, as a result of an injury I sustained in a vehicle accident. I was there for a week. I watched C–Caps, as so many Americans do. I had a chance to talk to the doctors who were involved in operating on me when I was in the hospital. And in watching the dedicated health professionals in that hospital working so hard day and night to save lives, as the days went by, it became increasingly clear to me that a vote to override the veto also represented an effort to save lives and not take lives.

I had the opportunity to speak candidly to several of the doctors in that hospital as well as our doctor colleague here and a number of others about how this procedure is done and how often it is used.

Mr. President, each of us has to make our own decisions based on our own frame of reference with our own conscience as our guide, and so it was with me last year. And although I was in the hospital, I did send a statement to be read into the RECORD by Senator DAN COATS, our colleague from Indiana, that I would have, had I been here at the time, changed my position and voted to override the President's veto.

In recent Senate Judiciary Committee, proceedings, it came to light that Mr. Ron Fitzsimmons, another expert whose opinion I respect, stated that this procedure is performed more often than he had originally said, which supports what other doctors had told me. In light of this evidence and the evidence indicating that this procedure is only one among several options that women may elect to protect the life and health S4449of the mother, this year I

intend to support my colleague from Pennsylvania and support this ban.

Now, I probably will not be alone among my colleagues in changing my view on this, and I am certainly aware that any time a Senator changes his mind, even if it is based on new evidence, he opens the door to all kinds of accusations of flip-flopping, being in someone's pockets, selling out, and all the other ludicrous charges that are immediately levied against him or her when he finds new evidence and does change his mind. I can live with that. What I cannot live with is not voting my conscience and will, therefore, vote in support of the Senator from Pennsylvania.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the junior Senator from Colorado.

Mr. ALLARD. I thank the Chair. I rise in support of H.R. 1122, otherwise referred to as the Partial-Birth Abortion Ban Act of 1997.

As we have just heard from the previous comments, there are strongly held views on both sides of the abortion issue. I see this every day in my discussions with Coloradans, and I realize that this debate will continue for a long time. The people of my home State of Colorado know that personally I am pro-life and as a State Senator I had a strong pro-life voting record. I maintained that strong stance in my 6 years in the House of Representatives, and I intend to continue to vote my conscience on the issue of abortion during my tenure in the Senate. But what we have before us today is not an issue that breaks down between the pro-choice camp versus the pro-life camp. Even people in the pro-choice camp believe that there are certain reasonable restrictions that should be placed on abortion. A good example is the restriction that we place on public funding of abortions. Each year pro-life people come together with pro-choice individuals to include the Hyde amendment language in the Labor, HHS appropriations bill so that Medicaid money will not be used to fund abortions. Partial-birth abortions should be viewed in a similar light to the public funding issue.

Mr. President, in my comments I have just used the term partial-birth abortion, and I refer to the bill itself to see how ''partial-birth abortion'' is defined in the bill. It is defined in this section, and I quote:

> The term ''partial-birth abortion'' means an abortion in which the person performing the abortion partially vaginally delivers—

In other words, the baby is in the birth canal—

> a living fetus or baby before killing the fetus and completing the delivery.

So this is a procedure where the baby is in the birth canal and then whoever is doing the procedure kills the baby and then finishes the delivery. Many pro-choice people agree that the partial-birth abortion procedure should be banned, and a general consensus seems to be forming that this is a brutal procedure which should not be tolerated in a civilized society.

The reason for this apparent consensus is that it is a medically unnecessary, barbaric procedure. In fact, the front page of today's Washington Times notes that the American Medical Association's board of trustees has determined that there are no situations in which a partial-birth abortion is the only appropriate procedure to induce abortion—the only appropriate procedure to induce abortion.

It seems likely that President Clinton will bow to political pressures from the extremes in the pro-choice camp and veto this bill. The House passed this bill H.R. 1122 by a veto-proof margin of 295 to 136. In the Senate we will likely need 67 votes in order to ban this procedure. I urge all of my colleagues to support this legislation so that we can ban this brutal procedure.

I yield the floor, Mr. President.

Mr. ENZI addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Wyoming.

Mr. ENZI. I thank the Chair.

I am proud today to join the Senator from Pennsylvania and my other colleagues in voicing support for H.R. 1122, the Partial-Birth Abortion Ban Act of 1997. I was an original cosponsor of the Senate version of this bill, and I commend my friends in the other body for passing this legislation by such a compelling majority. I urge my colleagues in the Senate to take action and pass this bill by a margin that can withstand the President's threatened veto.

Mr. President, we are debating an issue that has an important bearing on the future of this Nation. Partial-birth abortion is a pivotal issue because it demands that we decide whether or not we as a civilized people are willing to protect that most fundamental of rights—the right to life itself. If we rise to this challenge and safeguard the future of our Nation's unborn, we will be protecting those whose voices cannot yet be heard by the polls and those whose votes cannot yet be weighed in the political process. If we fail in our duty, we will justly earn the scorn of future generations when they ask why we stood idly by and did nothing in the face of this national infanticide.

We must reaffirm our commitment to the sanctity of human life in all its stages. We took a positive step in that direction a few weeks ago by unanimously passing legislation that bans the use of Federal funds for physician-assisted suicide. We can take another step toward restoring our commitment to life by banning partial-birth abortions.

In this barbaric procedure, the abortionist pulls a living baby feet first out of the womb and through the birth canal except for the head, which is kept lodged just inside the cervix. The abortionist then punctures the base of the skull with long surgical scissors and removes the baby's brain with a powerful suction machine. This causes the head to collapse, after which the abortionist completes the delivery of the now dead baby. I recount the grisly details of this procedure only to remind my colleagues of the seriousness of the issue before the Senate. We must help those unborn children who are unable to help themselves.

Opponents of this legislation have relied on distortions to bolster their position. Just this past February, the executive director of the National Coalition of Abortion Providers, Ron Fitzsimmons, admitted that he lied through his teeth about the true number of partial-birth abortions performed in the United States every year. Mr. Fitzsimmons had originally joined Planned Parenthood and the National Abortion and Reproductive Rights Action League in falsely claiming that this abortion procedure was used only in rare cases to save the life of the mother. Mr. Fitzsimmons now admits that partial birth abortions are common and that the vast majority of them are performed in the second trimester—at 4 to 6 months' gestation—on healthy unborn children with healthy mothers. Mr. Fitzsimmons summed up the chilling truth of this procedure when he admitted that partial-birth abortion is ''a form of killing. You're ending a life.''

Opponents have argued that this procedure is necessary in some circumstances to save the life of the mother or protect her future fertility. These arguments have no foundation in fact. First, this bill provides an exception if the procedure is necessary to save the life of the mother and no alternative procedure could be used for that purpose. Moreover, leaders in the medical profession including former Surgeon General C. Everett Koop have stated that this procedure is never necessary to save the life of the mother. In fact, it is more dangerous medically to the mother than allowing the child to be born alive. Finally, a coalition of over 600 obstetricians, perinatologists, and other medical specialists have stated categorically that there is no sound medical evidence to support the claim that this procedure is ever necessary to protect a woman's future fertility. These arguments are offered as a smoke-screen to obscure the fact that this procedure results in the taking of an innocent life. The practice of partial birth abortions has shocked the conscience of our nation and it must be stopped.

Since I was sworn in as a Member of this distinguished body in January, we have had the opportunity to discuss a number of pieces of legislation which will have a direct impact on our families and our children. I have based my decision on every bill that has come before this body on what effect it will have on those generations still to come. We in the Senate have deliberated about what steps we can take to

make society a better place for our families and the future of our children. We as Senators will cast no vote that will more directly affect the future of our families and our children than the vote we cast on this bill.

Mr. President, when I ran for office, I promised my constituents I would protect and defend the right to life of the unborn. The sanctity of human life is a fundamental issue on which we as a nation should find consensus. It is a right which is counted among the unalienable rights in our Nation's Declaration of Independence. We must rise today to the challenge that has been laid before us of protecting innocent human life. I urge my colleagues to join me in casting a vote for life by supporting the Partial Birth Abortion Ban Act.

Now, I know there has been a big change in the approach to the whole situation by Mr. Fitzsimmons, who testified a year ago that this was not a common practice. I know now that he says it is common practice, and that is part of the debate that made a big difference on the House side, and I am convinced it will make a big difference on the Senate side, someone who is admitting that this is a common practice, that it takes lives and that he regrets what he said and what has been done as a result. I think that will make a difference in the vote we have over here, and I hope it will make a difference in the approach that the President takes to the bill.

I would like to concentrate my remarks on the miracle of life. A year and a half ago, I had a torn heart valve and was rushed to the hospital for emergency surgery. I had never been in a hospital except to visit sick folks before. I have to tell you that I am impressed with what they were able to do, but I have also been impressed with what doctors do not know. That is not a new revelation for me.

Over 24 years ago, a long time ago, my wife and I were expecting our first child. Then one day early in the sixth month of pregnancy, my wife starting having pains and contractions. We took her to the doctor. The doctor said, ''Oh, you may have a baby right now. We know it's early and that doesn't bode well. We will try to stop it. We can probably stop it.'' I had started storing up books for my wife for 3 months waiting for the baby to come. However, the baby came that night, weighing just a little over 2 pounds. The doctor's advice to us was to wait until morning and see if she lives. They said they didn't have any control over it.

I could not believe the doctors could not stop premature birth. Then I could not believe that they could not do something to help this newborn baby. Until you see one of those babies, you will not believe what a 6-month-old baby looks like. At the same time my wife gave birth to our daughter, another lady gave birth to a 10-pound baby. This was a small hospital in Wyoming so they were side by side in the nursery. Some of the people viewing the other baby said, ''Oh, look at that one. Looks like a piece of rope with some knots in it. Too bad.'' And we watched her grasp and gasp for air with every breath, and we watched her the whole night to see if she would live.

Then the next day they were able to take this baby to a hospital which provided excellent care. She was supposed to be flown to Denver where the best care in the world was available, but it was a Wyoming blizzard and we couldn't fly. So we took a car from Gillette, WY, to the center of the State to Wyoming's biggest hospital, to get the best kind of care we could find. We ran out of oxygen on the way. We had the highway patrol looking for us and all along the way, we were watching every breath of that child.

After receiving exceptional care the doctor said, ''Well, another 24 hours and we will know something.'' After that 24 hours there were several times we went to the hospital and there was a shroud around the isolette. We would knock on the window, and the nurses would come over and say, ''It's not looking good. We had to make her breathe again.'' Or, ''Have you had the baby baptized?''

We had the baby baptized in the first few minutes after birth. But that child worked and struggled to live. She was just a 6-month-old—3 months premature.

We went through 3 months of waiting to get her out of the hospital. Each step of the way the doctors said this isn't our doing. It gave me a new outlook on life. Now I want to tell you the good news. The good news is that the little girl is now an outstanding English teacher in Wyoming. She is dedicated to teaching seventh and ninth graders English, and she is loving every minute of every day. The only problem she had was that the isolette hum wiped out a range of tones for her, so she cannot hear the same way that you and I do. But she can lip read very well, which, in the classroom, is very good if the kids are trying to whisper. But that has given me an appreciation for all life and that experience continues to influence my vote now and on all issues of protecting human life.

When I first came to the Senate, we talked about cloning. I thought cloning had been going on for a long time. Of course, we used to call it identical twins, and it was pretty unpredictable. But I want to tell you, through all of that cloning, nobody produced life. They took life and they changed it.

Life is such a miracle that we have to respect it and work for it every single day in every way we can. I think this bill will help in that effort, and I ask for your support for this bill.

I yield the remainder of my time.

The PRESIDING OFFICER. The Chair recognizes the Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, first let me congratulate the Senator from Wyoming for that very touching story about his daughter. I congratulate him for his courage in standing up for her and fighting for her and his willingness to share that with us and his support of this legislation.

I also would like to thank the junior Senator from Colorado, Senator ALLARD, for his excellent statement in support of this measure.

I want to cite specifically the senior Senator from Colorado, Senator BEN NIGHTHORSE CAMPBELL. Last year I very vividly remember receiving a call from Senator COATS about BEN sitting in a hospital room in Colorado, watching the debate and talking to doctors and seeing so many people do so much to save life, and his incredibly insightful comments about how he could watch through his door efforts to save life and then look up on the television screen and see C–SPAN and see people who wanted to extinguish life. That conflicted him and disturbed him.

It is a very hard thing, it is a very hard thing in politics for someone on the abortion issue to walk out of a camp. This issue is a very polarized issue. You are in one camp or the other. You are pro-life or you are pro-choice and you don't waffle. You don't walk down the middle of this one or you get run over. It takes a lot of courage to walk out of that camp because you know they are wrong.

A lot of folks are struggling with this issue today. They are fighting themselves in looking at this issue. They don't feel comfortable being in this camp against this bill. But it takes courage to step out and do the right thing for you, do the right thing according to your conscience, the right thing according to what you believe is best for America. It has political risks, tremendous political risks. You alienate your friends, you open yourself up to attack.

But I think it just shows a tremendous amount of courage and commitment to your principles, to stand up to your friends. It is easy to stand up to your opponents. We do that all the time. But when you stand up and face the people that you have supported on issue after issue and say, ''This time you are wrong,'' do you know how hard that is? You know in your own lives, anybody listening here knows how difficult it is to talk to a friend and say, ''You know, I have been with you,'' and just say, on something they care about, they deeply care about, ''You are wrong and I cannot be with you.'' It is great courage, the courage of convictions. I applaud him for doing that in a very dramatic and sensitive way.

Finally, I thank the Senator from Tennessee, Senator FRIST, the only physician in the Senate who articulated, not just from a medical point of view but from a moral point of view, why this ban is absolutely necessary and why this procedure is absolutely unnecessary for any reason to be performed on anyone.

So, we have just begun this debate. Unfortunately, as soon as some other

Senators come down here to start the next—I see the Senator from North Carolina is here. I will move on. We will have to break off the debate for a short period of time. I hope we will have more time to debate later this evening, and then, pursuant to this unanimous consent that I will read, we will move tomorrow at 11 o'clock to reconsideration of this bill, bringing this bill back up for consideration, and debate the Boxer amendment.

Mr. President, I ask unanimous consent that the time between 11 a.m. and 2 p.m. on Thursday be equally divided for debate regarding the Feinstein amendment to H.R. 1122, that no amendment be in order to the Feinstein amendment, and, further, at the hour of 2 p.m., the Senate proceed to a vote on or in relation to the Feinstein amendment.

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

EXECUTIVE SESSION

FLANK DOCUMENT AGREEMENT TO THE CFE TREATY

Mr. SANTORUM. Mr. President, in executive session I ask unanimous-consent the Senate now proceed to the consideration of Executive Calendar No. 2, the Treaty Doc. No. 105–5, the CFE Treaty.

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

The clerk will report.

The legislative clerk read as follows:

Treaty Document 105–5, Flank Document Agreement to the Conventional Armed Forces in Europe Treaty.

The PRESIDING OFFICER. The Chair recognizes the distinguished senior Senator from North Carolina.

Mr. HELMS. I thank the Chair very much. Mr. President, may I ask that the unanimous-consent be stated as to time on this resolution of ratification?

The PRESIDING OFFICER. There are 1½ hours equally divided between the chairman of the Foreign Relations Committee and the ranking member.

Mr. HELMS. Senator BYRD has some time, too?

The PRESIDING OFFICER. And an additional 30 minutes for Senator BYRD.

Mr. HELMS. Very well. I do thank the Chair.

Mr. President, I yield myself such time as I may require.

The Senate Foreign Relations Committee this past Thursday reported a treaty to amend the Conventional Armed Forces in Europe Treaty. The vote was unanimous.

I have never hesitated to oppose, or seek to modify, treaties that ignore the best interests of the American people. As long as I am a Member of the U.S. Senate, I will be mindful of the advice and consent responsibilities conferred upon the Senate and the Senators by the U.S. Constitution. Therefore, I have never hesitated to oppose bad treaties and bad resolutions of ratification without hesitation. But when a treaty serves the Nation's interests, if it is verifiable, and if the resolution of ratification ensures the integrity of these two points for the life of the treaty, I unfailingly offer my support to it. That is why I support the treaty before us today.

In that connection, let the record show that the pending treaty was signed on May 31, 1996, and was not submitted by the President to the Senate for our advice and consent April 7, 1997. With the bewildering delay in the delivery of this treaty, the administration demanded action by May 15, 1997, which is tomorrow.

So, after wasting an entire year, the administration demanded that the Senate act on this treaty within 1 month's time. I believe it is obvious that the Foreign Relations Committee has been more than helpful in fulfilling its constitutional responsibilities to advise and consent.

The treaty before us today is a modification of the treaty approved by the Senate in 1991. Specifically, it will revise the obligations of Ukraine and Russia in what is known as the flank zone of the former Soviet Union. In recognition of the changes having occurred since the collapse of the Soviet Union, the 30 parties to the CFE Treaty have agreed to modify the obligations of Ukraine and Russia.

The 1991 CFE Treaty could not and did not anticipate the dissolution of the Soviet Union and the Warsaw Pact, let alone the expansion of NATO to include Central and Eastern Europe countries. Consequently, recent years have been occupied with efforts to adapt the treaty to the new security environment of its members.

Mr. President, in its essentials, the Flank Agreement removes several administrative districts from the old flank zone, thus permitting current flank equipment ceilings to apply to a smaller area. In addition, Russia now has until May 1999 to reduce its forces sufficient to meet the new limit.

To provide some counterbalance to these adjustments, reporting requirements were enhanced and inspection rights in the zone increased.

Mr. President, with the protections, interpretations, and monitoring requirements contained in the resolution of ratification, I recommend approval of this treaty because it sets reasonable limits and provides adequate guarantees to ensure implementation.

However, the simple act of approving this treaty does not diminish the need for further steps by the U.S. Government to strengthen the security of those countries located on Russia's borders. If this agreement is not implemented properly, Russia will retain its existing military means to intimidate its neighbors—a pattern of behavior with stark precedents.

As the Clinton administration is so fond of saying, this treaty is but a tool to implement the foreign policy of the United States. During the past 4 years, the Clinton administration has remained silent while Russia has encroached upon the territory and sovereignty of its neighbors. It was the lack of a foreign policy—not a lack of tools—that allowed this to happen.

I have confidence that the new Secretary of State will correct the course of our policies toward Russia, and I gladly support this treaty to aid the Honorable Madeleine Albright in that endeavor. The collapse of the Soviet Union was one of the finest moments of the 20th century. To allow even a partial restoration of the Soviet Union before the turn of the century would be a failure of an even greater magnitude.

Mr. President, a final and related issue in the resolution of ratification is one upholding the prerogatives of the Senate in matters related to the ABM Treaty. During the past few years, the executive branch has sought to erode the Senate's constitutional role of advice and consent regarding treaties. In fact, the executive branch originally refused to submit for advice and consent the treaty that is before the Senate today. Through protracted negotiations, the Senate successfully asserted its proper role to advise and consent to new, international treaty obligations. Likewise, on revisions to the ABM Treaty, it is only through a legally binding mandate that we can ensure the proper, constitutional role of the U.S. Senate. I hope, Mr. President, that we can proceed to do that without delay. Mr. President, I ask for the yeas and nays on the resolution of ratification.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I believe the Senator from Delaware wishes to speak.

Mr. BIDEN. Thank you, Mr. Chairman.

The PRESIDING OFFICER. The Chair recognizes the Senator from Delaware.

Mr. BIDEN. Mr. President, let me begin by acknowledging what the Senator and chairman of the committee said, and that is that this treaty has been around a long time, and all of a sudden it came popping up here. Some of us, like the Senator from North Carolina and the majority leader and others, myself included, have felt it is a Senate prerogative to determine whether or not this flank agreement should be agreed to. It is an amendment to the treaty. The administration for a long time concluded it was not a prerogative of the Senate, and it was not necessary to submit this treaty.

Some have asked, why are we acting so expeditiously on this treaty? Why is there this deadline? Two reasons: One, we waited a long time to agree we had the responsibility to accede to this or it could not occur, and, two, there is a real May 15 deadline by which all 30 nations must ratify this agreement. If, in fact, they do not, the agreement will have to be reviewed by all of them.