

PARTIAL-BIRTH ABORTION BAN
ACT OF 1997

Mr. ASHCROFT. Mr. President, I rise to speak about a topic which is going to be voted on here in the U.S. Senate tomorrow, the topic of partial-birth abortion. This is an issue which I think is understandable by virtually every American who has given it any consideration. They understand this is a brutal technique which inflicts pain and is the kind of thing which would shock the conscience of most Americans not only as it relates to unborn children, but if it were, as a matter of fact, a procedure used even on animals.

Mr. President, about 2 weeks ago, a Rhode Island jury found a mother guilty of second-degree murder in the death of her newborn daughter. The State medical examiner, according to a May 9 article in the Providence Journal-Bulletin, testified that the little girl died from a single blow to the back of the head that left a laceration on her scalp and an inch-long skull fracture. The umbilical cord and the placenta were still attached to the child.

Now, ironically, this Rhode Island woman who had been found guilty of second-degree murder, if she had, prior to giving birth, allowed a physician to perform a procedure very similar to what she did, a procedure called partial-birth abortion, there would have been no criminal action involved. The baby would have been there, the blow to the head would have been similar, the umbilical cord would still have been attached, the placenta would still have been there, but because the baby would have been only partially born, it would have been entirely legal.

This kind of tension that exists in the law between charging and convicting a mother of second-degree murder and authorizing a physician to conduct what is called a partial-birth abortion makes no sense to the American people.

Let me take a few moments today to talk about the lessons we teach when we as a culture allow such tensions to persist. When we come down here to the floor and we argue before the cameras, the Nation is affected on a level of which we too often take little notice. People look, people listen, people understand.

Right now we are debating a violent medical procedure that, in my judgment, should be a clear-cut wrong. People understand that. However, the high emotion of the abortion debate seems to blur the vision of many of us who are in the U.S. Congress. We are so caught up in arguing about the definition of technicalities that we are in danger of slipping into absurdities ourselves, absurdities that are exemplified by the charge and conviction of the woman in Rhode Island.

The stakes are high here, as we are talking, in no uncertain terms, about the value of human life. It seems so clear that all of us should vote to ban the direct killing of a fully formed, often viable, human being. Yet because

the child is 80 percent born, somehow we have allowed the killing of that child to be legal.

Now the partisan political rhetoric we expend here and the attempts to turn this vote into abstract public policy are setting an example in our society and in the world that bring into question our Nation's status as a moral leader. How can we lecture or threaten China on its human rights abuses when we stand up and argue that human beings should be brutally butchered in a procedure that is rarely, if ever, medically necessary?

How can we question the practice of child slavery in foreign nations when our own Nation's lawmakers cast cavalier votes to torture our own infants?

Let me be clear, though. Our position as a world leader does not trouble me as much as the positions we put our youth in when we refuse to provide moral guidance.

What are we teaching our own children? What are we saying to them about the value of life? What are we saying to them when we suggest that a technicality provides the difference between destroying a life, committing murder, and merely having an abortion?

What values are we teaching when we vote that the difference between a partial-birth abortion and a homicide is a mere 3 inches?

If the physician took forceps or scissors to collapse the baby's skull outside the mother's body, he or she would be charged with murder.

Yet, if the skull is collapsed when the baby's head is still partially in the birth canal, the homicide becomes a legal procedure.

What values are we teaching when lawmakers show more concern for animals or the environment than for human life? Let's look at two pieces of legislation that demonstrate the absurdity of our present value system.

H.R. 3918 was introduced by then Representative BARBARA BOXER on November 25, 1991. The Congressional Research Service summarizes the bill as follows:

Requires each Federal department or agency head to review and evaluate nonanimal alternatives with the potential for partial or full replacement of the Draize or other animal acute toxicity tests for some or all of the products regulated by such department or agency.

I might not have all the facts, but it seems to me that Senator BOXER—one of the strongest opponents of this legislation—seems to put the pain and suffering of laboratory animals above the pain and suffering of human beings.

When you say that you want to replace the Draize, or other animal acute toxicity tests, and you are willing to say it is necessary to spare animals this kind of pain but it is not necessary to spare these mostly born children of the pain inflicted on them by partial-birth abortion, I think you can again raise the level of tension between what the public knows is right and the tech-

nicality of the law which would allow something which the public knows to be very wrong.

Former Senator Pell introduced S. 1701 during the 104th Congress. The bill prescribes criminal penalties for use of steel jaw leghold traps on animals; directs the Secretary of the Interior to reward nongovernment informers for information leading to a conviction under this act; and empowers enforcement officials to detain, search, and seize suspected merchandise or documents and to make arrests with and without warrants.

Senator Pell stated on the floor, "While this bill does not prohibit trapping, it does outlaw a particularly savage method of trapping." Well, the bill we are debating today does not outlaw abortion—it outlaws "a particularly savage method of abortion."

I am surprised and even a bit dismayed that the Members supporting and proactively fighting for measures that would reduce the suffering of animals have not been willing to afford at least the same protections to human beings.

What values are we teaching when we appear to value to limbs of animals over the lives of children?

And this takes me back to my opening—the emotion and strife of the abortion debate is blinding and confusing some Members. However, the legislation before us today is not about an uncertainty, it is about combating acts of barbarism against human beings.

Of course, part of the confusion on this issue is due to misleading reports on the necessity and practice of partial-birth abortions. As reported in Newsweek last October:

When the partial-birth-abortion debate took shape last year, pro-choice groups insisted the procedure was extremely rare. The number 500 to 600 was tossed around, with the President and others explaining that it was reserved for heart-wrenching cases involving women whose tests show severely deformed fetuses or whose health was at risk.

That comes from Jonathan Alter, "When the Facts Get Aborted," Newsweek, October 7, 1996.

But we now have a fairly clear and broad concurrence on the truth about the rarity and utility of this procedure. Let's look at the facts.

The fact is that partial-birth abortions are not rare or unusual.

The fact is not that it is 500 or 600 cases a year in the entire country.

The Sunday Record of Bergen County, NJ stated: "But interviews with physicians who use the method reveal in New Jersey alone, at least 1,500 partial-birth abortions are performed each year"—triple the 450-500 number which the National Abortion Federation [NAF], a lobby for abortion clinics, has claimed occur in the entire country.

The same article in the Bergen County Sunday Record reported:

Another [New York] metropolitan doctor who works outside New Jersey said he does about 260 post-20-week abortions a year, of which half are by intact D&E. The doctor, who is also a professor at two prestigious

teaching hospitals, said he had been teaching intact D&E since 1981, and he said he knows of two former students on Long Island and two in New York City who use the procedure.

The truth contravenes the myths of last year's debate—the suggestions by proponents of this procedure that it is only used in situations of dire medical emergency, and that it is limited in its use to about 500 or 600 a year nationwide. The truth of the matter is that in New Jersey alone it is three times that number.

Is partial-birth abortion needed to protect the health of the mother?

Frankly, I think we have to always be very concerned about the health of women in this debate. We should not do those things that would unduly or unnecessarily impair the health of women in this country.

President Clinton has justified his veto of the partial-birth abortion ban last year by pointing to the legislation's absence of a health exception. Some Members of this body also argue for a health exception. However, the facts indicate that such an exception is unnecessary.

Four specialists in ob/gyn and fetal medicine representing PHACT—Physicians' Ad Hoc Coalition for Truth—a group of over 500 doctors, mostly specialists in ob/gyn, maternal and fetal medicine, and pediatrics, stated in a September 19, 1996, Wall Street Journal article:

Contrary to what abortion activists would have us believe, partial-birth abortion is never medically indicated to protect a woman's health or her fertility. In fact, the opposite is true: The procedure can pose a significant and immediate threat to both the pregnant woman's health and her fertility.

In response to the President's statements that partial-birth abortions were necessary to preserve the woman's health and their ability to have future pregnancies, former Surgeon General C. Everett Koop stated:

I believe that Mr. Clinton was misled by his medical advisors on what is fact and what is fiction in reference to late-term abortions. Because in no way can I twist my mind to see that the late-term abortion as described—you know, partial birth, and then destruction of the unborn child before the head is born—is a medical necessity for the mother.

"Because in no way can I twist my mind in a way * * *."

C. Everett Koop, former Surgeon General of the United States, indicates that it takes a twisting of the mind to get to the point of saying that the baby must be destroyed in that setting.

Even Dr. Martin Haskell, who has performed over 1,000 partial-birth abortions, said that he performs them routinely for nonmedical reasons, and that 80 percent are purely elective—not required to protect the health of the mother.

Dr. David Brown, a physician investigating this procedure for the Washington Post wrote:

[I]n most cases where the procedure is used, the physical health of the woman whose pregnancy is being terminated is not

in jeopardy * * *. Instead, the "typical" patients tend to be young, low-income women, often poorly educated or naive, whose reasons for waiting so long to end their pregnancies are rarely medical.

The PHACT doctors have even said that at 21 weeks or later, abortion is riskier to a woman's health than childbirth. They state in a recent letter to the editor of the Washington Post:

It should be noted that at 21 weeks and after, abortion is twice as risky for women as childbirth: the risk of maternal death is 1 in 6,000 for abortion and 1 in 13,000 for childbirth.

I hope we will be successful in our endeavor to obtain enough votes to override an expected Presidential veto in this matter. Clearly the President won't be able to rely on the myths and misrepresentations this year that he relied on last year if he is to veto it.

We are not only teaching poor values. We are not only setting a bad example. We are risking lives and losing lives as a result of this procedure.

George Will tells an interesting story in an April 24 Washington Post op-ed which demonstrates the irony of what we are debating here. The story is about Stephanie and Sandra Bartels of Hull, IA. Sandra and Stephanie were twins born in a South Dakota hospital. They were born 88 days apart by what is called "delayed-interval delivery." Will states:

Stephanie, born January 5 when her mother went into premature labor in the 23rd week of her pregnancy, weighed 1 pound, 2 ounces. Sandra, weighing 7 pounds, 10 ounces, was born April 2, by which time Stephanie weighed 4 pounds 10 ounces.

For 88 days, while her twin sister's life was protected by the law, Sandra, who was still unborn, under the current law could have been the subject of a partial-birth abortion.

As Will states,

Location is the key factor. Unless she is completely outside the mother she is fair game for the abortionist.

The tension between the fact that one twin already born is protected by our law, while the other twin yet unborn is fair game for destruction through a brutal procedure called a partial-birth abortion, is obvious.

Such an absurdity in the law is not consistent with American values. It is not consistent with the expectation of the American people that we govern rationally. Physical location should not be the key factor. However, George Will is right. Location was and is the key factor, and that locational factor should be abandoned.

We should ask ourselves about location. We should ask ourselves: To what location will our moral compass direct us when we vote on the Partial-Birth Abortion Ban Act? I believe it should direct us to the location where we abandon and outlaw this painful and brutal procedure.

We should ask ourselves: Where will we end up on the scale of decency and humanity?

Will we continue to be guilty of basing our reasoning on a thin, irrational

thread of support for an inexcusable practice which we would not tolerate in terms of animal experiments?

Should we keep drawing these illogical distinctions to sustain the brutal inhumane treatment of our citizens?

I hope when this vote comes before the Senate that we will all end up on the high ground. I hope that our vote to ban this procedure will be so resounding that the President will look at our action and think, This legislation is not only based upon rationality and consistency, but it was also endorsed so thoroughly by the U.S. Senate that I ought to sign it rather than veto it. We as a nation must refuse to allow the grotesque brutality of partial-birth abortion to continue.

Mr. President, I thank the Chair. I observe the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. ASHCROFT. I thank the Chair.

FAMILY FRIENDLY WORKPLACE ACT

Mr. ASHCROFT. Mr. President, families in America are facing a challenge raising children—especially since in most cases—if there are two parents, they both are in the workplace. Certainly for single parents being in the workplace makes raising children even more difficult. For these single parents, if their children have to go to the doctor—they take them. If their children are having trouble at school or get sick during the day, the single parent does not have anyone else to rely on.

The single parent must take care of the problem themselves. As difficult as that may be, if that single parent is a salaried worker, she can work with her employer to arrange her work schedule to accommodate these needs. However, if that single parent is an hourly worker, she must find a way to meet her child's needs and work all of the required hours during a 7-day period or lose part of her pay.

Demographics have changed significantly since the passage of our major employment laws. In 1938, when the Fair Labor Standards Act was enacted, only 2 out of 12 mothers with school-age children were in the workplace. Today only 3 out of 12 mothers of school-age children are not in the workplace—obviously, the statistics have taken a real flip. People have gone into the workplace in order to tackle the incredible tax burden and the cost of living. It has been said that in some families, in most families, one parent works to pay the Government and the other parent works to provide for the family.

It is very difficult for families to make ends meet unless you have both