

small businesses. People have worked all of their lives—and many times the lives of their forebears—to put together a business or a ranch or a farm, often with relatively little flow of cash but lots of assets. Under the present circumstances, that is taxed at nearly 50 percent. Many have to sell those assets in order to pay the taxes. That ought to be changed.

There will be some effort made at entitlement reform. That is good. It helps preserve Medicare for people who will be on it in the future. There has to be some changes made to do that. So it is a kind of a mixed bag, it seems to me.

There are some other items I would like to see changed. I would like to see some incentives to increase the capital gains so that there is incentive to invest in the economy.

I would like to see some real long-term meaningful changes in Medicare so that our kids will have a chance.

The President has sort of tinkered around the edges, and takes down the providers' cost a little here and there to avoid any real tough decision, but he is doing a little something. We have to make them. The sooner we make them, the less costly they will have to be. We need to allow families to keep more of their dough.

We need to be careful about balancing the budget and about making very optimistic projections in the future. Suddenly, there was \$200 billion—plus because of the projections for the future.

We ought to make kind of a level projection, it seems to me. And then, if we are fortunate enough to have revenue growth, why not apply that to the debt? Wouldn't that be a nice idea? But no, we put that on so that we continue to spend and see the Government grow larger.

These are some of the things we will be grappling with this week. I think they are very difficult ones, and some things I hope we do regardless of what we do with the tax bill, regardless of what we do with the budget. I hope we move on past that to reform the tax system. The tax system needs to be changed.

People are increasingly complaining about the IRS. And I understand that. The tax issue is not going to change the IRS a great deal until you change the system that they have to enforce. We ought to do that.

This budget should not mean we are going to leave it as it is for 5 years. We need meaningful reductions in taxes.

We need a smaller Government. We need to change the situation so that the Government doesn't compete with the private sector in those things that the Government does that are commercial in nature. We ought to allow for contracting, and let private small businesses be able to compete to do things that the Government does that are basically commercial.

Mr. President, there is something else that I think we ought to do that would help us. We ought to have a biennial budget.

We spend almost all of our time with this budget. We started this thing just about this time in January when the Congress came in. We will be very fortunate if we are through by the middle of September or the 1st of October. And, as you know, Mr. President, it has been longer than that in the past.

It wouldn't take any longer to do it on a biennial basis. We could know those figures just as well. The agencies would have 2 years of knowing where their money is going to be. But, most important of all, we could have the budget one year and the next year do oversight. That is part of Congress' responsibility, to oversee the things that the Government is doing. We can accomplish a great deal, if we can do that.

So, Mr. President, I look forward to this week's debate and discussions. I am confident we will come out of it with something better than we have had.

Thank you for the time.

I yield the floor.

Mr. SANTORUM addressed the Chair. The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, thank you.

#### PARTIAL-BIRTH ABORTION BAN ACT OF 1997

Mr. SANTORUM. Mr. President, I rise this afternoon to announce that in the last few days I have been working with Representative CANADY in the House, with Senator FRIST here in the Senate, and with the American Medical Association in trying to work out some changes to H.R. 1122, the Partial-Birth Abortion Ban Act, which would satisfy some of the concerns that the board at the American Medical Association had with the legislation.

I am very pleased to report that we have been able to reach some technical changes with the legislation that has gained the support of the American Medical Association. I will read for the RECORD and insert into the RECORD a copy of a letter that was sent to me just a very short time ago from P. John Seward, M.D., executive vice president of the American Medical Association.

DEAR SENATOR SANTORUM: The American Medical Association (AMA) is writing to support HR 1122, "The Partial Birth Abortion Ban Act of 1997," as amended. Although our general policy is to oppose legislation criminalizing medical practice or procedure, the AMA has supported such legislation where the procedure was narrowly defined and not medically indicated. HR 1122 now meets both those tests.

Our support of this legislation is based on three specific principles. First, the bill would allow a legitimate exception where the life of the mother was endangered, thereby preserving the physician's judgment to take any medically necessary steps to save the life of the mother. Second, the bill would clearly define the prohibited procedure so that it is clear on the face of the legislation what act is to be banned. Finally, the bill would give any accused physician the right to have his

or her conduct reviewed by the State Medical Board before a criminal trial commenced. In this manner, the bill would provide a formal role for valuable medical peer determination in any enforcement proceeding.

The AMA believes that with these changes, physicians will be on notice as to the exact nature of the prohibited conduct.

Thank you for the opportunity to work with you towards restricting a procedure we all agree is not good medicine.

Sincerely,

P. JOHN SEWARD, M.D.

Mr. President, I ask unanimous consent to have that letter printed in the RECORD.

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

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

Hon. RICK SANTORUM,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR SANTORUM: The American Medical Association (AMA) is writing to support HR 1122, "The Partial Birth Abortion Ban Act of 1997," as amended. Although our general policy is to oppose legislation criminalizing medical practice or procedure, the AMA has supported such legislation where the procedure was narrowly defined and not medically indicated. HR 1122 now meets both those tests.

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Mr. SANTORUM. Mr. President, before I go into the details of the amendment, let me also enter into the RECORD a statement by Senator BILL FRIST.

I cannot emphasize enough how important he has been as the only physician here in the U.S. Senate in helping us in the debate here on the Senate floor and providing that expertise that is so necessary in these kinds of medical issues, and also in helping us work with the AMA to come up with some language that could garner their support.

I quote Senator FRIST's statement. He would have been here to announce this. But I understand we are going to be closing up shortly, and he is still on an airplane.

As the only physician in the Senate, I am proud of the American Medical Association's decision to support the ban on partial birth abortions. This is the strongest medical confirmation yet that this so-called medical

procedure, is brutal, inhumane, and medically unnecessary. As I said on the floor of the United States Senate, any provider who performs a partial birth abortion has violated the Hippocratic principle, "First do no harm."

The President has already been standing on shaky ground in his efforts to explain his intent to veto once again a ban of this grisly and unnecessary procedure. With these technical changes and the endorsement of the AMA, it's time for the President to do the right thing—it's time for him to sign this bill.

Mr. President, let me go through the changes that are in the bill that we are going to amend tomorrow morning. We hope to get unanimous consent to amend it. These are technical changes, and we believe that, irrespective of your position on the bill, these are changes that can be supported.

The first thing this bill does, as has been referred to, is to tighten up the language on what we mean by partial-birth abortion. There was some concern principally about a situation where the doctor would be delivering a baby with a normal delivery, but the baby would be delivered breech. And that happens on occasion. The baby is delivered in a breech position. The concern is that some complication may occur in the course of this breech delivery, and the doctor would be required, in order to save the mother's life, to perform some sort of procedure that would result in the killing of the baby.

Those are always very terrible situations. But the AMA was concerned that, because the definition was not specific enough from their reading, some zealous prosecutor could come out and accuse the doctor, who has not performed an abortion—does not intend to perform an abortion—but performed a normal delivery and, because of a complication, that somehow he or she could be covered under this act.

We have tightened up the language with *mens rea*, to use the legal term. That directs the mental state—as to what the doctor was doing when he was delivering the baby for the purpose of a live birth and is not doing an abortion.

So we tightened that language up substantially to satisfy that. That kind of situation would no longer be covered under the act. Frankly, I don't believe it is covered under the original act. But this makes it crystal clear that it is not covered under the act.

I think to the extent that we have made that clear and that it is positive to the extent that we have put in the requisite *mens rea* for a criminal statute, which arguably was somewhat vague in the original bill, we have now done that. We have tightened it up. This is a good, solid criminal statute as a result of that.

Second, as was discussed in the AMA letter, the State medical boards, we understand that if the doctor is going to be charged in doing one of those procedures, there is going to be medical evidence presented. The doctor and his team are going to present their medical experts, and the prosecutor will present their medical experts.

This gives us some medical expertise, if you will, that is not in either camp but gives us a peer review determination as to what they saw happen and what they believe happened. It will most likely result in as many people who agree with the physician as not. It is not something that we believe is a stacked deck one way or the other. We believe it is a legitimate peer review mechanism.

It is admissible in court but not determinative. It is simply medical evidence to be used should the prosecution continue with the case. We think that is important. It certainly is important for the professional standards that the AMA and other State medical associations would like to see in their profession.

So we have no problem with that. We believe it is legitimate medical evidence that would be otherwise included. So that is, again, a positive contribution to the legislation.

The other change is really the ultimate of technical changes that was surplus language in the life-of-the-mother exception where we said basically twice that it was the only procedure necessary. We said it twice. You don't need to say it twice. You just say necessary. It was the only procedure available that is necessary to save the life of mother. We don't say "necessary" twice. So we eliminated the surplus language.

Those are the three changes. They certainly do not go to the substance of the legislation. They are technical in nature. They are defined and solidifying in nature as a criminal statute and, I believe, a positive contribution.

I believe eventually, whether it is in the next few months as a result of this bill being passed and either signed by the President or having the President's veto overridden, that this bill will end up in court. Someone will challenge the constitutionality after this legislation.

My feeling is that this legislation not only has to be solid on the basis of abortion law, but also it has to be solid based on criminal law and how a criminal statute is drafted.

I think what we have done with these changes is improve the language as a criminal statute. I think that is very important, and I would hate to go through the entire legislative process and have the courts say, "Well, on abortion law you are fine, but on criminal law you are too vague, and we are throwing it out for that."

That would be a disconcerting result, one that I do not want to see and one that I believe is greatly reduced as a result of the changes that we hope to make tomorrow in this legislation, and which we will make tomorrow.

I have to say, finally, how excited I am that the AMA has stepped forward and supported this legislation.

This is the association that is the most preeminent association that oversees medicine in this country. As Dr. Seward said, partial-birth abortion is

not good medicine. As Dr. C. Everett Koop said, it is not medically necessary for the life and health of the mother to do this procedure. This is a procedure that is a rogue procedure. It should be an outlawed procedure. We are attempting to outlaw this procedure because it just simply goes too far.

I am hopeful, with the support of the preeminent medical authority in this country, the American Medical Association, Members of this Senate will look long and hard now in these last few hours before the vote, which we are hoping to have scheduled tomorrow afternoon, they will look long and hard at the changes, at the evidence that now has been presented, the facts that have now been presented as a result of some of the admissions by the abortion industry as to what a partial-birth abortion is, when it is used, who it is used on, all of this new information that we have been presented in the Senate since the last vote a year ago, almost a year ago, and hopefully it is enough evidence and enough change in the statute that is being proposed, the bill that is being proposed, that we will get the requisite 67 votes.

I know there are a half a dozen or more Members who have still not publicly announced what their position is on this bill. That is more than enough votes for us to get it to the 67 we need to override the President's veto. I ask each and every Member who is not committed, and, frankly, I would ask those Members who are committed in light of the evidence that has been presented, in light of the changes that we have made in this legislation, in light of the AMA's strong endorsement and support for this legislation, to take another look. I know it is very difficult for Members on this issue to walk outside of their camp of support. If you are a pro-choice Member, it is very difficult to walk outside of that camp and venture away from those groups of abortion-rights supporters who have supported you in your election and who by and large agree. But it takes a lot of courage to look at your friends and tell them when they are wrong. The AMA supports legalized abortion, and they have been able to look at their friends and say in this case you are wrong; this is not an approved medical procedure and we should not have it legal in this country.

That took a lot of courage. I commend them for their courage. I just suggest that if the AMA can stand up to others in the medical community who believe abortion anytime, anywhere, under any procedure should be legal, they are willing to stand up to those within their ranks who hold that very extreme position, then I hope Members of this body who are not supposed to come here to argue extremist, irrational positions but here to represent what is in the best interests of this country will be able to look into the faces of the organizations that I know they seek support from on election day and with whom I know they

find themselves in agreement on most occasions, look at them and say, you have gone too far this time; we have to draw a line somewhere on this issue; it is not an absolute right for anyone at any point in time under any method to kill their children, that we have to have limits. Even Senator DASCHLE and, to some degree, although minor, Senators FEINSTEIN and BOXER have admitted there is some limit here as to what we can do, on what we should allow in the area of abortion.

The AMA and other professionals in the field have stood up and said this is the line to draw. I hope Members have the courage to stand up and say this is where we draw the line. I commend Members who have done that already. I commend them for their understanding that, frankly, this is less about abortion and more about infanticide; this is more about when we take a baby that is out of the womb, being born, outside of the mother and, frankly, gratuitously kill that baby. We have gone too far. There is no medical reason that a baby four-fifths delivered, everything outside of the mother with the exception of the head, there is no reason to perform a procedure on that baby that kills it at that point. There is no medical reason to protect the life or health of the mother ever to kill the baby at that point. In fact, it is more dangerous for the mother to insert instruments, to puncture bone by stabbing the baby at the base of the skull. That is dangerous to the health and life of the mother. It is obviously very dangerous to the baby.

That is not a safe procedure. You cannot argue that the baby sitting there in that position, that it is for the health of the mother to insert an instrument into the baby's skull. It is not. It can never be. So what we are saying is, whether it is partial-birth abortion or all length, give the baby a chance. Give the baby a chance.

There may be cases, and we understand that—folks who have gotten up and argued to ban this procedure have always recognized that there are situations in which the health and life of the mother are in danger and that separation of the child from the mother is necessary to protect the mother's health and life. But it is never necessary, certainly not by doing this barbaric procedure, to kill the baby in the process. You have a baby four-fifths born with a tiny head that is inches away from that first breath. Let the baby be born. Give it at least a chance to see if that baby can survive. Why do violence to that little baby? There is no medical reason. Why protect a procedure that does violence unnecessarily to little babies who otherwise would be born alive? They may not survive long. They may only survive minutes or hours. But give them the dignity of being born and brought into our human community. Give them the dignity of not having violence be the only thing they know of this Earth. Give them the dignity of life and memory as a part of our human family.

I am very hopeful that as a result of the endorsement of the AMA and other evidence that has come out, we can muster up the moral courage to say no to this procedure. I hope you can.

I hope that anyone who is in the sound of my voice will call, write, fax, E-mail, pray, send any kind of communication they possibly can to Members of the Senate who are going to be voting here tomorrow on this legislation asking that they now look at the evidence presented, look at the changes in the legislation, look at the evidence that has been presented and make the right decision for these children, make the right decision for our culture.

I thank the Chair.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, I appreciate so much the remarks of the Senator from Pennsylvania. I associate myself with everything he said, and I intend to speak on this subject tomorrow before we have the final vote. I trust that Members will give it great thought before they make their final decision because we are on the verge of making a determination that I think is very important to the future of this country.

#### THE QUADRENNIAL DEFENSE REVIEW

Mr. COATS. Mr. President, this evening I should like to take just a very few moments to report, along with my colleague from Connecticut, Senator LIEBERMAN, on the recently released Quadrennial Defense Review. It was released today by the Secretary of Defense. It is the culmination of a very extensive process at the Department of Defense over the shape and makeup, the characterization and the implementation of our Armed Forces for the next several years.

We are at a unique point in our history, particularly as it relates to defense issues. We have come through a period of time when our strategy was primarily based on the threat from another superpower—the Soviet Union—a nuclear threat that required an extraordinary commitment of resources, of manpower, of effort to try to contain and to try to nullify that threat. With the fall of the Berlin Wall, with the fall of the Soviet Union, with the realignment that has taken place with the United States emerging as the one superpower in the world, we may have the luxury of looking at our defense structure, of making decisions and beginning a process of fashioning our defense forces for the threats of the future and not the threats of the past.

It is important to recognize, as Secretary Cohen has and as acknowledged in this Quadrennial Defense Review which was just released today, this is not a status quo situation. We have made extraordinary strides in terms of reshaping our forces from perhaps what was the peak of our defense effort in

1985, a very, very substantial decline in the number of active duty forces and the percentage of our budget and percentage of our gross national product that is devoted to defense. In the process, much of the framework that puts us in a position to make decisions in the future has at least been initiated, and the QDR, Quadrennial Defense Review, encompasses a lot of that thinking.

Because so often in the Congress we receive the conclusion of the analysis of the Department of Defense after all the decisionmaking process has been conducted and after the options have been evaluated, we do not have those same resources here in the Congress to ask the appropriate questions and get the full view of where we think we ought to go with our national defense policy. So Senator LIEBERMAN and I, along with others, in last year's authorization bill created a National Defense Panel consisting of outside experts in military affairs, who had a lifetime of experience, who could give us through this process a second look, a second opinion. I am pleased that they were able to have access to the process, the thinking process and the decisionmaking process that was undertaken in the Department of Defense on the QDR. They will now undertake a very thorough and very complete analysis of this QDR and report back to Congress. We have their preliminary report. They will report back to Congress no later than December 15 of this year giving us their view of current threats and future threats the United States might face, the strategy that we ought to employ to address those threats, as well as how we ought to implement that particular strategy and how we pay for it.

So we are looking forward at a process, and I have described this process in some detail because I do not want Members to think that this is the final chapter in the book. This really is the initial chapter in the decisionmaking process that has to be undertaken by the Congress and the administration over the next several months, if not several years, as we look into the next century and try to define the national defense strategy and the force to implement that particular strategy.

I will say this: I think the Secretary of Defense and the people who have undertaken this effort, the QDR, have done this in good faith. I think they have asked the tough questions. They have evaluated the various options. They will admit that this is an initial stage of the process and not the final chapter. They will indicate that there is more to come. There are more decisions to be made.

But I also say to my colleagues, a lot of the burden and responsibility also falls on us. The Department of Defense has presented its viewpoint of where we are going in the future, but we are the ones who have to ultimately make the decision as to whether to ratify what they have said, modify what they have