

I take some heart in letters from the California Medical Association which indicate their opposition to this legislation and clearly state that they believe the amended legislation before us today falls very short of the mark. They indicate their strong opposition to this bill. I ask unanimous consent to include in the RECORD two letters I received from the California Medical Association.

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

CALIFORNIA MEDICAL ASSOCIATION,

*San Francisco, CA, May 20, 1997.*

Senator DIANNE FEINSTEIN,  
Hart Senate Office Building,  
Washington, DC.

DEAR SENATOR FEINSTEIN: We have reviewed the amendments to HR 1122 and believe that they make no substantive changes to the legislation. While the debate over late-term abortion is painful, both within the medical community and the general citizenry, we believe these decisions must be left to physicians and patients . . . acting together.

While late-term abortions may have occurred inappropriately in some instances, they have also saved women's lives and the health and well-being of many American families. In a society where values are assaulted on every side . . . the bond between healer and patient is ever more important. Passages of HR 1122 would be one more step in eroding that relationship. The California Medical Association is opposed to this bill and is saddened the debate appeals to the emotive, rather than the reasoning, segment of America.

Sincerely,

ROLAND C. LOWE, M.D.,

*President.*

CALIFORNIA MEDICAL ASSOCIATION,

*San Francisco, CA, May 14, 1997.*

Re opposition to H.R. 1122.

Senator DIANNE FEINSTEIN,

*Hart Senate Office Bldg., Washington, DC.*

DEAR SENATOR FEINSTEIN: The California Medical Association is writing to express its strong opposition to Congressional intrusion into the physician-patient relationship, as exemplified by the above-referenced bill, which would ban "partial-birth abortions." We believe that it is wholly inappropriate for a legislature to make decisions which prevent physicians from providing appropriate medical care to their patients. Physicians must be allowed to exercise their professional judgment when determining which treatment or procedure will best serve their patients' medical needs.

The obstetricians and gynecologists have already eloquently expressed the medical justifications for this procedure in rare but very real circumstances. CMA certainly does not advocate the performance of elective abortions in the last stage of pregnancy. However, when serious fetal anomalies are discovered late in a pregnancy, or the pregnant woman develops a life-threatening medical condition that is inconsistent with continuation of the pregnancy, abortion—however heart-wrenching—may be medically necessary.

CMA respects the concern that performing this type of abortion procedure late in a pregnancy is a very serious matter. However, political concerns and religious beliefs should not be permitted to take precedence over the health and safety of patients. CMA opposes any legislation, state or federal, that denies a pregnant woman and her physician

the ability to make medically appropriate decisions about the course of her medical care. The determination of the medical need for, and effectiveness of, particular medical procedures must be left to the medical profession, to be reflected in the standard of care. It would set a very undesirable precedent if Congress were by legislative fiat to decide such matters. The legislative process is ill-suited to evaluate complex medical procedures whose importance may vary with a particular patient's case and with the state of scientific knowledge.

CMA urges you to defeat this bill. Many of the patients who would seek the procedure are already in great personal turmoil. Their physical and emotional trauma should not be compounded by an oppressive law that is devoid of scientific justification.

Sincerely,

ROLLAND C. LOWE,

*President.*

Mrs. FEINSTEIN. Mr. President, I believe the California Medical Association still represents the largest group of physicians anywhere in this Nation. No one seems to care about the Constitution, that this bill constitutes a direct challenge to the Roe versus Wade Supreme Court decision. The Supreme Court held that in Roe, a woman has a constitutional right to choose whether or not to have an abortion. It set for the different trimesters, some specific limitations on that right, that before viability, abortion cannot be banned; after viability, the Government can prohibit abortion, except when necessary to protect a woman's life or health.

The PRESIDING OFFICER. The Senator's time has expired.

Mrs. FEINSTEIN. This bill, the bill before us, says the woman's health doesn't matter, it is of no consideration. I must tell you, to me a woman's health matters. It should be of direct consideration.

The PRESIDING OFFICER. The Senator's time has expired.

Mrs. FEINSTEIN. So I will vote no on this bill, and I really regret that this day is upon us. I thank the Chair.

Mr. SANTORUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I just suggest the American Medical Association and the other hundreds of doctors understand the point that seems to elude the Members of this Chamber. By outlawing this procedure they are, in fact, protecting the health of the mother, because this is an unhealthy procedure, this is a dangerous procedure. This procedure, as said by over 500 physicians "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 and third trimester, and certainly not by mostly delivering the child before putting him or her to death."

I will quote another obstetrician/gynecologist, Dr. Camilla Hersch:

Any proponent of such a dangerous procedure is at least seriously misinformed about medical reality or at worst so consumed by narrow minded "abortion-at-any-cost" activism to be criminally negligent.

What we are doing here is, in fact, advocating for the life health of the mother by banning a procedure which is a rogue procedure, not performed at hospitals, performed at abortion clinics, not even performed by obstetricians, invented by someone who is not an obstetrician. That is why the AMA wrote to me yesterday supporting H.R. 1122 as it now appears on the floor of the U.S. Senate saying:

Thank you for the opportunity to work with you toward restriction of a procedure we all agree is not good medicine.

In other words, it is not in the interest of the health or life of the mother to do this procedure. It is wrong to do this procedure because you are killing a little baby. You are killing a baby that is fourth-fifths born, that is moving outside of its mother. How can we accept that when there are other options available?

As I suggested before, here is living proof of other options available: a little girl who is here today on Capitol Hill, who will be right out here by the elevators during that vote. I ask Members to go over and to look into her eyes, to talk to her, because if her parents would have listened to all the expert doctors who knew what was best for their child, she wouldn't be here today.

She would have had this brutality, this violence, this vile procedure done on this innocent little girl who now walks and talks and writes notes—"Donna" with a hand there, reaching out asking that this procedure not be made available, so little girls like her, little boys like her, be given a chance at life.

The Senator from California said, these kids who are not well enough to make it. Who are we to decide whether they are well enough to make it? Who are we to say they should die because they are not perfect?

Give them a chance. Give them the dignity of being born and brought into this world with love, not violence and brutality. Give them a chance. Give them a chance.

I yield the floor.

## RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess now until the hour of 2:15 p.m.

Thereupon, the Senate, at 1:01 p.m., recessed until 2:15; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. SMITH of New Hampshire).

## PARTIAL-BIRTH ABORTION BAN ACT OF 1997

The Senate continued with consideration of the bill.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. What is the pending business?

The PRESIDING OFFICER. The pending business is H.R. 1122, as amended.

Mr. HELMS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced— yeas 64, nays 36, as follows:

[Rollcall Vote No. 71 Leg.]

#### YEAS—64

Abraham	Faircloth	Mack
Allard	Ford	McCain
Ashcroft	Frist	McConnell
Bennett	Gorton	Moynihan
Biden	Gramm	Murkowski
Bond	Grams	Nickles
Breaux	Grassley	Reid
Brownback	Gregg	Roberts
Burns	Hagel	Roth
Byrd	Hatch	Santorum
Campbell	Helms	Sessions
Coats	Hollings	Shelby
Cochran	Hutchinson	Smith (NH)
Conrad	Hutchison	Smith (OR)
Coverdell	Inhofe	Specter
Craig	Johnson	Stevens
D'Amato	Kempthorne	Thomas
Daschle	Kyl	Thompson
DeWine	Landrieu	Thurmond
Domenici	Leahy	Warner
Dorgan	Lott	
Enzi	Lugar	

#### NAYS—36

Akaka	Feinstein	Lieberman
Baucus	Glenn	Mikulski
Bingaman	Graham	Moseley-Braun
Boxer	Harkin	Murray
Bryan	Inouye	Reed
Bumpers	Jeffords	Robb
Chafee	Kennedy	Rockefeller
Cleland	Kerrey	Sarbanes
Collins	Kerry	Snowe
Dodd	Kohl	Torricelli
Durbin	Lautenberg	Wellstone
Feingold	Levin	Wyden

The bill (H.R. 1122), as amended, was passed.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader is recognized.

Mr. DASCHLE. Mr. President, I wish to explain my vote today on H.R. 1122, the partial-birth abortion ban.

As with many of my colleagues, this was not an easy decision. Virtually every Senator who has participated in the debate has noted his or her abhorrence to the procedure.

I respect the views of Senators on either side of this issue. I have chosen to speak after the vote because this is a decision each Senator must decide for himself or herself.

My own decision was not easy, in part, because this bill may have no practical effect on abortions in this

country. It is likely that doctors wishing to perform later-term abortions will simply choose another option.

As I repeated last week, this is not a ban of abortion; it is a ban of a specific procedure.

It is not an easy decision because I favor a woman's right to consult the physician of her choice to decide the most appropriate course of action on matters directly affecting her health and her most personal circumstances.

This decision was not easy because, in spite of the personal nature of this debate, its complexity, the medical repercussions, and its seriousness, this issue has become politicized to the extent that much of the rhetoric has substantially diminished the potential for real discourse on such an important matter.

The result is that sincere efforts to find common ground have been labeled as "shams," as "political cover," and "deceptive" by many who passed judgment without having even read the legislation.

Perhaps because my expectations were much too high, my greatest disappointment is reserved for some officials in the Catholic Church, especially in my State, for whom I had great respect and from whom I was given initial encouragement for my efforts. Their harsh rhetoric and vitriolic characterizations, usually more identified with the radical right than with thoughtful religious leadership, proved to be a consequential impediment to the decision which I have made today. It was most instructive.

This was not an easy decision, because it is highly likely that H.R. 1122 will be declared unconstitutional should it be enacted into law.

The Supreme Court has been very clear in regard to two issues concerning abortion.

First, prior to the viability of a fetus, a woman's ability to choose to terminate her pregnancy is a fundamental constitutional right and cannot be abrogated. The Court has ruled that the Government cannot impose an undue burden on a woman who wishes to terminate her pregnancy with an abortion, prior to the viability of the fetus. Second, that after a fetus is determined to be viable, it can be given protection, so long as it does not endanger the life or health of the mother.

On both principles, the bill just passed appears to be in conflict with numerous Supreme Court rulings.

Yet in spite of the difficulty in coming to my decision, I voted in favor of its passage because I still desire to find common ground with those outside the extremes who truly hope to resolve the issue in a constructive and meaningful way.

I will continue to insist that any common ground approach fall within the constitutional parameters which protect a woman and respect the legitimate concerns for her health. But I will consider other proposals which accommodate that need in a manner more effective than mine.

My hope is that we can get beyond this debate to find a lasting, more acceptable legislative response. Recurring efforts to pass and veto a bill which is likely to be found to be unconstitutional only delays meaningful progress in an effort to ban not just one procedure but all of them once a fetus is viable.

Failure to find common ground leaves little choice but to accelerate the legislative process to allow the earliest review of the law by the Supreme Court. Its determination of the questionable constitutionality of this approach will guide us and will certainly force those unwilling to compromise now to a more conciliatory position later.

Our Nation must find the solution to this deeply vexing, moral problem which has persisted in dividing us.

Let us not give up hope.

I yield the floor.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

#### RILEY ANNE CZARTORYSKI

Mr. CRAIG. Mr. President, I certainly respect the comments of my colleague, and I will leave it at that because at this moment I would like to announce to my fellow Senators a joyous event in my family.

Yesterday afternoon at 4:46 my daughter, Shae Czartoryski, with the help of her husband Jeff, gave birth to our first grandchild—Suzanne Craig's and Larry Craig's first grandchild—a beautiful baby girl by the name of Riley Anne Czartoryski. She came in at 6 pounds 6 ounces, and 20½ inches long, and yelling her head off.

We are just tickled pink about that.

So, as we talk about life and as we talk about joy, I wanted to share with all of you today a joy in my life, my first grandchild, the first grandchild of our family.

I thank the Chair.

#### THE PARTIAL BIRTH ABORTION BAN ACT

Mr. DORGAN. Mr. President, I supported passage of the Partial-Birth Abortion Ban Act when it was considered during the 104th Congress and I supported overriding the President's veto of that measure. Today, I again voted in favor of this legislation.

My position on abortion issues is clear. I have consistently stated that I would not support overturning the Supreme Court's decision in Roe versus Wade. I support a women's right to have an abortion. I do not think we should turn back the clock and make abortion illegal, but we should work in every way to reduce the number of abortions that are performed.

I have also cast votes in Congress in opposition to using Federal funds to pay for abortions except in cases of life endangerment, rape, or incest.

Today, the Senate again voted on legislation which would prohibit a physician from performing partial-birth