



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE **106th** CONGRESS, FIRST SESSION

Vol. 145

WASHINGTON, THURSDAY, OCTOBER 21, 1999

No. 144

Senate

The Senate met at 9:31 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today's prayer will be offered by our guest Chaplain, Father Daniel L. Ochs, St. Pius X Church, Reynoldsburg, OH.

PRAYER

The guest Chaplain, Father Daniel L. Ochs, offered the following prayer:

Lord God, we call to mind Your presence and ask that we may be mindful of Your will for us. In Your bountiful goodness, You have made us a great nation subject to You.

May we serve You in humble gratitude and be faithful in our responsibility to work for the fulfillment of Your kingdom on Earth, a kingdom of justice, peace, and love. Stirred up by Your Holy Spirit, may we replace hate with love, mistrust with understanding, and indifference with interdependence. Bless our Senators so that with open minds and hearts they may become peacemakers in our world. May the Earth be filled with Your glory. Amen.

PLEDGE OF ALLEGIANCE

The Honorable MIKE CRAPO, a Senator from the State of Idaho, led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDING OFFICER (Mr. CRAPO). The Senator from Florida is recognized.

FATHER DAN OCHS

Mr. MACK. Mr. President, I extend a warm welcome to Father Dan this morning. He is our guest Chaplain this

morning from Reynoldsburg, OH. I had the pleasure of meeting him a few moments ago, but in a sense I have known him for at least a number of years because my brother, Andrew McGillicuddy, is a member of his parish—Andy and Chris—and as a result of their request, Father Dan was able to join us this morning. He is the pastor of a church of 2,400 families, a great responsibility. We are delighted he is with us this morning.

SCHEDULE

Mr. MACK. Mr. President, today the Senate will resume consideration of the pending Harkin amendment to the partial-birth abortion ban bill. By previous consent, there are 2 hours of debate on the amendment. Therefore, Senators can anticipate a vote at approximately 11:30 a.m., unless the time is yielded back on the amendment. Senators should be aware future roll-call votes are expected in an attempt to complete action on the bill prior to adjournment today.

Following the completion of the partial-birth abortion ban bill, the Senate may begin consideration of any legislative items on the calendar or any conference reports available for action.

I thank my colleagues for their attention.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

PARTIAL-BIRTH ABORTION BAN ACT OF 1999

The PRESIDING OFFICER. The Senate will now resume consideration of S. 1692, which the clerk will report by title.

The legislative clerk read as follows:

A bill (S. 1692) to amend title 18, United States Code, to ban partial-birth abortions.

Pending:

Boxer amendment No. 2320 (to the text of the language proposed to be stricken by amendment No. 2319), to express the Sense of the Congress that, consistent with the rulings of the Supreme Court, a woman's life and health must always be protected in any reproductive health legislation passed by Congress.

Harkin amendment No. 2321 (to amendment No. 2320), to express the Sense of Congress in support of the Supreme Court's decision in *Roe v. Wade*.

The PRESIDING OFFICER. Under the previous order, there will now be 2 hours of debate equally divided prior to the vote on amendment No. 2321.

The Senator from California.

Mrs. BOXER. I thank the Chair.

I also want to say something about the prayer which I found to be quite beautiful. I think talking about making sure we have no hate in our heart is really important. It is so important to all of us as we debate this legislation, to understand that we have great differences but to try to reach for that part of ourselves that brings us all together.

I thank the guest Chaplain as well.

This morning I am very pleased to be here. I know that while Democratic Senators were attending a dinner last evening, the debate into the late hours was rather one-sided. So I really do appreciate the fact we have a little time this morning to set the record straight.

I am very pleased the Senator from Iowa, who is on his way here, was able to place his amendment before the Senate so we could bring back this debate on a woman's right to choose, the fundamental right women won in this country in 1973 when the Court decided that, in fact, a woman in the earlier stages of her pregnancy has a right to choose freely, with her doctor and her husband and her family, as to how to handle their situation. I think it was a very important, landmark decision.

The decision went on to say that in the later term, which we are talking about a great deal, the State has the

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



Printed on recycled paper.

S12949

right to regulate it. So what Roe did was to balance the rights of the woman, if you will, with the child she is carrying. It says in the late term and in the midterm, the States can regulate the procedure, and that is very important, but the woman's life and the woman's health must always be paramount. This is important.

What we have in the underlying bill is just the opposite. The underlying bill makes no exception for a woman's health. Now, the Senator from Pennsylvania says there doesn't need to be that exception. I didn't know he had a medical degree. I would prefer to listen to the obstetricians and gynecologists. He cites 600 doctors. There are 40,000 strong. I prefer to listen to the nurses, to the women who have chosen to go into the health professions. All those letters were put into the RECORD.

And so I believe very strongly that we must always protect the life and health of a woman while we grapple with the obvious religious, moral, and ethical questions as to what type of restrictions ought to be placed on abortion in the later term.

I was very discouraged and saddened by the debate yesterday because I thought what came out on this floor were words that were full of hate. To call a doctor an executioner is wrong; to talk about killing babies is wrong; and I don't think it brings this Nation closer together on this issue. I do not think it sets an atmosphere in which we can try to work together. But this morning I think we are debating something different. We are debating a very fundamental Court decision. The Harkin amendment simply says that Court decision should not be overturned. I look forward to an overwhelming vote, and I hope it will be overwhelming, not to overturn Roe. Because I think if we do that, and that amendment is attached to the underlying bill, it will give the President even more reason to veto the underlying bill because we will affirm that this Senate stands in favor of a woman's right to choose, and of Roe. Remember, Roe says that at every stage of a pregnancy the woman's health must be protected. The underlying bill makes no such exception.

When you talk about abortion, you are really talking about choice. Should the Government, this Government, this Senate, tell women and families what to do in an emergency tragic health situation? That is what we are talking about in the underlying bill. The Senator from Pennsylvania says, yes, the Government should tell families what to do. Unfortunately, in his argument, in my view—and it is shared by many—he demeans women; he demeans families; and he demeans doctors. Worse than that, far worse than that, he demonizes women, demonizes families who do not agree with him. He demonizes doctors, doctors who bring babies into this world, doctors who help save lives, who protect our health, who protect a woman's fertility. He does that only if these women and these families

and these doctors do not agree with his views.

I guess perhaps the biggest insult and the biggest injury that was done yesterday on this floor was when the Senator from Pennsylvania dismissed heartfelt stories of women and their families who have struggled through the biggest tragedy, almost, that anyone can imagine—of having to terminate a pregnancy at the final stages because something has gone horribly wrong and the baby, if born, would suffer and the mother would suffer adverse health consequences, irreversible; he called those stories anecdotes. Don't be blinded, he says, by the anecdotes of women. I want to say to my colleague from Pennsylvania, with no hate in my heart whatsoever, you call these stories anecdotes. I say these stories are these families' lives. It is what they have experienced. It is what they will forever have to live with. I think it is shameful to dismiss them in that fashion.

Many of these women are here in the Capitol. They are here with their families; they are here with their children; they are telling their stories. To dismiss it and say don't be blinded by a few anecdotes is, to me, very cruel, indeed.

I say to the Senator from Pennsylvania, and the Senators who support him, that I support his right to view this issue in any way he chooses. I support the right of his family to handle these health care emergencies in any way they decide with their doctor, with each other, with their God, with their priest, with their rabbi, with their minister. It is their right. I would no sooner tell the Senator from Pennsylvania's family how to handle this matter than anything I can imagine. I would never do that. I do not want the Senator from Pennsylvania telling my family and my rabbi and my children how to handle a health emergency. I resent that.

I have enough respect for my family that we would do what is right. I have enough respect for every family in America that they would do what is right. If the families in America did not agree with me, I would say God bless you; you handle this in any way you want.

That is where the differences lie between the philosophy of the Senator from Pennsylvania and the philosophy of those of us who consider ourselves pro-choice. We trust the women of America. We trust the families of America. We trust them to seek the appropriate counsel. We trust them to make this painful and difficult decision without Government telling them what to do.

When the women in this country have a health problem, they do not go to see their Senator. They don't go to see Dr. SANTORUM or Dr. BOXER or Dr. HELMS or Dr. MIKULSKI. They go to their physician. We should not play doctor. It is not appropriate, it is not right, and it is dangerous. It is very dangerous to the health of women. We

will get into that when we talk about why the Roe v. Wade decision was so important. As long as the women in this country and the families in this country choose what is legal and available to them, we should respect that. The legalities have been settled since 1973. Make no mistake about it, the entire purpose of this underlying bill and other amendments that may come before us—I do not know what amendments they will be—are all about one thing: undermining this basic legal decision called Roe v. Wade.

At 11:30 this morning, the Senate will make an important vote as to whether or not they believe Roe v. Wade should be confirmed by this Senate. I want to read a quote that was put in the RECORD yesterday. I think it is very important to understand this statement is a statement of Supreme Court Justices O'Connor, Kennedy, and Souter. In a case called *Planned Parenthood of Southeastern Pennsylvania v. Casey*, listen to what these three Justices, all Republicans appointed by Republican Presidents, said about the basic issue we are talking about:

At the heart of liberty is the right to define one's own concept of existence, of meaning, of the universe, and of the mystery of human life. Beliefs about these matters could not define the attributes of personhood were they formed under compulsion of the State.

"Compulsion of the State." What these Justices said, all appointed by Republican Presidents, was that the state should stay out of this crucial decision. It is something that exists in our hearts, in our souls, in our beings.

The "meaning of the universe and the mystery of human life" should not be dictated by the state, by Senator SANTORUM, by Senator BOXER, by any Senator. It is up to each individual.

When Roe was decided and it was reaffirmed by the Court, and hopefully it will be reaffirmed today by this Senate, it basically gave that liberty to the people of this country. I think it is very important to note it has been stated on this floor over and over again, the underlying bill has nothing to do with Roe v. Wade. I ask you, colleagues, to look at the 19 Court decisions that have contradicted that statement. In each and every case, the Court said the Santorum bill, the approach he has taken, contradicts Roe, because in each and every case they found the definition of this partial-birth abortion—of which there is no medical meaning, there is no medical term—is so vague that it could, in fact, apply to any procedure and, therefore, it essentially stops all abortion. Indeed, if you look at some of the States, in some of the States, before the Court overturned these statutes, there was no abortion being performed at any stage because of the vaguely worded law, the words of the Santorum bill.

In Alaska, the vagaries of the law are obvious, and Alaska overturned the Santorum bill.

In Florida, this statute "may endanger the health of women"—they overturned the Santorum bill.

In Idaho, the act bans the safest and most common methods of abortion and they overturned—this is Idaho—the Santorum bill.

In Louisiana, the judge said this is truly a conceptual theory that has no relation to fact, law, or medicine, and they overturned this bill.

In Michigan, they said physicians simply cannot know with any degree of confidence what conduct may give rise to criminal prosecution and license revocation, and they overturned the bill.

And it goes on—Missouri, Montana. They say the problem here is that the legislation goes way beyond banning the type of abortion depicted in the illustrations.

Court after court has stated this bill overturns Roe, and that is why the Senator from Iowa was so correct to bring his amendment to the floor to reaffirm Roe.

I see the Senator from Washington is here, and I ask her how many minutes she would like to use on this amendment.

Mrs. MURRAY. Mr. President, if the Senator from California will yield me 5 minutes.

Mrs. BOXER. I so yield.

The PRESIDING OFFICER. The Senator from Washington is recognized for 5 minutes.

Mrs. MURRAY. Mr. President, first, I thank my colleague from California for her tremendous amount of work on the floor on a very emotional and difficult issue to show all of us what is really behind the bill that is before the Senate and to stand up for women across this country to make their own health care decisions, along with their family and their own faith, without the interference of those of us on this floor who are not medical doctors and who are not members of that family.

I thank the Senator from Iowa, Mr. HARKIN, for offering the amendment we are now debating because his amendment—and I want my colleagues to look at it very carefully—is really what this debate is about, and I think everyone here knows it.

The question is, Do we really stand for and behind Roe v. Wade? Do we really support a woman's right of choice? Are we going to allow women to make this incredibly important decision in consultation with their physician and their family and their faith or are we going to stand on the floor of the Senate and make that decision for her?

I have often heard many of my colleagues talk about being pro-choice simply because they do not support overturning Roe v. Wade. But over and over, when it comes time to provide access or services or to allow Federal employees access to these services, these same pro-choice Members vote to restrict a woman's right to choose.

I know the difference, as do the voters in my home State of Washington. In 1992, my State voted overwhelmingly in support of a woman's right of

choice. The voters in Washington State recognized the importance of the landmark Supreme Court decision giving a woman the right to determine her own fate and make her own personal health and reproductive decisions.

Washington State voters have also spoken out on this particular effort—the underlying bill—which attempts to undermine Roe v. Wade by outlawing one abortion procedure after another.

In 1998, a year ago, the voters of my State overwhelmingly defeated a ballot initiative to ban the so-called partial-birth abortions. That initiative was almost identical to S. 1692.

I am really proud of Washington State voters who stood up to defend a woman's right to her own reproductive health and choice decisions. That initiative which was on our ballot a year ago was defeated because there was no exception, no consideration for the health of the woman. Her life and her health were made not just secondary concerns but of no concern at all. In my State, voters understood why this kind of ban was a threat to all women.

The Harkin amendment we are now debating gives us the opportunity to talk about the role of the woman in this decision. It will allow Members to stand up and say the Roe decision was an important one, one we stand behind. The Harkin amendment will send a message to women that we recognize the turning point in equality that followed the 1973 landmark ruling.

As the Senator from Iowa pointed out, there was a time in our country's history when a woman could not own property, could not vote, or could not have access to safe family planning services. There was a time when women were not allowed access to equal education. There was a time in our history when having a child meant being forced out of the workplace.

Those times have passed. Women made gains as those offensive policies were changed, banned, and overturned, and I will do everything I can to make sure votes such as the one we are talking about do not take us back to the dark days because the women of America are not going back.

The proponents of S. 1692 say their intent is to end late-term abortions. We are not going to be fooled. We know this is just another attempt to chip away at Roe v. Wade. This is just another attempt to undermine that decision and deny access to safe and legal abortion services. This is just another attempt to harass providers and generate hateful rhetoric. This is just another attempt to limit access.

The proponents are trying to achieve through public relations what they cannot do in the courts or in the legislatures. Their ultimate goal is to make the rights and health protections guaranteed in Roe worth nothing more than the paper on which it was written. The Harkin amendment calls them on this bluff and demands accountability.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mrs. MURRAY. I ask the Senator from California for an additional 3 minutes.

Mrs. BOXER. Yes, 3 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mrs. MURRAY. Mr. President, since 1995, we have had more than 110 anti-choice votes in Congress. More than 110 times, we have voted to restrict or deny access to safe and legal reproductive health care. More than 110 times we have voted to undermine and limit the constitutional guarantees that were provided in the Roe v. Wade decision.

The goal is clear: Little by little, the proponents of the underlying bill want to place so many barriers and obstacles in front of women and their physicians that abortions will only be available to a few wealthy women, just as it was before the Roe v. Wade decision. A woman who is a victim of rape or incest, a woman whose life is at stake, will not even be able to find a provider. In fact, I want my colleagues to know we are already seeing this. In some States, there are no doctors now who are willing to provide a legal health care procedure. We are going back to the dark days when women's health was at risk because of the laws of this land.

Let there be no confusion; the proponents of this bill want to outlaw abortions step by step since they know a majority of Americans will not give up their rights to make this decision on their own with their own family and their own faith.

If you support the Roe v. Wade decision, you have to support the Harkin amendment. If you support a woman's right to choose, you have to support the Harkin amendment. And a "no" vote will send a message that the Senate does not support Roe or recognize the importance that a woman has to make this decision on her own.

I urge my colleagues to vote for the Harkin amendment and put us on record where we ought to be: To allow women to have safe, legal reproductive choices that allow them to make this decision with their family and their faith. That is where this decision rests, not on the floor of the Senate.

I thank my colleague from California.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I yield 10 minutes to the Senator from Iowa, the author of this amendment.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 10 minutes.

Mr. HARKIN. Mr. President, I thank my colleague for yielding me this time, and I thank her for her strong support for women's rights and the constitutional right of women to make their own decisions in terms of reproductive health.

I thank the Senator from Washington, Mrs. MURRAY, for her strong support, and my friend and colleague

from Illinois who will be speaking shortly, Senator DURBIN.

It has been said by the proponent of the underlying bill that this amendment of mine has nothing to do with his underlying bill. I beg to differ and to disagree.

This amendment has everything to do with the underlying amendment because, really, what my friend from Pennsylvania is seeking to do is to begin the long process—which I am sure he would like to have a shorter process—to overturn *Roe v. Wade*, to take away the constitutional right that women have in our country today to decide their own reproductive health and procedures. That is really what this is about: A chipping away—one thing here, another thing there.

If anyone believes, by some fantasy dream, if the underlying bill of the Senator from Pennsylvania would ever become the law of the land, that this would be the end of it, that the Senator from Pennsylvania and those who believe and feel as he does would not feel the need to do anything else with regard to a woman's right to choose, is sadly mistaken. They will be back again with something else, and back again with something else, until *Roe v. Wade* is overturned. That is really what they are about.

So as far as I know, this will be the first time that the Senate of the United States has ever been able to speak; that is, to vote on how we feel and how we believe *Roe v. Wade* ought to be interpreted as the law of the land.

This is the first time, that I know of, that we have had the opportunity to vote up or down on whether or not we believe that *Roe v. Wade* should stand and should not be overturned and that it is, indeed, a good decision.

Again, I just read the "Findings" of my amendment. My amendment is very short. It just says:

Congress finds that—

(1) reproductive rights are central to the ability of women to exercise their full rights under Federal and State law;

(2) abortion has been a legal and constitutionally protected medical procedure throughout the United States since the Supreme Court decision in *Roe v. Wade*;

(3) the 1973 Supreme Court decision in *Roe v. Wade* established constitutionally based limits on the power of States to restrict the right of a woman to choose to terminate a pregnancy; and

(4) women should not be forced into illegal and dangerous abortions as they often were prior to the *Roe v. Wade* decision.

(b) . . . It is the sense of the Congress that—

(1) *Roe v. Wade* was an appropriate decision and secures an important constitutional right; and

(2) such decision should not be overturned.

Very simple and very straightforward. It has everything to do with the underlying bill because what the underlying bill really seeks to do is overturn *Roe v. Wade*.

Why? Because *Roe v. Wade* leaves an exception in to protect the woman's life or health. The Court, in siding with *Roe* in the Texas case that was filed,

struck down the Texas law. The Court recognized for the first time the constitutional right to privacy "is broad enough to encompass a woman's decision whether or not to terminate her pregnancy."

The Court set some rules. It recognized that the right to privacy is not absolute, that a State has a valid interest in safeguarding maternal health, maintaining medical standards, and protecting potential life. A State's interest in "potential life" is "not compelling," the Court said, until viability, the point in pregnancy at which there is a reasonable possibility for the sustained survival of the fetus outside the womb.

This is the important part: A State may, but is not required, to prohibit abortion after viability, except when it is necessary to protect a woman's life or health. That is what Mr. SANTORUM's underlying bill does; it strikes out those very important words "or health."

As we have repeated stories of women who have had this procedure, who, if they had not had this procedure, could have been injured permanently for life, been made sterile for life, not being able to hope to even raise a family after that, that has a lot to do with a woman's health.

I heard the Senator from Pennsylvania say something yesterday about we should not be guided by these anecdotes that people come and tell us. But what we do hear affects people's lives. These are not anecdotes.

I told the story yesterday of my friend, Kim Coster, and her husband. She had to go through this procedure twice. She still has hopes of raising a family—a very wrenching, painful decision for her and her husband. Is that an anecdote? No. It is a true-life story of what happens to individuals because of what we do here.

Let us always keep in mind that the votes we cast, the laws that we pass, affect real people in real-life situations. These are not anecdotes. These are not something to cloud and to fog our reasoning. I believe I paraphrased a little bit what the Senator from Pennsylvania said. I may not have said the words correctly, but that is sort of what he said.

No, we should use real-life stories to guide and direct us as to what we should do within the constitutional framework and what we should do to ensure that we do not trample on constitutional rights, and especially, here, the constitutional rights of women to control their own reproductive health.

So I would just say to my friend from Pennsylvania, this amendment, this sense-of-the-Congress resolution that is now pending, has everything to do with the underlying bill. It is the first time that we will be able to speak as to whether or not we believe *Roe v. Wade* should continue, should not be overturned, and was a wise decision.

I am certain the Senator from Pennsylvania will vote against my amend-

ment. That is his right. I know he does not believe in *Roe v. Wade*. I know he believes that *Roe v. Wade* should be overturned. There are others who believe that. But I hope the vast majority of the Senate will vote, with a loud voice, that *Roe v. Wade* was a wise decision. It secured an important constitutional right for women. It should not be overturned.

I reserve the remainder of my time and yield the floor.

Mrs. BOXER addressed the Chair.

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

Mrs. BOXER. If there was any extra time, I hope we will keep it on our side. I discussed this with the Senator from Pennsylvania, and he has been gracious enough to agree, since our colleagues have time problems; what I would like to propound is that Senator DURBIN be given 5 minutes, followed by Senator FEINSTEIN for 12 minutes, and then we will reserve the remainder of our time for the closing debate. And the Senator from Pennsylvania will then have an hour left on his side.

The PRESIDING OFFICER. Is there an objection to the request?

Without objection, it is so ordered.

Mrs. BOXER. I thank the Chair.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 5 minutes.

Mr. DURBIN. I thank the Chair, and I thank the Senator from California for yielding me this time.

I am going to vote in favor of the Harkin amendment. The Senator from Iowa has put the question before the Senate, which is very straightforward: Do you support the 1973 decision of the U.S. Supreme Court which said that we will protect a woman's right to choose?

The decision of that Court said that the privacy of each of us, as individuals, has to be protected, and particularly the privacy of a woman when she is making a critical decision about her health.

I have, over the past day or so, been involved in a debate on this floor about this issue. And I thank all of my colleagues for participating in this debate. On an amendment I offered, there were some 38 votes last night. I wish there were more. Any Senator would. I am proud of those who stood with me and hope we have taken one small step toward finding common ground consensus, while conceding what the Senator from Iowa has made a point in his amendment; that is, first, we will keep abortion procedures safe and legal in America and, second, we will try to find reasonable restrictions within that decision. I believe that is what the debate was about yesterday.

The point I make this morning, in the brief time I have, goes to the heart of this issue. This amendment really tests us as to our feelings about the women of America, particularly those who are mothers, and the children of America. I am troubled by those who oppose the *Roe v. Wade* decision and

say they are doing it because they believe in the women of America. Then we look at their voting records and say, where are they?

For example, let's use one very basic issue. We on the Democratic side, with the help of Senator KENNEDY and others, have been fighting hard to increase the minimum wage. Our belief is that people who are going to work every day deserve a decent living wage. The minimum wage has been stuck at \$5.15 an hour for too long. Who are the largest recipients of the minimum wage in America? Women, women who go to work, many with children, struggling to survive. If we believe in the dignity of women, we should be voting for an increase in the minimum wage.

Not too long ago, the Republican majority in the House suggested cutting back on a tax credit for lower-income working families, the earned-income tax credit. They said: This is the way we will balance the budget. Thank goodness even a Republican candidate for President came out against that idea.

It raises a question in my mind: Those who oppose the idea of Roe v. Wade and say they still stand up for the women of America, where are they on these other issues as well? Historically, the same people who are opposed to Roe v. Wade are opposed to increasing the minimum wage and want to cut the tax credit for working families, particularly single-parent families.

Let's take a look at the children's side of the equation. Many who oppose abortion procedures say these children should be born. The question is, Once they are born, will you help care for them? The record is not very encouraging. The same people who oppose the abortion procedures oppose an increase in the minimum wage, by and large. The same people who oppose Roe v. Wade are the folks who are leading the charge for cutting the earned-income tax credit, cutting the Head Start Program for the children, cutting education and health care and the basics of life.

If this is a question of commitment to life, take a look at this next roll call on the Harkin amendment, which I will support. Line up those Senators on both sides of the aisle and ask: If you say you want more children born in this world, are you willing to stand by and help the families raise them? Too many times, I think we will be sadly disappointed.

There was a study that came out a few days ago. It was from a woman at Claremont Graduate University in California who did a survey of all the States that have the strongest anti-abortion laws and found they are many times over more likely to have less assistance for families and children. Those who stand here and say, oppose Roe v. Wade, allow these children to be born, the obvious question of them is, Will you stand, then, for the programs to help these children? Time and time again, they do not.

I believe Roe v. Wade has in a way recognized the constitutional reality of privacy in this country. It is said a woman should have the right to choose. In that critical moment when she is making that decision with her doctor, with her husband, with her family, with her conscience, the Government should not be there making the decision for her.

Yes, there are restrictions in Roe v. Wade. Some people think they are too much; some, too little. Be that as it may, the basic constitutional principle is sound. Members of the Senate will have, in a very brief moment in time, a critical opportunity to decide whether or not they want to turn back the clock to back-alley abortions, to the days when abortions were not safe and legal in this country.

I hope we have a solid, strong majority vote in support of the Harkin amendment.

The PRESIDING OFFICER. The Senator from California is recognized for 12 minutes.

Mrs. FEINSTEIN. I thank the Chair. I begin by thanking the Senator from California for her leadership on this issue. I have watched her on the floor. She has carried the message of this important issue in a very significant way. I thank her very much.

I want to speak today as a mother of a daughter, as a stepmother of three young women and a grandmother of one granddaughter. I speak as a woman who grew up in this country when abortion was illegal, who went to university at that time and saw things I wish I hadn't seen, like young women on the verge of suicide because of the predicament they were in. I want to speak about a time when I sat on the California Women's Parole Board in the 1960's, a board that sentenced doctors who performed abortions and women who had had abortions. Abortion carried a sentence of 6 months to 10 years. I remember their stories. I used to read the case histories of the patients and I saw the terrible morbidity and mortality that took place in California when abortion was illegal. I don't want to go back to those days and those stories of absolute desperation.

As I have listened to the debate, what I have heard has been a kind of moral sanctimony of people who think they know better than anyone else. They maintain that their lifestyle, their way of handling problems, is the way everybody should handle problems. In the real world, it doesn't work that way. Nobody knows anyone else's condition, circumstances, health, life or frailties.

Roe v. Wade came down in 1973 and established a trimester system for the Nation which took abortion out of the arena of politicians telling my four daughters what they could do or could not do with their reproductive systems.

Frankly, I find the discussion deeply humiliating and very distressing—the discussion of women's body parts in the Senate of the United States of Amer-

ica, as if we don't have sense enough to do with our bodies what we know is ethically and morally right.

The fact is, the overwhelming majority of women in this great Nation do know and they do what is right. They want to have children and they do deliver children. The beauty of Roe v. Wade was that it took the explosive issue of abortion out of the political arena and set a trimester system that made sense, both for the unborn child as well as for the woman herself.

I will quickly summarize what that is. Roe essentially said that for the stage prior to the end of the first trimester of pregnancy, the abortion decision must be left to the medical judgment of the pregnant woman and the woman's attending physician. For the stage approximately following the end of the first trimester, the State, in promoting its interest in the health of the mother, may, if it chooses, regulate the abortion procedure in ways that are reasonably related to maternal health.

Finally, for the stage following viability—that is, the time when the fetus can live outside of the womb—the State, in promoting its interests in the potentiality of human life, may, if it chooses, regulate and even ban abortion, except where it is necessary, in the appropriate medical judgment, for the preservation of the life or health of the mother.

That is Roe v. Wade. It took the debate off these legislative floors all across this great Nation. It set up a constitutional right so that women could protect themselves from the views of one person who got elected to public office or another person who got elected to public office, an imposition of their views on all of the women of America.

Roe v. Wade has stood the test of time. It should be supported, and we now have an opportunity to do so. Let me make a couple of comments on what we have before us.

Since 1992, there have been 120 votes that sought to infringe on Roe and sought to constrain a woman's right to control her own reproductive system; 113 of them have been successful. My colleague from California and I have watched the march to limit a woman's right to choose, to find ways to encroach on it, whether it is not allowing women on Medicaid to have abortions; whether it is not giving money to the District of Columbia if the District of Columbia uses Federal, or even its own dollars for abortion services for women; limiting the rights of women in the military, and on and on and on—a steady march to eliminate Roe v. Wade and a woman's right to choose. And now we have this issue of so-called partial-birth abortion before us.

I sit on the Judiciary Committee. I have attended all of the hearings on this subject. What has been interesting to me is, in the many years that we have discussed this, there has been no medical definition presented in the legislation describing what a partial-birth

abortion really is. No one has used what I think they aim at, which is something called intact D and X, which is in fact a specific medical procedure and which is known to physicians.

I ask unanimous consent to print in the RECORD a statement of policy by the American College of Obstetricians and Gynecologists.

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

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

THE AMERICAN COLLEGE OF
OBSTETRICIANS AND GYNECOLOGISTS,
Washington, DC.

ACOG STATEMENT OF POLICY
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 preliminary 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.

Approved by the Executive Board, January 12, 1997.

Mrs. FEINSTEIN. Mr. President, instead of recognized medical language like that of the American College of Obstetrics and Gynecology, the language the underlying bill before us is vague.

Let me tell you why I say it is vague. It is vague because it not only affects third-trimester abortions, it affects second-trimester abortions; therefore, it is a continuation of the march to limit and constrict a woman's rights under *Roe v. Wade*.

Let me give you some examples of testimony that we had in our Judiciary Committee hearings. Doctors who testified before the Senate Judiciary Committee could not identify, with any degree of certainty or consistency, what medical procedure this legislation refers to. The vagueness meant that every doctor who performs even a second-trimester abortion could be vulnerable and face criminal prosecution.

The American College of Obstetrics and Gynecology has told us that "the legislation could be interpreted to include, and thus outlaw, many other widely used, accepted, and safe abortion and operative obstetric techniques."

Dr. Louis Seidman, Professor of Law from Georgetown University, told us:

... as I read the language, in a second-trimester previability abortion, where the fetus will in any event die, if any portion of the fetus enters the birth canal prior to the technical death of the fetus, then the physician is guilty of a crime and goes to prison for two years.

That is what we are doing here. Dr. Seidman continued his testimony before our committee and said this:

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.

Dr. Courtland Richardson, an associate professor at Johns Hopkins University, testified in the House that:

In any normal second trimester abortion procedure, by any method, you may have a point at which a part, a one-inch piece of [umbilical] cord, for example, of the fetus passes out of the cervical [opening] before fetal demise has occurred.

That would violate the so-called partial-birth abortion ban and subject a physician to 2 years in prison. That is the impact of this legislation. People can say what they want, but that is the impact, the medical impact.

Now let me give you the legal impact.

The legal impact is that courts throughout America have ruled that partial-birth abortion laws are unconstitutional. Most recently, the U.S. Court of Appeals for the Eighth Circuit unanimously ruled unconstitutional three State laws—in Arkansas, in Iowa, and in Nebraska—that mirror the Santorum bill. The Eighth Circuit is the first Federal appellate court to review the legal merits of partial-birth abortion bans. In ruling on the Iowa and Nebraska laws, which were nearly identical to S. 1692, the district court in both cases held that the language in the State laws was unconstitutional because it was overly vague, imposed an undue burden on pregnant women and did not adequately protect a woman's health and life. The Eighth Circuit Court of Appeals affirmed this ruling, noting that the State law's vague language would ban more than just partial-birth abortion; it would ban other abortion procedures protected by the landmark *Roe v. Wade*. Circuit Court Judge Richard Arnold wrote—and I quote this because it is important:

The difficulty is that the statute covers a great deal more. It would also prohibit, in many circumstances, the most common method of second trimester abortion, called a dilation and evacuation (D and E).

This is the circuit court writing.

D and E is a recognized medical procedure, dilation and evacuation. Judge Arnold continued:

Under the controlling precedents laid down by the Supreme Court, such a prohibition places an undue burden on the right of women to choose whether to have an abortion. It is therefore our duty to declare the statute invalid.

In 20 out of 21 States, partial-birth abortion laws have been blocked or severely limited; 18 State partial-birth abortion laws have been blocked by a Federal or State court; 6 out of 9 States that passed partial-birth abortion laws using the language as found in S. 1692 have had their laws enjoined, including Idaho, Iowa, Kentucky, Nebraska, New Jersey, and West Virginia. One court limited the enforcement of Georgia's partial-birth abortion ban to redefine partial-birth abortion in medical terms, to limit its application to postviability abortion. That is the point.

If proponents of this bill are really serious, they should use a medical procedure and prohibit that procedure in postviability abortions.

And the court stated that Georgia's law was invalid because it created an exception in the law to allow abortions in cases necessary to protect the health of the woman. Six States, where the laws have been blocked, used identical language to H.R. 1122, vetoed by President Clinton in 1997.

Mr. President, courts across the country have made it all too clear that legislation like S. 1692 does not do what the proponents of the bill say it does. The bill does not limit State bans on abortion to postviability procedures. It does not protect a woman's

health. For these reasons, this bill violates the basic constitutional rights of women provided by *Roe v. Wade* in 1972, and other Supreme Court decisions. Simply stated, the main bill before us today is unconstitutional on its face and will be struck down.

I urge this body to support the Harkin resolution and to defeat the underlying Santorum bill.

I thank the Chair.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, let me respond to the comments of the Senator from California, Mrs. BOXER, about the constitutionality. The central point is that most of the cases have focused around the definition. I think she accurately described the concern some of the courts have, and the issue on vagueness, and that this procedure being outlined, partial-birth abortion, is not adequately defined so as not to outlaw other abortions at that time.

The interesting part of the argument is that you presume with the argument that it outlaws more than this. I think you can make the logical assumption that the courts might accurately only include this procedure, and that it would be constitutional, but what makes it unconstitutional is that it applies to more than this procedure.

In a sense, arguing for the unconstitutionality of this, if we were able to better define what a partial-birth abortion is in this legislation, we would make it clear that it does not ban any other type of abortion. Then the presumption I hear from the Court's own reasoning is that it would be constitutional. I think we need to look at that very carefully.

In a sense, in making their argument, they leave open the possibility that banning a particular procedure—as long as it doesn't ban all procedures or more than one procedure—the courts would be receptive to the constitutionality of such a piece of legislation. We are working right now with other Members to see if we can come up with a better definition, a more clear definition, one which would clearly pass constitutional muster with respect to vagueness.

I am encouraged. I think it is helpful that the Senator from California put the reasoning in the RECORD, because I think the reasoning clearly points to the fact the procedure itself could, in fact, be banned under *Roe v. Wade*. But the fact that the procedure is being defined in such a vague manner as to include other procedures is the reason they are finding it unconstitutional.

I think it creates an opportunity for us to craft in the eyes of the courts that have reviewed this to date a constitutional piece of legislation that does not create an undue burden on women because it only bans one particular procedure and not others. I see this as an opportunity.

I thank the Senator from California for laying that out. I think that is an

important point of debate. We will get to that later in this debate as we get down to the end when we provide what I hope to be some technical amendments to correct this problem.

I find it interesting—I talked about it yesterday—what we are talking about now is *Roe v. Wade*. While I and others have stood up here time and time again and have said this is not about *Roe v. Wade*, one of the reasons we are bringing this bill to the floor is because we believe this is outside of the scope of *Roe v. Wade*'s restrictions on Congress' right to limit abortion. I can go through the long list of that.

One, obviously, is the Texas *Roe v. Wade* case itself. It was brought before the Supreme Court. In that decision, part of the appeal was to strike a Texas law that prohibited killing a child in the process of being born. It is a Texas statute that was under review by the Supreme Court in the *Roe v. Wade* decision. The Supreme Court let stand the Texas law that prohibited the killing of a child in the process of being born. That is exactly what we are attempting to prohibit in the partial-birth abortion amendment.

To make the argument we are trampling on *Roe v. Wade* with this bill, when the case itself upheld a law that said you couldn't do that, in other words, kill a child in the process of being born, I think is stretching *Roe v. Wade* far beyond its own face of what it actually did.

Again, it is a distortion that is not surprising. I understand why if you don't think you have the arguments on the merits you try to change the subject. That is what this vote is about today. It changes the subject. They want to turn this into a debate on abortion. This is not a debate on abortion. This is a debate on infanticide. This is why people on both sides of the abortion issue in both Chambers support this ban—because it is less about abortion and very much about infanticide.

I am not going to say much about the underlying amendment we are talking about—the Harkin amendment—but have a couple of comments about *Roe v. Wade*. You hear so much about first trimester, second trimester, third trimester, the State has an interest, and the State can do this.

I remind you that Senators who are talking about these restrictions and about the second- and third-trimester have never in their lives voted for any of those restrictions. *Roe v. Wade* is the law of the land today. For all the rhetoric that is around, it is there. You can have an abortion at any time, anywhere, and any place as long as you can find an abortionist to do it. Period. There are no restrictions. In reality, there are no restrictions. All you have to do is find an abortionist who will say the health of the mother is at stake and you can have an abortion.

I had a chart up here yesterday. We can get it. I will put it back up. Warren Hern wrote the definitive textbook on

abortion and said, I will certify that with every pregnancy there is a risk of grievous serious physical health to the mother; injury to the mother.

What you have is, in fact, no restriction. In fact, that is what occurs today. There are no limits on abortion in America. That is why one in four children conceived in America die through abortion. One in four. One in four.

So your chances of surviving in the womb are 75 percent once you are conceived. Once you are born, your chances of surviving the first 5 years are 99.9 percent. If you can make it through to be born, you are probably going to be OK. But the biggest risk to children's health in America is abortion.

Roe v. Wade promised a lot of things. When people came up and argued about *Roe v. Wade*, they promised a lot of wonderful things would happen to women and to women's health and to children and to child abuse. The promises were made. Look at the debate.

There would be a reduction in child abuse because there would be less unwanted pregnancies. I don't think we have to look up a whole lot of record to see that child abuse has not been reduced since *Roe v. Wade*. In fact, it is over double since *Roe v. Wade*.

There would be a reduction in divorce. I don't think that needs any comment. Obviously, it did not happen.

There would be a reduction in spousal abuse. Obviously, that did not happen.

We would lower poverty among children. Obviously, that did not happen—all the promises that this would be a better world if we just got rid of these children who weren't wanted, that life would be better.

What we found as a result of *Roe v. Wade* is a desensitizing of our appreciation for life, and all the promises have turned into disasters. Now we are faced with a world where we have reached the point in America that a child who is 3 inches away from being protected by *Roe v. Wade*, being protected by the Constitution can be executed—executed, brutally executed by a partial-birth abortion.

The reason this is an issue I feel so passionately about is not because I believe we will reduce the number of abortions in America. We will not. I will say that categorically. This bill will probably not reduce the number of abortions in America with its passage. Hopefully, in the debate we will touch some hearts but in its passage we will not.

This is not an attempt to infringe on a woman's right. This is not an attempt to change or overturn *Roe v. Wade*. That is why I reject the Senator's amendment as irrelevant.

This bill attempts to draw a bright line between what is and is not protected. At least we should be able to draw the line so when a child is in the process of being born, it is too late to have an abortion. It is too late.

I asked the Senator from California this question: You allow an abortion if

the child's head is inside the mother? You can then kill the baby? I said: What if the baby came out head first and the child's foot was inside the mother. Would you still be allowed to kill the baby? She said: Absolutely not.

A pretty clear line, isn't it, depending on which way the baby is born as to whether you can kill the baby. We get to the slippery slope, and this is what concerns me for our culture—if we can kill a baby that is moving, one can see the baby, the abortionist is holding the baby in his or her hands, the baby is moving, and then they take a pair of scissors at the base of the skull and jam it into the back of the baby's head and suction the brains out.

This is where humanity has arrived in the United States in 1999. In the greatest deliberative body in the world, we can stand here and debate this is a proper procedure in America; this is legal in America; this is ethical in America; this is moral in America. This is not a debate about abortion. This is a debate about who we are as a society.

I know the abortion sides have lined up and want to make this an abortion line, where we draw the line in protecting humanity. If we don't draw it here, the next logical step is easy. From the New Yorker magazine last month, the September issue, an article by Peter Singer. Peter Singer is a philosopher—pop philosopher, I guess—who was just hired at Princeton University.

What does Peter Singer say? I will read part of the article. Viewers will say that guy is a whacko, this guy is out there on the fringe; he is at Princeton University, but he is out there on the fringe. No one can make this credible argument in America today. I argue that 40 years ago no one could make this credible argument that this procedure would be legal. But here we are. Put on your seatbelts, ladies and gentlemen. We are in for a ride, and the roller coaster is going down. I don't see the bottom yet. Let me describe how far down the roller coaster we can go when it comes to civility in America, when it comes to respect for life in America.

Peter Singer:

Killing a disabled infant is not morally equivalent to killing a person. Very often it is not wrong at all.

I remind everybody of these anecdotes I have talked about that have offended so many. What are the stories about? The backbone for the defense of this procedure given by the Senator from California, the Senator from Iowa, the Senator from Illinois. What is the subject of these tragic stories? In every instance, in every instance, these were pregnancies that had gone awry, where, in the course of fetal development, the infant became disabled, a problem developed—whether it was trisomy, hydrocephaly, some abnormality occurred, some disability occurred in the baby.

Is there an argument on any of these cases that the health or the life of the

mother was endangered by carrying the baby itself? The answer is no. In none of these cases is the issue brought up that the health of the mother was jeopardized by carrying the baby. In all of these cases the point was made, the baby is going to die anyway or the quality of the baby's life is not going to be good; killing a disabled infant is not morally equivalent to killing a person.

We see how the slope gets slippery. We don't hear from the other side in defending partial-birth abortion—the cases of healthy mothers and healthy women. They are not used to defending this procedure. However, 90 percent of the partial-birth abortions are healthy mothers and healthy babies. They don't use those as an example because they are not sympathetic examples to those who are within the sound of my voice. People won't sympathize with a healthy mother and healthy baby—aborting a baby late in pregnancy, killing her healthy baby. People don't see a rationale for someone to do that.

The folks here know when people hear about a deformed baby being killed, they are OK with that. Think about what they are doing by bringing these cases up. Think about what they are presuming people are thinking when they use disabled children as a legitimate reason to be killed under this procedure. They are assuming that America doesn't care as much; they assume they are not as worthy as a normal, healthy baby.

Do you know what. They are right. Absorb that, America. They won't use healthy mothers and healthy babies to defend this procedure because people will have no sympathy for that, people have no tolerance for that. Throw up a disabled child as the object of this execution, and then it is OK; then there is sympathy.

What a slippery slope when killing a disabled infant is not morally equivalent to killing a person. And you say that is outrageous. They are using it now to justify this position. It is not outrageous; it is today in America. It is the reason for this procedure to be kept legal. Open your eyes and see what they are doing. Open your eyes and see where we are headed.

Dr. Peter Singer:

When the death of a disabled infant will lead to a birth of another infant with better prospects of a happy life, the total amount of happiness will be greater if the disabled infant is killed. The loss of happy life for the first infant is outweighed by the gain of a happier life for the second. Therefore, if killing a hemophiliac infant had no adverse effect on others, it would, according to the total view, be right to kill him.

We will see family pictures of a mother and father who had a partial-birth abortion now being shown with another new baby. They will say, see, it is OK because this other baby is happy.

This is not craziness that is going to happen in the future. This is the roller coaster, folks, we are headed down. This debate should point Americans in

the direction as clear as my finger is pointing to Senator VOINOVICH that we are headed toward Peter Singer's world.

Two or three Senators have quoted the oft-quoted paragraph out of Planned Parenthood v. Casey. They use that to legitimize what they are doing. Let me read something for you. I want you to think about the logic behind what they are saying here. Listen, America. This is an abortion case.

At the heart of liberty is the right to define one's own concept of existence, of meaning, of the universe, and of the mystery of human life.

I am going to paraphrase that. I am going to use the words of somebody who all of you know because of some things that he did in the last year. I am going to use the words of Eric Harris, who wrote before he killed 13 children at Columbine:

When I say something, it goes. I am the law.

What this says is very simple: You are the law. What you say goes. You have the right to define, again "one's own concept of existence," one's own concept of the "meaning of the universe and of the mystery of life." What I say goes.

Fredrich Nietzsche would be proud of us all for this debate. Peter Singer is proud, I am sure, of this debate today being put forward in defense of something that he supports, the killing of little children if they are not perfect like you and me. Remember, you will not hear one word, you have not heard one word in three debates, in 5 years—you have not heard one word about the normal, healthy baby being killed by this procedure. You have not heard one word about a normal, healthy mother having one of these abortions. They will not use that case even though over 90 percent of the abortions that occur with partial birth are those cases.

They use the ones that tug at your heartstrings. Having lost a baby, they tug at mine. I know the pain of what these men and women who suffered through pregnancies that went awry—I know what they suffered through. I do not demean them when I talk about their cases. They are real and they suffered. But to use—and I emphasize the word "use"—these cases to justify the killing of a baby, to use abnormal children—abnormal to whom, I might add? Disabled to whom? Imperfect to whom? Not to me. My son who died was not perfect in the eyes of this world, but he was perfect to me. He was perfect to my wife. Most important, he was perfect in God's eyes.

To abuse these cases, to pull at your heartstrings, to legitimize killing children 3 inches away from being born is beneath the dignity of the Senate and feeds into Peter Singer's view that "killing a disabled infant is not morally equivalent to killing a person. Very often it is not wrong at all."

Peter Singer takes it even further. I said he supports this procedure. I am sure he does, but he thinks this is probably not the best way to go. Here is

what he thinks. You say this is absurd, Senator? Listen:

If a pregnant woman has inconclusive results from amniocentesis, Singer doesn't see why she shouldn't carry the fetus to term. Then, if the baby is severely disabled and the parents prefer to kill it, they should be allowed to. That way, there would be fewer needless abortions and more healthy babies.

In defense we almost do that with partial-birth abortion, don't we? We deliver the baby, get a chance to see the baby, and then we kill the baby. We have case after case now, several cases, of botched partial-birth abortions where babies who were to be aborted ended up being born before the doctor could kill the baby. There are three cases I am aware of, two in the last few months, where little children were born; not fetuses, not products of conception—which I think is another term that is used to dehumanize what is a living human being. Is there anybody in the Senate or within the sound of my voice, any Senator, who would disagree that a fetus or baby inside the mother is a living human being? I do not think there is any question that is a living human being. But we try to dehumanize it by using "fetus," "products of conception."

In the case of a partial-birth abortion, you are talking about at least a 20-week-old living human being that is delivered feet first outside of the mother except for the head and then killed. The justification, the stories, the "cases," all involve disabled children—never healthy children.

Let me tell you about some healthy children who were to be aborted using a partial-birth abortion. The first known survivor was a girl born in Phoenix, June 30, 1998, known as Baby Phoenix. The little girl was accidentally born as a result of a botched partial-birth abortion. How does a partial-birth abortion work? How could it be botched?

You present yourself to the abortionist. The abortionist says you are past 20 weeks.

By the way, when you are past 20 weeks and you deliver a child, the baby will be born alive, so we are talking about the delivery of a living baby. That baby may not survive for a variety of reasons, but the baby will be born alive, this little baby. This baby's mother did not want this baby to be born alive, so she went to an abortionist after 20 weeks and the abortionist said: Fine, we are going to do a partial-birth abortion.

Were there health concerns with this baby? Was the mother in physical problems? Was the baby physically deformed? The answer in both cases: No. Could she get an abortion after 20 weeks? The answer was yes.

Let me tell you how much after 20 weeks you can get an abortion in this country. Based on the sonogram performed at the abortion clinic, Dr. Biskind believed baby Phoenix to be 23 weeks, at least that is what he says. During the actual abortion procedure,

the doctor realized the child was much older. He stopped the partial-birth abortion and delivered a 6-pound, 2-ounce baby girl. Baby Phoenix was actually 37 weeks. Both the 17-year-old biological mother and child were healthy. This was an elective abortion.

You don't hear the other side talk about elective abortions and healthy mothers and healthy babies, do you? Do you? There is no sympathy for them. Oh, but it is OK, it is all right. We have sympathy if the baby is not perfect—in our eyes. In our eyes.

Following delivery, Baby Phoenix was sent to a hospital across the street for treatment. She suffered from a fractured skull and cuts on her face as a result of the attempted abortion. Amazingly, there was no apparent brain damage. In October of 1997, by the way, the year before this happened, a Federal court struck down Arizona's law that would have prevented this brutality in the first place.

(Mr. ALLARD assumed the Chair.)

Mr. SANTORUM. Today, Baby Phoenix lives in Texas with her adopted parents. The doctor who performed this abortion has since lost his license.

That was not the last victim of partial-birth abortions. Baby Hope, the second known survivor, survived an abortion attempt which began in the clinic of Dr. Martin Haskell who has been up here and has testified, who is one of the inventors of the procedure, who, in fact, testified in court cases. By the way, when he testified in those court cases and was asked the question, Is partial-birth abortion ever used to protect the life of the mother? The answer was no—from the inventor of the procedure. Is partial-birth abortion ever necessary or is it the only option available to protect the health of the mother? The answer by Dr. Haskell: No.

Baby Hope's biological mother underwent a dilation phase of a partial-birth abortion. What happens is: You present yourself to the doctor. The doctor gives you pills to dilate your cervix. In 3 days, you come back to the abortion clinic. Your cervix is dilated, and they can perform the abortion.

She dilated too quickly. She went to a hospital and was admitted for abdominal pain. The woman gave birth as she was being prepared for an examination. This was the point at which the hospital personnel first learned she was in the dilation phase of a partial-birth abortion.

On April 7, Baby Hope was born in the emergency room. She was 22 weeks old. An emergency room technician who was asked to remove the baby from the room noticed she was alive. Neonatal staff were called to examine her, and doctors did not believe the child's lungs were developed enough to resuscitate her, so they did not put her on life support. Hospital staff wrapped the baby in a blanket. The ER technician named the baby Hope and then rocked and sang to the little girl for 3 hours 8 minutes of her life. Hope's

death certificate lists the cause of death as extreme prematurity secondary to induced abortion.

Ironically, the manner of death listed on the death certificate is "natural." They do not talk about these cases.

The 22-week-old baby girl died tragically, but she touched the hearts of the people whom she touched in her life. If this partial-birth abortion procedure had been performed, she would have died a violent, barbaric, painful death.

A third case, Baby Grace. Four months after Baby Hope's death, another baby survived a botched abortion, again at Dr. Haskell's abortion clinic in Dayton, OH. Baby Grace was born August 4, 1999—just a couple of months ago.

Once again, the child's biological mother went into premature labor as a result of the dilation phase of the partial-birth abortion. As in the case of Baby Hope, the mother went to the hospital and delivered the baby. In this case, the child was between 25 and 26 weeks old. Baby Grace is still alive. She is being cared for at a hospital as a premature baby. The Montgomery County, Ohio, Children Services Board has temporary custody of her and plans to put her up for adoption.

Baby Grace is living proof of the horror of partial-birth abortion. She is not a footnote in case law. She is a real baby who would have died. You do not hear anyone talking about those cases.

What this amendment does has nothing to do with the underlying bill. The underlying bill is about banning a barbaric procedure that crosses the line of civility in America; at least I hope so. Let me assure you, if we do not draw that line, we will be having debates here, I hope with all my heart, when I am not here, about whether killing children is OK if they are not perfect in our eyes. We are 3 inches from having that debate right now. It is only a matter of time before those inches fade away. It is irrelevant, really, isn't it, whether it is 3 inches or not. God bless America.

The Senator from Ohio, I understand, wants to be recognized. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 22 minutes 54 seconds.

Mr. SANTORUM. I yield 10 minutes to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. Mr. President, I rise in support of the Partial-Birth Abortion Ban Act. I am grateful to the Senator from Pennsylvania for his courageous fight to ban this barbaric procedure. Any of us who has listened to him today and last night cannot help but be moved by his eloquence in regard to the importance of banning this procedure.

It is difficult even to talk about it because it is so gruesome, but we need to remind Members of the Senate that this is a procedure that is not done on an emergency basis. First, the woman

goes through 2 days of doctor visits to get dilated. On the third day, the baby is positioned for delivery in the birth canal. The fetus is turned so that it is delivered feet first, leaving only its head in the womb. An incision is then made in the base of the skull. Finally, with a suction device, the baby's brain matter is suctioned out. The skull collapses, enabling delivery of the dead baby.

I cannot understand how anyone can support this procedure or can support it being legal. There are some I have heard in this debate who say it is hard to believe we are even talking about this question on the floor of the Senate. When I think of other things that have been discussed on the floor of the Senate—for example, endangered species or animal rights—for anyone to say we ought not to be talking about this procedure on the floor of the Senate is hard for me to believe.

The subject of partial-birth abortion is not a new one for me. Four years ago, in 1995, Ohio was the first State to pass a partial-birth abortion ban. The bill prohibited doctors from performing abortions after the 24th week of pregnancy and banned completely the dilation and extraction procedure which we call the partial-birth procedure in this bill. The bill allowed late-term abortions to save the life of the mother. The women seeking abortions after the 21st week of pregnancy were required to undergo tests to determine the viability of the fetus. If the fetus was deemed to be viable, the abortion would be illegal.

The Ohio Senate passed that bill 28-4. The Ohio House passed it 82-15. These were overwhelming vote majorities which included Democrats and Republicans, pro-life and pro-choice legislators. This is not an issue today of Roe v. Wade or pro-life or pro-choice. If it were, the vote in the Ohio Senate and Ohio House would not have been so overwhelming to ban this procedure.

The truth is that most of these abortions are elective. According to Dr. Martin Haskell, to whom the Senator from Pennsylvania has referred, who happens to be from Dayton, OH, about 80 percent are elective. We are talking about 80 percent being elective. We are talking about 80 percent are healthy mothers and healthy babies.

We can all quote different statistics, but the bottom line is that there is no need for this procedure. It is never medically necessary. If a mother really needs an abortion, she has alternatives available to her that are not as torturous as partial-birth abortion.

One of the other main reasons we do not need these late-term abortions is, thanks to technology available today, we can identify problems really early in pregnancy so abortions can take place earlier. We do not need to have that type of procedure. Women today are being encouraged to come in early on, in the first trimester, for the various tests they need, so that if abortion is acceptable to them, they can have an

early abortion while the baby is not viable.

The Senator from California earlier today talked about the OB/GYN doctors who have expressed opposition to this legislation. I think the significant thing about her statement today is the fact that she verified that there are other procedures available besides dilation and extraction. In fact, the Senator indicated doctors were worried about the possibility that these other procedures might be banned by the language in this bill.

So I want to make it clear to those who believe in abortion and have that tremendous decision in terms of whether or not they are going to deliver the baby that there are other procedures available to them. In fact, dilation and extraction are not even taught in medical school.

These babies are humans. They can feel pain. When partial-birth abortions are performed, as the Senator from Pennsylvania said, they are just 3 inches away from life and, for that matter, seconds away.

I urge all of my colleagues in the Senate to stand up against what I refer to as human infanticide. This is not a vote on Roe v. Wade. This is a vote about eliminating a horrible procedure that should be outlawed in this country. I urge my colleagues to vote to ban partial-birth abortion in the United States of America.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Sixteen minutes and about 30 seconds.

Mr. SANTORUM. I yield 8 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. I thank the Senator from Pennsylvania. And I will not use all that time because just since I have been down here, many of the things I was going to say have already been said.

I think the Senator from Ohio was very specific when he talked about the fact that 80 percent of those abortions using this barbaric, torturous, painful procedure are elective. I could also quote from the American Medical News transcript of 1993 and others, but I think that point has been well made.

I wish everyone could have watched last night, as I did, Senator BILL FRIST, Dr. BILL FRIST, when he talked about it from a medical perspective. I do not think anyone could have watched that and not been very supportive of Senator SANTORUM and everything he is trying to do.

One of the things I do not think has really been answered appropriately is the fact that we keep hearing from the other side that both the National Abortion Federation and the National Abortion Rights Action League, all of these pro-abortion organizations which claim that the anesthesia that is administered to the mother prior to a partial-

birth abortion kills the child and, therefore, the child feels no pain. Norig Ellison, the president of the American Society of Anesthesiologists, unequivocally stated that those claims had "absolutely no basis in scientific fact."

In fact, I think the whole idea of pain really needs to be discussed more. Dr. Robert White, a neurosurgeon at Case Western Reserve University School of Medicine said:

The neuroanatomical pathways which carry the pain impulses are present in fetuses by the 20th week of gestation.

Also, the neurosystems which would modulate and suppress these pain impulses are either not present or immature during this stage of fetal development.

What this means is, if you stop and think how painful this procedure of going into the back of your head and opening the scissors and sucking the brains out would be to you—to anyone who is here on this floor—it could be more painful to the baby because those systems that modulate and suppress the pain are not developed at that stage.

So I look at this in terms of human life. Almost all these faces that are standing up here supporting this technique, if you were to inflict that type of pain on a dog or a cat, they would be protesting in front of your offices.

A minute ago, the Senator from Ohio made some reference to the fact that it is infanticide. I hope the pro-choice people, a lot of people out there who are pro-choice who believe abortion should be an alternative, will listen to the words of Senator PATRICK MOYNIHAN, who is pro-choice. He said: I am pro-choice, but this isn't abortion, this is infanticide.

Lastly, let me just mention to you, I have this picture. This is Jase Rapert. He lives in Arkansas. I have seven grandchildren. He is No. 4. I can remember, and some of you older people can remember, back when our wives had babies, they would not even let you in the hospital, let alone in the delivery room.

When my little Molly, who is now a professor at the University of Arkansas, called me up and said: Daddy, delivery time is here; do you want to come in the delivery room? I did. I was in there for all three of her children. This is a picture of the first one, Jase.

What registered to me at that time was, we have heard a lot of talk about maybe a baby isn't perfect or something. I do not think perfection exists anyway. But in every sense of the word, that is a perfect baby.

If they had made that decision, if my Molly or her husband had made that decision at the time while I was in that room they were delivering this beautiful baby, they could have murdered Baby Jase. That is what is going on in America now. You have to put it in a personal context that we understand, that this can happen to someone we love very much.

Mr. SANTORUM. I yield 8 minutes to the Senator from Missouri.

Mr. ASHCROFT. Mr. President, I thank the Senator from Pennsylvania, Mr. SANTORUM, for his continuing work on this important issue.

I express my strong support for legislation that would ban this unconscionable form of infanticide known as partial-birth abortion. Abortion is a moral and governmental issue of unsurpassed importance. It strikes at the very core of who we are as a people and a nation. It hits our deepest notions of liberty and questions our most fundamental assumptions about life.

For decades, my home State of Missouri has been at the forefront of the abortion debate, and for the last several years, the discourse there has been focused on the procedure being discussed here today—partial-birth abortion, infanticide. While the specific language of S. 1692 is different from the Missouri legislation, the question posed is the same: Are we willing to end a procedure that is so barbaric and extreme as to defy rational, reasoned support? Both Democrat and Republican legislators in Missouri answered, "Yes, we are willing to ban that procedure."

I had the privilege of serving as Missouri Governor. Regrettably, the legislature did not deliver a ban on this barbaric procedure to my desk when I was Governor. Had they done so, I would have signed it enthusiastically. Had that happened, the legislature could now be focused on other pressing problems, such as failing schools in Kansas City or St. Louis or the methamphetamine drug plague in Missouri.

Most Missourians see, as I do, the effort to ban partial-birth abortion as part of a larger commonsense approach, restricting late-term abortions, ending taxpayer funding, and requiring parental consent. These sensible ideas are not about the right of choice. They are about the right of Missouri and America to act in a manner befitting humanity. We are talking about a barbaric procedure that is inhumane. It is not befitting humanity.

Tragically, the Missouri partial-birth infanticide bill was vetoed, despite its overwhelming passage by the bipartisan Missouri General Assembly. Fortunately, both the Democrats and Republicans who fought for the original bill led a successful veto override effort in Missouri. It is an incredible accomplishment that represents only the seventh veto override in Missouri history, the third override this century, the first veto override since 1980.

Banning partial-birth abortion, which is the destruction of a partially born child, requires a historic bipartisan effort here, as it did in Missouri. America must rise above this morally indefensible, cruel procedure. It is cruel to society's most vulnerable members. Missouri's Democrat and Republican legislators got past the obfuscation, the confusion, and the deceptions. It is time for the Senate to do the same.

The defenders of the indefensible are already fast at work. They tell us that

the procedure is necessary to save the life of the mother. The simple truth is, this procedure is never necessary to save and preserve the health of an unborn child's mother. Four specialists in OB/GYN and fetal medicine representing the Physicians' Ad Hoc Coalition for Truth have written:

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 fertility.

That quote was from the Wall Street Journal, September 19, 1996.

Nor should we accept the myth that this procedure is rarely utilized. According to interviews conducted by The Record of Bergen County, NJ, physicians in New Jersey alone claim to perform at least 1,500 partial-birth abortions every year—three times the number the National Abortion Federation claimed occurred in the entire country.

Once we have established that the procedure is neither rare nor medically necessary, we will hear from the other side that our law would be unconstitutional. This is just another falsehood. A legislative ban on partial-birth abortions is constitutional. Indeed, allowing this life-taking procedure to continue would be inconsistent with our obligation under the Constitution to protect life.

Although opponents will point to decisions in which activist Federal judges invalidated State-passed bans, language nearly identical to that which is in this bill has also been upheld in the Federal courts. These bans' requirements that the abortionist deliberately and intentionally deliver a living fetus that is then killed implicates the partial-birth procedure. This is not a generalized ban. Judges who have deemed the ban unconstitutionally vague ignored this text and instead have substituted their views in place of the views clearly expressed by the various State legislatures.

I also want to share a word of caution with those claiming that a ban on partial-birth abortions is unconstitutional. If they truly believe that outlawing this procedure is impermissibly vague, the inevitable conclusion people will draw is that infanticide and abortion are indistinguishable. This argument provides little solace to the defenders of this gruesome procedure.

On January 20 of last year, I chaired a committee meeting of the Constitution Subcommittee on the 25th anniversary of Roe v. Wade. In that hearing, we learned much that is relevant to the debate over partial-birth abortion. We looked at how the Supreme Court's decision failed to provide a framework for sound constitutional interpretation or to reflect the reality of modern medical practice. This latter failure is not surprising, since the Court had neither the capacity to evaluate the accuracy of the medical data nor a way to foresee the remark-

able advances in medical science that would make the then-current data obsolete.

From Dr. Jean Wright of the Egleston Children's Hospital at Emory University, we learned at the hearing that the age of viability has been pushed back from 28 weeks to 23 and fewer weeks since Roe v. Wade was decided.

The PRESIDING OFFICER. The Senator's 8 minutes have expired. The Senator is recognized for 2 more minutes.

Mr. ASHCROFT. Surgical advances now allow surgeons to partially remove an unborn child through an incision in the womb, to repair the congenital defect, and slip the previable infant back into the womb. However, I think the most interesting thing we learned at the hearing was that unborn babies can sense pain in just the seventh week of life. These facts should help inform this debate.

For instance, if we know the unborn can feel pain at 7 weeks, why is it such a struggle to convince Senators that stabbing a 6-month, fully developed and partially delivered baby with forceps, and extracting his or her brain is painfully wrong. It should be very easy to convince people that it is painful and that it is wrong.

I realize, however, that not everyone agrees with my view on abortion. Indeed, I recognize the American people remain divided on this issue. Where there is a consensus, we need to move forward to protect life. The measure being discussed today to end the cruel, brutal practice of partial-birth abortion presents such an opportunity where consensus exists. The American people agree that a procedure which takes an unborn child, one able to survive outside the womb, removes it substantially from the womb and then painfully kills it is so cruel, so inhumane, so barbaric as to be intolerable and that it should be illegal. Legislatures in more than 20 States have followed Congress' lead and passed laws outlawing this procedure. Two-thirds of the House of Representatives voted to overturn the President's second veto last year. When this Chamber voted, more than a dozen Democrat Senators joined us in attempting to override the veto. A consensus has formed.

Americans want this gruesome procedure eliminated. They should not be thwarted by the twisted science and moral confusion that has been argued in this Chamber.

The PRESIDING OFFICER. The Senator is recognized for 1 more minute.

Mr. ASHCROFT. Now more than ever we need to pass this legislation to make it clear that human life is too precious to permit legally sanctioned infanticide. As we as a nation confront the terrible violence in our schools, we in Congress need to embrace a culture that celebrates life, not a culture that celebrates convenience. The values at issue are too important to be lost in the legislative shuffle.

We will pass this legislation again this year. If, again, the President vetoes it, despite the debunking of the so-called medical evidence that he used to justify that action in the past, we will continue to vote on this issue of life and death until the voice of the American people is heard and the lives of these unborn children, who are painfully destroyed while they are substantially born, are respected.

I thank the Senator from Pennsylvania.

Mr. SCHUMER. Mr. President, I rise today in support of Senator HARKIN's Sense of the Senate amendment to the partial birth abortion ban. The reason why this amendment is so important is that it really gets to the heart of this debate on the so-called partial birth abortion. The battle is really about chipping away *Roe v. Wade*. Let's not pretend any longer. It's about ultimately denying a woman the right to an abortion, maybe even the right to contraception.

This Sense of the Senate is a "put your money where your mouth is" vote. It calls the Senate on their true motives. This is the beginning of a step by step process to find an abortion procedure that seems awful, to make an inaccurate portrayal about how and why it is used, to draw a ridiculous cartoon and put it on the Senate floor, and to then outlaw the procedure and make doctors into criminals and women into murderers. In fact, the term partial birth abortion is a political slogan, not a medical procedure.

So who knows what the next term will be used to outlaw another type of abortion procedure. Let's be thankful that we have the courts. This legislation has been consistently found unconstitutional by the courts. In 19 different cases, including federal courts, the definition of partial birth abortion used in this bill has been found to be too vague, and to apply to pre and post viability abortions. As a result, this legislation violates the terms of *Roe v. Wade*, the cornerstone of a woman's right to choose in this country. This bill is also unconstitutional because it lacks an exception to protect a woman's health.

The Supreme Court has concluded that woman's health is the physician's paramount concern, and that a physician's discretion to determine the course of treatment must be preserved. But Congress is hardly concerned with physician authority these days. In fact, this bill tries to turn lawmakers into doctors. It would take medical decisions out of the hands of women and their doctors and give it to politicians.

My colleague's amendment underscores our commitment to the terms of *Roe v. Wade*, and emphasizes the right of women to choose will continue to be upheld. If you really believe that the problem is the so-called partial birth abortion, and you are truly sincere that this is not the camel's nose under the tent of undoing *Roe v. Wade*, vote yes on the Harkin amendment. If this

is instead the first step toward making all abortion illegal—as I believe it is—then vote no.

The PRESIDING OFFICER. Who yields time?

Mr. HARKIN. Mr. President, how much time remains on both sides?

The PRESIDING OFFICER. The Senator from California has 6 minutes remaining, and the Senator from Pennsylvania has 1 minute.

Mrs. BOXER. We would like to close the debate. If the Senator will take the minute, we appreciate it.

Mr. SANTORUM. Mr. President, I yield back the remainder of my time.

Mrs. BOXER. I yield the Senator from Iowa 3 minutes.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, I thank my friend and colleague from California, Senator BOXER, for her tremendous leadership on this issue that is so important to women of this country.

I ask unanimous consent that Senator ROBB be added as a cosponsor of my amendment.

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

Mr. HARKIN. Mr. President, once again, the Senator from Pennsylvania said that my amendment is about changing the subject. He also made the point that this bill has nothing to do with *Roe v. Wade*.

Most respectfully, I disagree with my friend from Pennsylvania. Nothing could be further from the truth.

This law does not provide for any protection of a woman's health. Of course, they keep using the term "partial-birth abortion." That is nowhere found in the medical lexicon. That is not a medical term. That is a political pejorative term used to excite and inflame passions. That is all it is. Let's be honest about that. I think if the other side was sincere in wanting to end late-term abortions, they could have supported Senator DURBIN's amendment yesterday, which would have accomplished that.

Finally, in States where they have passed legislation such as the Santorum bill—the underlying bill here—doctors in those States stopped performing all abortions because it was so unclear as to the timeframe. There is no timeframe in this at all. That is why the circuit courts, in all these instances, have struck these laws down as being unconstitutional. A recent case in our circuit upheld a case in Iowa on this law.

So, really, what this vote is about is whether or not the Senate wants to turn back the clock and move back to the pre-*Roe v. Wade* days of back-alley abortions, the days when women committed suicide when they were faced with a desperate choice, the days of women dying or being permanently disfigured from illegal abortions, when women became sterile and could not have children because they had illegally botched abortions.

This vote about to occur is whether the Senate believes that in the most

personal and heart-wrenching decisions the politicians should know what is best, and not the women, their families, and their doctors, and according to their own religious beliefs and faiths. That is what this vote is about. It is about whether or not we believe *Roe v. Wade* was a wise decision and whether or not ought to have their rights to decide their own reproductive health. It has everything to do with the underlying bill.

Mrs. BOXER. Mr. President, I yield myself the remainder of the time.

I thank the Senator from Iowa for his insight in offering this important amendment. I am very hopeful the Senate will go on record as supporting *Roe v. Wade*. I think it may well do just that. That would send a wonderful signal to the families of America that we trust them to make the most personal, private decisions that perhaps they will ever be called on to make.

Once again, I have to say I think some of the language used on the other side of the aisle in this debate has been offensive. I think it has been wrong. I think it has been inflammatory. The Senator from Pennsylvania continues to say those of us who disagree with him, in essence, want to kill children. We are mothers. We have bore children. We are grandmothers. We love the children. So it is highly offensive to hear those words used on the Senate floor.

My colleague says he feels the pain of the families who went through this horrible experience; yet he demeans them. He basically says they don't know what they are talking about when they beg us not to pass this legislation, when they beg us to turn away from this legislation, which makes no exception for the health of a woman.

Again, we are not doctors. We are Senators. When the women of this country need help—and serious help—they don't turn to us. They turn to us for other things, but they don't turn to us to get the help they need. They turn to a physician they trust; they turn to their God, to their families, to their closest friends, and they turn to their conscience. So I hope we will reaffirm *Roe v. Wade* because that is what *Roe v. Wade* says—trust the women, respect them, respect their privacy.

I want to put into the RECORD a statement sent to us by an award-winning actress, Polly Bergen, who came forward to talk about her illegal abortion in the 1940s. She said:

Someone gave me the phone number of a person who did abortions. . . . I borrowed about \$300 from my roommate and went alone to a dirty, run-down bungalow in a dangerous neighborhood in east L.A. A . . . man came to the floor and asked for the money. . . . He told me to take off all of my clothes except for my blouse. . . . I got up on a cold metal kitchen table. He performed a procedure, using something sharp. He didn't give me anything for the pain—he just did it. He said . . . I would be fine.

Well, Polly Bergen was rendered infertile.

Vote for the Harkin amendment. Vote no on the underlying bill.

Mr. SANTORUM. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. SANTORUM. Mr. President, I move to table amendment No. 2321 and 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 question is on agreeing to the motion to table the amendment No. 2321. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN) is necessarily absent.

The result was announced—yeas 48, nays 51, as follows:

[Rollcall Vote No. 336 Leg.]

YEAS—48

Abraham	Fitzgerald	Mack
Allard	Frist	McConnell
Ashcroft	Gorton	Murkowski
Bennett	Gramm	Nickles
Bond	Grams	Reid
Breaux	Grassley	Roberts
Brownback	Gregg	Roth
Bunning	Hagel	Santorum
Burns	Hatch	Sessions
Cochran	Helms	Shelby
Coverdell	Hutchinson	Smith (NH)
Craig	Hutchison	Smith (OR)
Crapo	Inhofe	Thomas
DeWine	Kyl	Thompson
Domenici	Lott	Thurmond
Enzi	Lugar	Voinovich

NAYS—51

Akaka	Edwards	Lieberman
Baucus	Feingold	Lincoln
Bayh	Feinstein	Mikulski
Biden	Graham	Moynihan
Bingaman	Harkin	Murray
Boxer	Hollings	Reed
Bryan	Inouye	Robb
Byrd	Jeffords	Rockefeller
Campbell	Johnson	Sarbanes
Chafee	Kennedy	Schumer
Cleland	Kerrey	Snowe
Collins	Kerry	Specter
Conrad	Kohl	Stevens
Daschle	Landrieu	Torricelli
Dodd	Lautenberg	Warner
Dorgan	Leahy	Wellstone
Durbin	Levin	Wyden

NOT VOTING—1

McCain

The motion was rejected.

Mr. BYRD. Mr. President, earlier today I voted against tabling a sense of the Congress amendment proposed by Senator HARKIN regarding the Supreme Court's 1973 decision in the case of *Roe v. Wade*. Because that vote was, to the best of my recollection, the first time the Senate has directly and specifically addressed the issue of the Court's ruling, I wish to take a few moments to explain my position for the benefit of my constituents in West Virginia.

First, despite the fact that I supported the Harkin amendment, I reiterate that I am, as I always have been, personally opposed to abortion, with few exceptions—such as when the life of the woman would be endangered, or in cases of incest or rape, when promptly reported.

However, the reality of the situation is that the decision of the Supreme Court in *Roe v. Wade* is the law of the land. No matter what I think personally of the procedure in question, I accept the fact that the Court, in a 7-to-2 ruling, has definitively spoken on this matter. Accordingly, I felt it was appropriate to support the language of the Harkin amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered.

The Senator from Pennsylvania.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I ask unanimous consent there be a vote on the Harkin amendment at 2 o'clock.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

WORK INCENTIVES IMPROVEMENT ACT OF 1999

Mr. SANTORUM. Mr. President, I ask unanimous consent the Senate now proceed to the consideration of H.R. 1180, the work incentives bill. I further ask consent that all after the enacting clause be stricken and the text of S. 331, as passed by the Senate, be inserted in lieu thereof. I further ask the bill be read a third time and passed, the motion to reconsider be laid upon the table, the Senate then insist upon its amendment, and request a conference with the House.

I further ask consent that nothing in this agreement shall alter the provisions of the consent agreement on June 14, 1999, relating to S. 331.

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

The bill (H.R. 1180), as amended, was read the third time and passed.

(The text of S. 331 is printed in the CONGRESSIONAL RECORD of June 16, 1999.)

Mr. SANTORUM. Mr. President, I ask unanimous consent the Chair be authorized to appoint conferees on the part of the Senate.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Reserving the right to object. I reserve the right to object, Mr. President.

The PRESIDING OFFICER. The Senator reserves the right to object.

Mr. KENNEDY. If the Senator from Pennsylvania is the acting leader, could he give us some indication of when we will go to conference on that legislation? It is the most important piece of legislation affecting the dis-

abled in this country. We have passed the legislation 99-0. It has been in the House of Representatives for several months. I hope at the time we are announcing we are going to appoint conferees, we would have at least some indication from the leadership as to when we are going to get to conference. I know millions of disabled Americans across this country will want to know what the intention of the leadership is on this legislation.

Can the Senator give us some idea?

Mr. SANTORUM. I say to the Senator from Massachusetts, first, I think this bill we are considering right now has a far greater impact on people with disabilities to come than this piece of legislation. But that being said, I am just doing this on behalf of the leader. I have not conferred with the leader as to what his plans are, so I am unable to answer the Senator's question.

Mr. KENNEDY. Further reserving the right to object, and I will not at this time, I think this legislation is of enormous importance. We are very hopeful we will get an early conference on it and we will get a favorable resolution. This has passed 99-0 in our body. It is a good bill that came out of the House. It is legislation we ought to complete before we adjourn.

I have no objection.

There being no objection, the Presiding Officer (Mr. HAGEL) appointed Mr. ROTH, Mr. LOTT, and Mr. MOYNIHAN conferees on the part of the Senate.

PARTIAL-BIRTH ABORTION BAN ACT OF 1999—Continued

Mr. BROWNBACK. Mr. President, I submit for the RECORD a speech given by Mother Teresa. I think it is quite germane to this debate we are having on partial-birth abortion. It is piercing in its view of the truth. It is piercing in its view of the issue of abortion. It is quite clear. I think it is full of great wisdom.

I ask unanimous consent it be printed in the RECORD.

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

THIS GIFT OF PEACE—SMILE AT EACH OTHER

(By Mother Teresa)

As we have gathered here together to thank God for the Nobel Peace Prize, I think it will be beautiful that we pray the prayer of St. Francis of Assisi which always surprises me very much—we pray this prayer every day after Holy Communion, because it is very fitting for each one of us, and I always wonder that 4-500 years ago St. Francis of Assisi composed this prayer that they had the same difficulties that we have today, as we compose this prayer that fits very nicely for us also. I think some of you already have got it—so we will pray together.

Let us thank God for the opportunity that we all have together today, for this gift of peace that reminds us that we have been created to live that peace, and Jesus became man to bring that good news to the poor. He being God became man in all things like us except sin, and he proclaimed very clearly that he had come to give the good news. The