

The SPEAKER pro tempore (Mr. HUTCHINSON). The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and pass the bill, H.R. 4835.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HANSEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 4613, H.R. 3745, H.R. 2752, H.R. 2267, S. 1324, H.R. 4835, H.R. 5036, and H.R. 4904.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

SMALL BUSINESS LIABILITY RELIEF ACT

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 5175, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. OXLEY) that the House suspend the rules and pass the bill, H.R. 5175, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 253, nays 161, not voting 19, as follows:

[Roll No. 494]

YEAS—253

Aderholt	Chambliss	Gallegly
Archer	Chenoweth-Hage	Ganske
Army	Clement	Gekas
Baca	Coble	Gibbons
Bachus	Coburn	Gilchrest
Baldacci	Collins	Goode
Ballenger	Combest	Goodlatte
Barcia	Condit	Goodling
Barr	Cook	Gordon
Barrett (NE)	Cooksey	Goss
Bartlett	Cox	Graham
Barton	Cramer	Granger
Bass	Crane	Green (TX)
Bentsen	Cubin	Green (WI)
Bereuter	Cunningham	Greenwood
Berry	Danner	Gutknecht
Biggert	Davis (VA)	Hall (OH)
Bilbray	Deal	Hall (TX)
Bilirakis	DeLay	Hansen
Bishop	DeMint	Hastings (WA)
Bliley	Diaz-Balart	Hayes
Blunt	Dickey	Hayworth
Boehrlert	Doalittle	Hefley
Boehner	Doyle	Hergert
Bonilla	Dreier	Hill (MT)
Bono	Duncan	Hilleary
Boyd	Dunn	Hobson
Brady (TX)	Edwards	Hoekstra
Bryant	Ehlers	Holden
Burr	Ehrlich	Horn
Burton	Emerson	Hostettler
Buyer	English	Houghton
Callahan	Etheridge	Hulshof
Calvert	Everett	Hunter
Camp	Fletcher	Hutchinson
Canady	Foley	Hyde
Cannon	Fossella	Isakson
Castle	Fowler	Istook
Chabot	Frelinghuysen	Jenkins

John	Ortiz	Skeen
Johnson (CT)	Ose	Skelton
Johnson, Sam	Oxley	Smith (NJ)
Jones (NC)	Packard	Smith (TX)
Kasich	Pease	Souder
Kelly	Peterson (MN)	Spence
King (NY)	Peterson (PA)	Spratt
Kingston	Petri	Stearns
Knollenberg	Phelps	Stenholm
Kolbe	Pickering	Stump
Kuykendall	Pickett	Sununu
LaHood	Pitts	Sweeney
Lampson	Pombo	Talent
Largent	Pomeroy	Tancredo
Latham	Porter	Tanner
LaTourette	Portman	Tauzin
Leach	Pryce (OH)	Taylor (MS)
Lewis (CA)	Quinn	Taylor (NC)
Lewis (KY)	Radanovich	Terry
Linder	Rahall	Thomas
LoBiondo	Ramstad	Thornberry
Lucas (KY)	Regula	Thune
Lucas (OK)	Reynolds	Tiahrt
Manzullo	Riley	Toomey
Martinez	Roemer	Trafficant
McCrery	Rogers	Turner
McHugh	Rohrabacher	Upton
McInnis	Ros-Lehtinen	Vitter
McIntyre	Roukema	Walden
McKeon	Royce	Walsh
Metcalfe	Ryan (WI)	Wamp
Mica	Ryun (KS)	Watkins
Miller (FL)	Salmon	Watts (OK)
Miller, Gary	Sanford	Weldon (FL)
Minge	Scarborough	Weldon (PA)
Moore	Schaffer	Weller
Moran (KS)	Sensenbrenner	Whitfield
Moran (VA)	Sessions	Wicker
Murtha	Shadegg	Wilson
Myrick	Shaw	Wise
Napolitano	Sherwood	Wolf
Nethercutt	Shimkus	Wu
Ney	Shows	Young (AK)
Northup	Shuster	Young (FL)
Norwood	Simpson	
Nussle	Sisisky	

NAYS—161

Abercrombie	Frost	Meek (FL)
Ackerman	Gejdenson	Meeks (NY)
Allen	Gephardt	Menendez
Andrews	Gilman	Millender-
Baird	Gonzalez	McDonald
Baldwin	Gutierrez	Miller, George
Barrett (WI)	Hastings (FL)	Mink
Becerra	Hill (IN)	Moakley
Berkley	Hilliard	Mollohan
Berman	Hinchee	Morella
Blagojevich	Hinojosa	Nadler
Blumenauer	Hoeffel	Neal
Boniior	Holt	Oberstar
Borski	Hooley	Obey
Boswell	Hoyer	Olver
Boucher	Inslee	Owens
Brady (PA)	Jackson (IL)	Pallone
Brown (FL)	Jackson-Lee	Pascarell
Brown (OH)	(TX)	Pastor
Capps	Jefferson	Payne
Capuano	Johnson, E. B.	Pelosi
Cardin	Kanjorski	Price (NC)
Carson	Kaptur	Rangel
Clayton	Kennedy	Reyes
Clyburn	Kildee	Rivers
Conyers	Kilpatrick	Rodriguez
Costello	Kind (WI)	Rothman
Coyne	Kleczka	Roybal-Allard
Crowley	Kucinich	Rush
Cummings	LaFalce	Sabo
Davis (FL)	Lantos	Sanchez
Davis (IL)	Larson	Sanders
DeFazio	Lee	Sawyer
DeGette	Levin	Schakowsky
DeLahunt	Lewis (GA)	Scott
DeLauro	Lipinski	Serrano
Deutsch	Lofgren	Shays
Dicks	Lowey	Sherman
Dingell	Luther	Slaughter
Dixon	Maloney (CT)	Smith (WA)
Doggett	Maloney (NY)	Snyder
Dooley	Markey	Stabenow
Engel	Mascara	Strickland
Evans	Matsui	Stupak
Farr	McCarthy (MO)	Tauscher
Fattah	McCarthy (NY)	Thompson (CA)
Filner	McDermott	Thompson (MS)
Fobes	McGovern	Thurman
Ford	McKinney	Tierney
Frank (MA)	McNulty	Towns
	Meehan	Udall (CO)

Udall (NM)	Watt (NC)	Weygand
Velazquez	Waxman	Wynn
Visclosky	Weiner	
Waters	Wexler	

NOT VOTING—19

Baker	Klink	Saxton
Campbell	Lazio	Smith (MI)
Clay	McCollum	Stark
Ewing	McIntosh	Vento
Franks (NJ)	Paul	Woolsey
Gillmor	Rogan	
Jones (OH)	Sandlin	

□ 1912

Ms. BERKLEY and Mr. CLYBURN changed their vote from "yea" to "nay."

Mr. SHADEGG and Mr. GREEN of Texas changed their vote from "nay" to "yea."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4503

Mr. CHAMBLISS. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 4503.

The SPEAKER pro tempore (Mr. DICKEY). Is there objection to the request of the gentleman from Georgia?

There was no objection.

BORN-ALIVE INFANTS PROTECTION ACT OF 2000

Mr. CANADY of Florida. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4292) to protect infants who are born alive.

The Clerk read as follows:

H.R. 4292

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the "Born-Alive Infants Protection Act of 2000".

SEC. 2. DEFINITION OF BORN-ALIVE INFANT.

(a) IN GENERAL.—Chapter 1 of title 1, United States Code, is amended by adding at the end the following:

“§ 8. ‘Person’, ‘human being’, ‘child’, and ‘individual’ as including born-alive infant

“(a) In determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the words ‘person’, ‘human being’, ‘child’, and ‘individual’, shall include every infant member of the species homo sapiens who is born alive at any stage of development.

“(b) As used in this section, the term ‘born alive’, with respect to a member of the species homo sapiens, means the complete expulsion or extraction from its mother of that member, at any stage of development, who after such expulsion or extraction breathes or has a beating heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, regardless of whether the umbilical cord has been cut, and regardless of whether the expulsion or extraction occurs as a result of natural or induced labor, cesarean section, or induced abortion.”.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1 of title 1, United States Code, is amended by adding at the end the following new item:

"8. 'Person', 'human being', 'child', and 'individual' as including born-alive infant."

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. CANADY) and the gentleman from Michigan (Mr. CONYERS) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. CANADY).

□ 1915

Mr. CANADY of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4292, the Born-Alive Infants Protection Act is a simple but critical piece of legislation that is designed to ensure that, for purposes of Federal law, all infants who have been born alive are treated as persons who are entitled to the protections of the law.

We may ask why such a legislation is necessary. Has it not been long accepted as a legal principle that infants who are born alive are persons who are entitled to the protections of the law? Indeed it has. But the corrupting influence of a seemingly illimitable right to abortion has brought this well-settled principle into question.

Mr. Speaker, in *Stenberg v. Carhart*, five Justices of the United States Supreme Court struck down a Nebraska law banning partial-birth abortion, a gruesome procedure in which an abortionist delivers an unborn child's body until only the head remains inside the mother, then punctures the back of the child's skull with scissors and sucks the child's brains out before completing the delivery. Every time I describe that horrible procedure, I wince because it is truly a horror. But that is what the Supreme Court of the United States, speaking through five Justices has found is protected by our Constitution.

What was described in *Roe v. Wade* as a right to abort unborn children has now in *Carhart* been extended by five Justices to include the violent destruction of partially-born children just inches from birth.

Even more striking than the simple holding of the case is the fact that the *Carhart* Court considered the location of the infant's body at the moment of death during a partial-birth abortion delivered partly outside the body of the mother to be of no legal significance in ruling on the constitutionality of the Nebraska law under challenge.

Implicit in the *Carhart* decision was the notion that a partial-born infant's entitlement to the protections of the law is dependent not upon whether the child is born or unborn, but upon whether or not the partially born child's mother wants the child.

On July 26, 2000, the United States Court of Appeals for the Third Circuit made that point explicit in *Planned Parenthood of Central New Jersey v. Farmer*, in the course of striking down New Jersey partial-birth abortion ban. According to the Third Circuit Court of

Appeals under *Row* and *Carhart*, it is, and I quote them, nonsensical, and "based on semantic machinations" and "irrational line-drawing" for a legislature to conclude that an infant's location in relation to the mother's body has any relevance in determining whether that infant may be killed.

Instead, the *Farmer* Court concluded that a child's status under the law, regardless of the child's location, is dependent upon whether the mother intends to abort the child or to give birth. The *Farmer* Court stated that, in contrast to an infant whose mother intends to give birth, an infant who is killed during a partial-birth abortion is not entitled to the protections of the law because, and I quote, "a woman seeking an abortion is plainly not seeking to give birth."

Now, if we examine the logical implications of these decisions, I think we will be forced to the conclusion that they are indeed shocking.

Under the logic of these decisions, once a child is marked for abortion, it is wholly irrelevant whether that child emerges from the womb as a live baby. That child may still be treated as a nonentity and would not have the slightest rights under the law, no right to receive medical care, to be sustained in life, or to receive any care at all. And if a child who survives an abortion and is born alive would have no claim to the protections of the law, there would appear to be no basis upon which the government may prohibit an abortionist from completely delivering an infant before killing it or allowing it to die.

The right to abortion under this logic means nothing less than the right to a dead baby, no matter where the killing takes place.

We are familiar with the logic of the Supreme Court case. There they said in order to protect the mother's health, the child could be killed in the process of being delivered. It is not a far stretch for the argument to also be made that it will help protect the mother's health to deliver the baby completely before the child is delivered in carrying out the decision for an abortion to be performed.

As horrifying as it may seem, credible public testimony received by the Subcommittee on the Constitution indicates that this, in fact, already is occurring. According to our eyewitness accounts, some abortion doctors are performing live-birth abortions using a procedure in which the abortionist used drugs to induce premature labor and deliver unborn children, many of whom are still alive, and then simply allow those who are born alive to die, sometimes without the provision of even basic comfort care such as warmth and nutrition.

On one occasion, a nurse found a living infant lying naked on a scale in a soiled utility closet, and on another occasion a living infant was found lying naked on the edge of a sink; one baby was wrapped in a disposable towel and thrown into the trash.

Mr. Speaker, Jill Stanek, a labor and delivery nurse at Christ Hospital in Oak Lawn, Illinois, testified regarding numerous live-birth abortions that she has witnessed at Christ Hospital in Illinois. Ms. Stanek described what happened after one of those abortions as follows, and I quote her testimony at length, because it is so chilling and so pertinent to the question that is before the House today. According to Ms. Stanek's testimony: "One night, a nursing coworker was taking an aborted Down's Syndrome baby who was born alive to our soiled utility room because his parents did not want to hold him, and she did not have time to hold him. I could not bear the thoughts of this suffering child dying alone in a soiled utility room, so I cradled and rocked him for the 45 minutes that he lived.

He was 21 to 22 weeks old, weighed about one-half pound and was about 10 inches long. He was too weak to move very much, expending any energy he had trying to breathe. Toward the end, he was so quiet that I could not tell if he was still alive unless I held him up to the light to see if his heart was still beating through his chest wall. After he was pronounced dead, we folded his little arms across his chest, wrapped him in a tiny shroud, and carried him to the hospital morgue where all of our dead patients are taken."

The Subcommittee on the Constitution also heard testimony from Allison Baker, who formerly worked as a labor and delivery nurse at Christ Hospital. Mrs. Baker testified regarding three live-birth abortions at Christ Hospital, the first of which she described as follows, this is what she told the Subcommittee on the Constitution: "The first of these live-birth abortions occurred on a day shift. I happened to walk into a soiled utility room and saw lying on the metal counter a fetus, naked, exposed and breathing, moving its arms and legs. The fetus was visibly alive and was gasping for breath.

I left to find the nurse who was caring for the patient and this fetus. When I asked her about the fetus, she said that she was so busy with the mother that she didn't have time to wrap and place the fetus in a warmer, and she asked if I could do that for her.

Later I found out that the fetus was 22 weeks old and had undergone a therapeutic abortion because it had been diagnosed with Down's Syndrome. I did wrap the fetus and placed him in a warmer and for 2½ hours he maintained a heartbeat and then finally expired."

Mr. Speaker, statements made by abortion supporters indicate that they believe that *Roe v. Wade* denies the protection of the law to live-born infants who have been marked for destruction through abortion. On July 20 of this year, the National Abortion and Reproductive Rights Action League, or NARAL, issued a press release criticizing H.R. 4292, the bill that we are considering tonight, because in

NARAL's view extending legal personhood to premature infants who are born alive after surviving abortions constitutes an assault on *Roe v. Wade*.

The gentlewoman from Ohio (Mrs. JONES) took a similar position in her testimony on H.R. 4292 before the Subcommittee on the Constitution.

The principle that born-alive infants are entitled to the protection of the law is also being questioned at one of America's most prestigious universities. Princeton University Bioethicist Peter Singer argues that parents should have the option to kill disabled or unhealthy newborn babies for a certain period after birth. According to Professor Singer, and I quote him: "A period of 28 days after birth might be allowed before an infant is accepted as having the same right to live as others."

Mr. Speaker, now this is based on Professor Singer's view that the life of a newborn baby is, and again I quote him, "of no greater value than the life of a nonhuman animal at a similar level of rationality, self-consciousness, awareness, capacity to feel, et cetera."

According to Professor Singer, and I again quote, "killing a disabled infant is not morally equivalent to killing a person. Very often, it is not wrong at all." Mr. Speaker, now, these are the comments that are being made by a renowned philosopher holding one of the most prestigious chairs at one of this Nation's most prestigious universities.

The purpose of this legislation is to repudiate the pernicious ideas that result in tragedies such as live-birth abortion and to firmly establish that, for purposes of Federal law, an infant who is completely expelled or extracted from his or her mother and who is alive is indeed a person under the law regardless of whether or not the child's development is believed to be or is, in fact, sufficient to permit long-term survival and regardless of whether the baby survived an abortion.

H.R. 4292 accomplishes this by providing that, for purposes of Federal law, the word "person," the words "person, human being, child and individual" shall include every infant member of the species *homo sapiens* who is born alive at any stage of development. The bill defines the term "born alive" as the complete expulsion or extraction from its mother of that member of this species *homo sapiens* at any stage of development, who after such expulsion or extraction breathes or has a beating heart, pulsation of the umbilical cord, or definite movement of the voluntary muscles, regardless of whether the umbilical cord has been cut and regardless of whether the expulsion or extraction occurs as a result of natural or induced labor, cesarean section or induced abortion.

Now, I will point out to the Members of the House, and this is very important to put this bill in context, that this definition of born alive was derived from a model definition of live birth that has been adopted with minor

variations in 35 States and the District of Columbia.

So the principle that is embodied in this bill is a principle that has been codified by the majority of the States, and it is indeed the law in the vast majority of the jurisdictions in this land. It is also important to understand that this simply deals with the principle that the child is a person who is born alive. It does nothing to alter the applicable standard of care that is owed to a child in particular circumstances.

Now, I urge my colleagues to look at this legislation, consider the recent decision of the Supreme Court, the recent decision of the Third Circuit Court of Appeals and support this important legislation and to reject, to unequivocally reject the movement towards the legalization of infanticide, which I submit to my colleagues is implicit in the recent rulings that I have referred to. As Members of this House, we should do everything we can to protect the most innocent and helpless members of the human family.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have before us a measure which is one of the most puzzling bits of legislation to ever come out of the Committee on the Judiciary. To make it more interesting, the entire committee has supported this measure on a recorded vote except one person, one member of the committee.

□ 1930

As of a very recent date, we have taken out the manager's amendment, which had been creating a considerable amount of confusion. Now, the question at a threshold level is why do we have this bill before us. I cannot answer that question clearly because we are not doing anything new that is not already stated very clearly in statute and in the Supreme Court cases.

*Roe v. Wade* is not affected by this bill. As a matter of fact, *Stenburg v. Carhart*, notwithstanding many interpretations of this more recent Supreme Court case, does not affect this measure either. So I leave to more fertile imaginations why it is we are here in the first place. But we are here.

And trying to ignore the gentleman from Florida (Mr. CANADY), the manager on the other side's sometimes hyperbolic rhetoric, this is still the same measure that this Member voted for in committee. I stand by my position, and I will continue to support it.

It is my belief that people who introduce legislation in the Congress do it to get people to support it, they do not try to introduce legislation to get people not to support it. We hope that that common rule of long standing still applies this evening in this measure.

The bill makes a useful clarification of existing law. The bill clarifies existing law to ensure that every protection for a child or person in the United States Code applies to a born-alive in-

fant. I support that. Most of us believe that this bill is probably unnecessary for the simple reason that born-alive infants are already protected by existing law.

However, we have accepted the representations of the bill's sponsor that this change is needed, that this legislation has a purpose in fact. The sponsor has indicated that the bill would only protect an infant who is completely separated from its mother. This is a most unusual and, I think, significant concession by the chairman of the Subcommittee on the Constitution of the Committee on the Judiciary.

I must wholeheartedly applaud the majority for realizing at last that there are different stages of life and that, at each stage, a mother's right to privacy must be balanced against a State's interest and fetal life.

Now, this measure bipartisanly has overwhelmingly passed the committee, which is unusual given the strong feelings on each side of the issue and on each side of the aisle regarding issues of reproductive rights. But it seems to me that this measure is now back to the precise original condition that was voted out by the committee. This leaves the manager on this side with no other recourse but to support the same measure that we passed in the Committee on the Judiciary.

Mr. Speaker, I reserve the balance of my time.

Mr. CANADY of Florida. Mr. Speaker, I yield 1½ minutes to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Speaker, I thank the gentleman from Florida for yielding me this time, and I rise in strong support of this legislation. I am very pleased to be able to support it, but I must say that it grieves me that I live in a Nation where it is even necessary for us to promulgate such legislation. Nonetheless, I believe this legislation is badly needed.

We have a situation evolving in our courts where legal doctrines are being promoted that would countenance the practice of infanticide. The gentleman from Florida (Mr. CANADY) I think very clearly in his opening statement cited many of those cases. I do not need to reiterate them here.

Not only do we have a problem with legal doctrine, though, but we have a problem with medical practice. I as a practicing physician for years would unfortunately be asked to pronounce people dead. What we were typically asked to do is to make a determination of brain waves or a heart beat are present. These are clearly infants that meet those criteria. They are human. They are alive. There are numerous cases where they are being allowed to die. They are not being provided basic subsist steps, not even kept warm.

I believe this is a tragedy that this should be evolving. Probably more concerning to me, and it should be a concern to people in the disabilities community, because if one hears all these cases, one hears that many of these

children have disabilities. I think any Member, any person in this country with a disability should support this legislation.

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from New York (Mrs. LOWEY).

(Mrs. LOWEY asked and was given permission to revise and extend his remarks.)

Mrs. LOWEY. Mr. Speaker, the proponents of this bill say it is about protecting newborns. We can all agree that newborns deserve appropriate medical support and the fullest protection of the law no matter the circumstances of delivery. In fact, newborn infants already receive full legal protection in State and Federal law. Any attempt to harm a newborn can and should be subject to criminal prosecution. Everyone agrees on this.

Yet, the gentleman from Florida (Mr. CANADY), my friend, has also said that this bill would not change existing law and would have no impact on medical standards of care. Then what is the rationale for this bill?

Dr. Sessions Cole, who trained at Harvard Medical School, who is board certified in pediatrics and has cared for more than 10,000 newborns directly, believes it would change the standard of care.

In testimony before the Committee on the Judiciary, Dr. Cole stated that the bill would "impose on doctors and parents a universal definition of 'life' or 'alive' which is," he said, "in my experience as a neonatologist, inconsistent with the harsh reality presented by a number of circumstances."

Dr. Cole went on to discuss the obligation of parents and doctors to minimize the suffering an infant might endure once the decision is made that life support or other measures would be futile for that infant.

I share his concern about the impact this law may have on parents who desperately hope to bring home the healthy newborn and, instead, are confronted with a tragic situation.

It is enough for these parents to listen carefully to the physician, seek second or third opinions, hear counsel from their rabbi, priest, or minister and discuss it with their families. Congress has no business adding to their anguish or extending their grief by forcing neonatologists to follow what Dr. Cole called an "unnecessary and unrealistic definition of life."

The gentleman from Florida (Mr. CANADY) and other antichoice lawmakers could genuinely demonstrate concern about maternal and child health by promoting legislation that improves access to prenatal care, fosters research that reduces premature birth rates, and broadens the availability and affordability of health insurance.

Instead, we have a bill on the floor, Mr. Speaker which has had one subcommittee hearing and a quick markup.

I think Dr. Sessions Cole and others have raised important concerns about

changing the definition of "life" or "alive" or "person." In the end, it is families and newborns that will suffer.

Because I strongly believe that we should not be playing politics with appropriate and compassionate care for all newborns, I will oppose the bill.

Mr. CANADY of Florida. Mr. Speaker, I yield 1½ minutes to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Speaker, first of all, let me adamantly disagree with the gentlewoman from New York (Mrs. LOWEY), the previous speaker. Everyone does not agree on protecting newborns. We all know of cases where newborns have been killed or left to die.

There was a piece done by the Philadelphia Inquirer, the Pulitzer Prize winning newspaper, called "The Dreaded Complication." It talked about live births that resulted from failed or botched abortion attempts. Dr. Willard Cates is quoted extensively in that report. He was at the time the Chief of Abortion Surveillance for the CDC. He made the point that reporting that failed abortions resulted in live births is like turning yourself into the IRS for an audit. What is there to gain?

The article talks about repeatedly, case after case, where abortionists tried to kill an unborn child, failed to do so, only to have someone else step into the gap, scoop up that child, and bring that child to some kind of life saving situation. The report notes that the common thread in all of the incidents, and they go through one instance after another, is that it was not the doctor but someone else who intervened to administer care to the child.

Mr. Speaker, notwithstanding three decades of distraction, distortion, and deceit by the abortion lobby, I am happy to say a majority of Americans believe, and according to a recent nationwide L.A. Times poll, 61 percent of all American women regard abortion as murder. The violence of abortion should be self-evident: Chemical poisoning, dismemberment, brain sucking procedures.

But the bill of the gentleman from Florida (Mr. CANADY) seeks to protect newborns, kids that are already born. They, too, are now at risk under this slippery slope.

If one looks and reads the Supreme Court decision on partial birth abortion, it should be a wake-up call. Partially born kids are not protected. Kids who survive late-term abortions are not protected. This legislation is absolutely vital to protect kids who survive and are born after a failed abortion.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. NADLER), a distinguished member of the Committee on the Judiciary.

Mr. NADLER. Mr. Speaker, during the meeting of the committee which approved the bill 22 to 1, when I asked minority members in the committee, pro-choice members of the committee, to support the bill, I did so partially in

reliance on the words of the gentleman from Florida (Mr. CANADY).

I read from the transcript of the committee meeting, "And let me say that I think that the gentleman from New York and I have substantial common ground on issues related to this bill. And the gentleman has properly stated the purpose of this bill as being to reaffirm existing legal principle."

This bill, as I read it, as I read it now does not change the law in any way. It is unnecessary. So why support it? Why vote for it? Because of its dishonest sponsorship, because of the dishonest purpose behind it. The purpose of this bill is only to get the pro-choice members to vote against it so that they can then slander us and say that we are in favor of infanticide. If I had any doubts about that, the manager's amendment and the Dear Colleague letter with it — Mr. SMITH of New Jersey. Mr. Speaker, will the gentleman yield?

Mr. NADLER. I will not yield at this point.

Mr. SMITH of New Jersey. You are imputing the dignity of the chairman by suggesting his motive is dishonest. We have better comity in this place than that.

The SPEAKER pro tempore (Mr. DICKEY). The gentleman from New York (Mr. NADLER) controls the time.

Mr. NADLER. Mr. Speaker, I believe the only real purpose of this bill is to trap the pro-choice Members into voting against it so that they can slander us and slander the pro-choice movement as being in favor of infanticide.

Mr. SMITH of New Jersey. Mr. Speaker, parliamentary inquiry.

Mr. NADLER. That is why I voted for the bill in the committee.

The SPEAKER pro tempore. The gentleman from New York (Mr. NADLER) controls the time, and he is not yielding for that purpose.

Mr. NADLER. Mr. Speaker, that is why I voted in the committee in favor of the bill. That is why I will vote again and urge my colleagues to vote in favor of the bill so we do not step into this trap.

Now, the manager's amendment, which was withdrawn, but certainly the rhetoric of the sponsors, which we heard again today, are full of untruths. They say that newborns do not receive full legal protection. But there exists a common law born-alive rule imposing liability to anyone who harms a person who was born and was alive at the time of the harmful act.

The Federal statute known as the Baby Doe law already requires that appropriate care be administered to a newborn.

They say that the Carhart decision, they grossly distort the Carhart decision, striking down Nebraska's ban on abortion procedures, *Stenburg v. Carhart*. The Supreme Court found the Nebraska ban unconstitutional because it imposed an undue burden on a woman's right to choose by banning safe and common abortion procedures and it lacked an exception to protect women's health.

To suggest that Carhart is about the legal rights of newborns is deceptive and irresponsible; and it is untrue, outrageous, and insulting to suggest that pro-choice Members of the Congress wish to deprive newborns of legal rights.

□ 1945

Carhart did not expand Roe, and recent court rulings have not put newborns in jeopardy. They deal only with pregnancy. They do not have any bearing on newborns.

In summary, Mr. Speaker, this bill is unnecessary. I am not sure it is harmful in any way; but the real harm it does, the real purpose of it, is to get us to vote against it so they can go out and campaign and produce newspaper articles, such as the column by Mr. Will and Mr. Leo that say that pro-choice supporters are in favor of infanticide. We are not in favor of infanticide. The right to life begins, if not earlier, certainly at birth. No one disputes that. And we are, not many of us, are not going to fall into the trap by voting against this dishonest bill.

Mr. CANADY of Florida. Mr. Speaker, I submit for the RECORD a copy of the statement dated July 20, 2000, from the National Abortion and Reproductive Rights Action League in opposition to the bill.

[NARAL Statement, July 20, 2000]

ROE V. WADE FACES RENEWED ASSAULT IN HOUSE—ANTI-CHOICE LAWMAKERS HOLD HEARING ON SO-CALLED "BORN-ALIVE INFANTS PROTECTION ACT"

WASHINGTON, DC—The basic of tenets of Roe v. Wade were the subject of yet another anti-choice assault today, as the House Judiciary Subcommittee on the Constitution held a hearing on H.R. 4292, the so-called "Born-Alive Infants Protection Act." The Act would effectively grant legal personhood to a pre-viable fetus—in direct conflict with Roe—and would inappropriately inject prosecutors and lawmakers into the medical decision-making process. The bill was introduced by well-known abortion opponent Rep. Charles Canady (R-FL) and has been endorsed by the National Right to Life Committee.

Roe v. Wade clearly states that women have the right to choose prior to fetal viability. After viability, Roe allows states to prohibit or restrict abortion as long as exceptions are made to protect the life and health of the woman. In proposing this bill, anti-choice lawmakers are seeking to ascribe rights to fetuses "at any stage of development," thereby directly contradicting one of Roe's basic tenets.

This bill also attempts to inject Congress into what should be personal and private decisions about medical treatment in difficult and painful situations where a fetus has no chance of survival. It could also interfere with the sound practice of medicine by spurring physicians to take extraordinary steps in situations where their efforts may be futile and when their medical judgment may indicate otherwise.

This is not the first time we have seen Rep. Canady and his anti-choice colleagues attempt to chip away at the foundation of Roe v. Wade in just this manner. Last year, this same subcommittee held a hearing on the so-called "Unborn Victims of Violence Act," which also sought to ascribe certain rights to a fetus at any stage of pregnancy. Rep.

Canady is also one of the chief architects of the federal ban on safe abortion procedures used prior to fetal viability, which directly undermines the fundamental principles of Roe. With all these bills, anti-choice lawmakers purposefully set America on a path they believe will ultimately lead to the overturn of Roe v. Wade. In keeping with this goal, the subcommittee has put the "Born-Alive Infants Protection Act" on the fast track and has scheduled a markup for Friday, July 21, 2000.

Mr. Speaker, I yield 1½ minutes to the gentleman from Pennsylvania (Mr. PITTS).

Mr. PITTS. Mr. Speaker, a woman's right to privacy and parental rights, which we will hear about, does not include the right to kill one's live baby.

We heard some of the chilling words during the testimony of Jill Staneck, who presented testimony before the subcommittee. We only heard part of it, so let me read a little bit more. She said,

Other coworkers have told me many upsetting stories about live aborted babies whom they had cared for. I was told about an aborted baby who was supposed to have spina bifida but was delivered with an intact spine.

A support associate told me about a live aborted baby who was left to die on the counter of the soiled utility room wrapped in a disposable towel. The baby was accidentally thrown into the garbage, and when they later were going through the trash to find the baby, the baby fell out of the towel and onto the floor.

I was recently told about a situation by a nurse who said, "I can't stop thinking about it." she had a patient who was 23-plus weeks pregnant, and it did not look as if her baby would be able to continue to live inside of her. The baby was healthy and had up to a 39 percent chance of survival, according to national statistics. But the patient chose to abort. The baby was born alive.

If the mother had wanted everything done for her baby, there would have been a neonatologist, pediatric resident, neonatal nurse, and respiratory therapist present for the delivery, and the baby would have been taken to our neonatal intensive care unit for specialized care. Instead, the only personnel present for this delivery was an obstetrical resident and my co-worker. After delivery, the baby, who showed early signs of thriving, was merely wrapped in a blanket and kept in the labor and delivery department until she died 2½ hours later.

It is a sad day in America that we have to vote for a bill to protect infants born alive, but this bill is necessary. We should vote to support the bill.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina (Mr. WATT), a member of the Committee on the Judiciary.

Mr. WATT of North Carolina. Mr. Speaker, I thank my colleague from Michigan for yielding me this time.

I had really intended not to participate in this debate, but it sounds like I got injected into it whether I was in it or not because I am the one vote who voted against the bill coming out of committee 22 to one. My name is one, I guess.

This bill reminds me of a neighbor of mine who, when I was growing up, had a dog who used to chase his tail. He

would run around and around in circles chasing his tail. It seems to me that that is what we are doing with this bill. Because if, as my colleague from Florida has indicated, the bill does nothing to change the law, then why are we doing it? There is no compelling reason to pass a piece of legislation that does not do anything, and the sponsors of this bill submit that the bill does not do anything.

So at the end of the day, what we have done is add to the litany of terms in our statute; that litany being person, human being, child, individual, and another term which has no definition either, that term being born alive.

The concern that I have about it is the concern that has been expressed by the Congressional Research Service in its letter to the House Committee on the Judiciary. In that letter it says, "A computer search indicates that there are 15,000 sections in the United States Code and 57,000 sections of the Code of Federal Regulations that make reference to these various terms that are used; human being, child, individual, and now, born alive I guess is the new term, and nobody has made an assessment of what impact this bill has in those 15,000 sections of the United States Code or those 57,000 sections of the Code of Federal Regulations because nobody cares.

All this is about is politics, and so we should be like my friend's dog, chasing his tail around in a circle.

I am going to vote against this bill again, not because I am not sympathetic to children who are "born alive," but because I have no idea what implications this bill has in the other 15,000 sections of the United States Code and the 57,000 sections of the Code of Federal Regulations. And if, as my friend submits, the bill does nothing anyway, we will be no better or worse off as a result of my negative vote.

Mr. CONYERS. Mr. Speaker, how much time remains?

The SPEAKER pro tempore (Mr. DICKEY). The gentleman from Florida (Mr. CANADY) has 2½ minutes remaining, and the gentleman from Michigan (Mr. CONYERS) has 4 minutes remaining.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. Mr. Speaker, this has been called many things, but I call this a rollback of Roe v. Wade, since the real goal here is to roll back a woman's constitutional right.

Earlier this year, the Supreme Court rejected an abortion law in Nebraska. But I do not ask my colleagues to take my word for it. I will place in the RECORD quotes from anti-choice organizations. One called this "A viable legislative option for pro-lifers that will not be struck down by the Supreme Court." Another called it, "A starting point from which we can roll the point of legal protection back."

But it is truly the statements of neonatologists and doctors, who have submitted letters to my office and others, that I would like to submit into the RECORD. One states, "It would impose on doctors and parents a universal definition of life or alive which is inconsistent with the harsh reality presented by a number of circumstances."

As my colleague, the gentleman from North Carolina (Mr. WATT) pointed out, we do know that it changes the definition of a person in 72,000 places in the law; 15,000 in the U.S. Code and 57,000 places in the Code of Federal Regulations. Quite frankly, I do not know what the long-term impact of this bill will be, but I do know the intent, because I have the internal documents from the pro-lifers, which I will put in the RECORD, and I do know that doctors who deal with the painful decisions of trying to help save the life of a child, many of them have said that this does not help; it merely complicates and makes the hard process of dying even harder on doctors and nurses and parents when they have children who, for whatever reason, modern technology cannot save that child's life.

I submit for the RECORD, Mr. Speaker, a number of letters from doctors and other documents I referred to earlier.

TESTIMONY OF F. SESSIONS COLE, M.D. TO COMMITTEE ON THE JUDICIARY, SUBCOMMITTEE ON THE CONSTITUTION, UNITED STATES HOUSE OF REPRESENTATIVES, JULY 20, 2000

Mr. Chairman, Honorable Representatives, Staff, and spectators. My name is Francis Sessions Cole, and my family, including our two daughters, ages 16 and 14, and my wife of 28 years resides in St. Louis, Missouri. I appear before you to offer testimony concerning Representative Canady's Born Alive Infants Protection Act of 2000 (H.R. 4292) as a physician whose specialty is care of newborn infants. My testimony is not sponsored by any organization. I completed my pediatric residency training at Boston Children's Hospital and my specialty training in caring for newborn infants in the Joint Program in Neonatology at Harvard Medical School. Since my Board certification in Pediatrics in 1981, I have cared for more than 10,000 newborn infants directly, and I currently have administrative responsibility for approximately one half of all the babies born in St. Louis annually (approximately 13,000 babies). I also have an active clinical practice that focuses on caring for babies whose transition from womb to world is complicated by one or more problems like prematurity, birth defects, infections, or problems with the after-birth or placenta. I routinely encounter babies whose problems place them on the edge of viability.

The language of H.R. 4292 would impose on doctors and parents a universal definition of "life" or "alive" which is, in my experience as a neonatologist, inconsistent with the harsh reality presented by a number of circumstances. The fact is that the indicia identified in the bill—breathing, or a beating heart, or pulsation of the umbilical cord, or definite movement of voluntary muscles—are not themselves necessarily indicative of life or continued viability. Frequently, the heartbeats of infants will be maintained by medicines, not nature; their breathing may be present but ineffective as they die; they may move voluntary muscles during the dying process.

As a physician who cares for ill newborn infants, I feel that I have the greatest practice in medicine, because my practice permits me to participate in miracles everyday. Thanks to significant advances in technology over the last 20 years, babies whose parents could have been offered no hope can now see their babies survive and, for the most part, exceed both their parents' and their doctors' expectations as they develop. Unfortunately, even today's most advanced medical science is still a long way from being able to offer every sick infant a reasonable chance for survival. In fact, in our neonatal intensive care unit, approximately 10% of the infants do not respond to advanced technology and pass away. These deaths result from accidents of nature that are no one's fault, and they are excruciatingly difficult for parents, doctors, and nurses. Frequently, the emotional pain of the decision to terminate treatment in such cases is compounded by the fact that the technology that we provide babies requires painful, invasive procedures. When parents and physicians together decide that life support technology is futile for an infant and is only prolonging the pain of the dying process, parents have a moral and legal obligation to minimize the suffering of their baby, regardless of the pain such a turn of events brings to them in their loss.

The language of H.R. 4292 will, in my view, significantly interfere with the agonizing, painful and personal decisions that must be left to parents in consultation with their physicians. Imposing the proposed definition of "alive" or "life" for statutory purpose may cause parents to prolong the medically inevitable dying process of their infants out of fear that terminating that process might be deemed to be, for legal purposes, the termination of a life, when in fact all that would be terminated would be the painful process of death. Prolonging treatment in such cases would be not the saving of a "life", but the prolonging of the pain and suffering of inevitable death. As a physician whose career has been dedicated to the welfare of newborns, and especially critically-ill newborns, I urge the Subcommittee not to inject an unnecessary and unrealistic definition of "life", with all its legal implications, into the already agonizing and heart-breaking situation faced by parents of infants in the dying process.

JULY 19, 2000.

Ranking Democrat, Judiciary Committee  
*The House of Representatives.*

As a physician and neonatologist with 40 years of practice experience, I write to express my concern with HR 4292 IH, the "Born-Alive Infants Act of 2000." My credentials include authorship of a major textbook, *Neonatology: Pathophysiology and Management of the Newborn*, the fifth edition of which was published in 1999 by J B Lippincott, Co. I have also been Professor of Pediatrics for 30 years at the George Washington University School of Medicine and Health Sciences.

The powerful tools of neonatology (respirators, total intravenous feedings, life support systems, etc) have reduced neonatal mortality and saved countless infants. But they are also subject to overuse in futile situations which inflict pain and suffering on the infant, agony on the families, prolongation of dying, extreme cost and resource utilization, all without changing the fatal outcome. The humane and successful management of these situations requires a delicate balance in decision making, which has been recognized by the Congress in the amendments to the Child Abuse Act, the judiciary, including the Supreme Court, and various Administrations. I enclose an article I re-

cently published, entitled *Futility Considerations in the Neonatal Intensive Care Unit*, to illustrate some of these issues.

The current proposed legislation defines as "born alive" any product of conception with a single muscle twitch or any indication of heart beat, regardless of stage of development. The term "born alive" is then declared equivalent to "person," "human being," "child," and "individual." Presumably every miscarriage, even in the first trimester, would be considered a child and would require a birth and death certificate. The definitions make no distinction as to whether there is any possibility of survival or not. Needless to say, rather than clarifying things, this set of definitions will immensely cloud the work of medical personnel and families in determining what measures are indicated and what would be futile and actually dehumanizing.

For centuries, different terms have been used to denote an embryo, a fetus, a neonate, an infant and a child. An embryo is pre-viable outside the uterus, and is in such a rudimentary stage of development that a human embryo more closely resembles the embryo of a pig than it does a term newborn of either species. Yet embryos have beating hearts and muscles which can twitch.

A fetus has reached third trimester and still has much growth and development to achieve before normal birth. However, many such fetuses can be stabilized and supported after premature birth and even discharged home as infants who can take their place in families. To blur these distinctions seems to work against tradition, sound medical practice, and the struggle of parents to understand what is facing them and what the practical alternatives are.

I strongly urge you to oppose this measure, which I consider regressive and ill considered.

Thank you for your consideration.

GORDON B. AVERY, M.D., PH.D.,

*Emeritus Professor of Pediatrics.*

AUGUST 9, 2000.

Representative JERROLD NADLER,  
2334 Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN NADLER: As a neonatologist and author of the textbook, *Neonatology*, I am very concerned that the bill under consideration, referred to as the "born alive" bill, will significantly interfere with clinical practice. In setting definitions for being born alive, the issue of viability is completely bypassed. For the clinician, viability is crucial as it determines whether or not drastic, invasive and burdensome care is indicated. Neither grieving parents nor dying immature fetuses are served by futile chest pounding and attempts at ventilation. Thus "alive" is not relevant if it is not accompanied by plausible ability to survive outside the mother. Up to the moment of birth, even very immature birth, the baby's vital systems are supported by the mother. Thus one might better seek to define "independently alive."

The definitions in the bill—a single gasp, a muscle twitch, any pulsation of the umbilical cord—may identify living tissue, but not independent life, even with strong medical assistance. Any farmer will testify that you can cut the head off a chicken and the heart will still beat, for a time, the muscles twitch, and gasps may go on for several minutes. Yet there is no sustained viability.

One might better use terms like "sustained heartbeat and respirations" and "maturity within the gestational ages regarded as viable." Parents, health care givers, and the general public will much better understand the meaningfulness of such definitions.

I hope that these thoughts are helpful in your deliberations, and would be glad to answer questions or make further comments should they be needed.

Sincerely yours,

GORDON B. AVERY, M.D., PH.D.

[From the Associated Press, Cybercast News Service, July 14, 2000]

The question remains: Are there any viable legislative options for pro-lifers that will not be struck down by a Supreme Court that in a series of decisions—*Planned Parenthood v. Casey*, *Danforth v. Reproductive Health Services* and now *Carhart*—has shown no inclination to curtail abortion on demand articulated in *Roe v. Wade*?

In terms of legislation, Senate pro-life leaders are planning to introduce new legislation in place of the bill on partial birth abortion, which had passed the Senate last year but was vetoed by President Clinton, that would make it illegal to kill a child that survives an abortion.

The virtue of the bill, said Hadley Arkes, a professor of jurisprudence at Amherst University in Massachusetts and a prominent pro-life writer, is that it stops what he sees as a "terrible drift toward making the right to abortion the right to a dead child."

According to Arkes, by the logic of the decisions on partial birth abortion, there is no way to distinguish legally between partial-birth abortion and actual infanticide, which he feels opens the way to allowing the destruction of infants who survive abortions. "This establishes a bright line of legal protection," Arkes said.

The proposed law also would provide a starting point "from which we can roll the point of legal protection back," according to one Senate staffer for a pro-life floor leader who may introduce the bill.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from South Carolina (Mr. DEMINT).

Mr. DEMINT. Mr. Speaker, I rise today as a cosponsor and a strong supporter of the Born Alive Infant Protection Act. There is a lot of confusion about who qualifies as a person today, so this is an important bill.

This bill says if a child, a little human being, is born and is showing signs of life, this child is entitled to the full protection of law. We are talking about babies who are breathing or have a beating heart or whose muscles are moving.

Now, I must admit that I believe that life begins at conception, and a child exhibiting these signs in the womb deserves the same protection out of the womb, but that is not what this bill is about. This bill is about a born, living, breathing little boy or girl being treated as a precious human being and receiving the full protection of law, rather than being thrown away to die in a linen closet, a plastic bag, or the bottom of a trash can.

Mr. Speaker, what has happened in America when we even must have this discussion on the floor? I believe this bill is something that we can all agree on. Please support this bill.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the gentleman from Connecticut (Mrs. JOHNSON).

(Mrs. JOHNSON of Connecticut asked and was given permission to revise and extend her remarks.)

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise in firm opposition to this bill. It is not innocuous, but it is unnecessary.

Protecting newborns is the law. Every single example the gentleman has given should have been reported and prosecuted, because every newborn in America is entitled under Federal law to all medically indicated treatment, and the gentleman knows that.

This is not about protecting newborns. Listen to the words of a neonatologist. "When parents and physicians together decide that life support technology is futile for an infant, and is only prolonging the pain of the dying process, parents have a moral and legal obligation to minimize the suffering of their baby, regardless of the pain such a turn of events brings to them in their loss."

What the gentleman is doing in this bill is to deny parents and deny doctors the right to make decisions about premature infants. An infant born at 3½, 4½, 5½ months is a tragedy, and parents in a free society in America deserve the right to determine what medical care they will have, recognizing that the law requires newborns receive all medically indicated treatment.

Mr. CONYERS. Mr. Speaker, I yield myself the balance of my time.

My colleagues, the one thing that I really want to make clear, and I think there has been a little misstatement here, no one has found in the committee during the hearings, or in the course of this discussion, any example of where this measure would change existing law.

□ 2000

This bill has nothing to do whatsoever with "Roe v. Wade." "Roe" deals only with pregnancy. This bill deals with newborns.

And so, as we examine all of the Federal Code and the controlling Supreme Court cases, there is nowhere that we have found any changes that I could report to my colleagues. If there were, I would report them. If there were, other Members in this body would bring that to our attention.

And so, I urge, even though there may not be changes, that this measure be supported.

Mr. CANADY of Florida. Mr. Speaker, I yield the balance of the time to the gentleman from North Carolina (Mrs. MYRICK).

Mrs. MYRICK. Mr. Speaker, babies born alive, babies no longer in the mother's womb, babies that show obvious signs of life should be recognized as living babies.

The testimony from Allison Baker, a registered nurse who worked in a high-risk labor and delivery unit, tells the fate of a baby whose parents requested an abortion at 20 weeks because the baby had spina bifida.

"My shift started at 11 o'clock," she said, "and the patient delivered her fetus about 10 minutes before I took her as a patient. During the time the

fetus was alive, the patient kept asking me when the fetus would die. For an hour and 45 minutes, the fetus maintained a heartbeat. The parents were frustrated and obviously not prepared for this long period of time. Since I was the nurse of both the mother and fetus, I held the fetus in my arms until it finally expired."

Can my colleagues imagine being that nurse or those parents and the pain they felt just waiting for that baby to die?

How often does an abortion fail and a living baby struggle to stay alive? No one knows. No one has that information.

Mr. Speaker, it does seem that abortions fail much more frequently than anyone cares to know.

If an abortion is successful, a dead baby is delivered. But when an abortion fails, that means that there is a live baby, a baby is delivered alive.

Mr. Speaker, does a woman still have a right to a dead baby even if the abortion fails? These innocent babies have the same God-given rights as my colleagues and I do.

I urge my colleagues to please vote yes in support of this important bill.

GENERAL LEAVE

Mr. CANADY of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on H.R. 4292.

The SPEAKER pro tempore (Mr. DICKEY). Is there objection to the request of the gentleman from Florida?

There was no objection.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I would like to speak on the merits of H.R. 4292, which is erroneously titled "To Protect Infants Who are Born Alive." I would challenge my colleagues for what they suggest in the title of this legislation, because our country and its people are not corrupt and morally bankrupted. Our commitment as leaders, parents, grandparents, humanitarians and public servants is the support of human life. However there are considerable concerns with this bill; I hope it is not done for political purposes.

What this legislation does is not protect any child that is born alive, because there is no law in this nation that would do otherwise. What this bill would do if it becomes law is open states and local municipalities to the burden of documenting all births of infants regardless of their stage of development or opportunity for survival. The ultimate result would be a ballooning of the mortality rates of infants born in the United States.

The most important predictor for infant survival is birthweight; survival increases exponentially as birthweight increases to its optimal level. The nearly twofold higher risk of infant mortality among blacks than among whites was related to a higher prevalence of low birthweights, to higher mortality risks in the neonatal period for infants with birthweights of greater than or equal to 3,000 g, and to higher mortality during the postneonatal period for all newborns, regardless of birthweight. Moreover, the black-white gap persisted for infants with birthweight of greater than or equal to 2,500 g, regardless of other infant or maternal risk factors.

Each year, approximately 40,000 U.S. infants die before reaching their first birthday. The 1990 Objectives for the Nation call for an infant mortality rate of no more than 12 deaths/1,000 live-born infants of any racial group for an overall national infant mortality rate of no more than 9 deaths/1,000 live-born infants. In 1986, the infant mortality rate was 18.0/1,000 live-born black infants and 8.9/1,000 live-born white infants. It is thus unlikely that the United States will achieve the 1990 objective for black infants, especially since black infant mortality rates decreased only 15.9 percent from 1980 to 1986; to meet the 1990 objective, the rate for these infants would have to be reduced by 33.3 percent within the 4 years that remain in the period.

These numbers are already poor when considering the material death rate of African-American and Hispanic women and the mortality rate of their children when compared to the majority populations. A slowdown in the decline of infant mortality in the United States and a continuing high risk of death among black infants, twice that of white infants, prompted a consortium of Public Health Service agencies, in collaboration with all states, to develop a national data base of linked birth and infant death certificates for the 1980 birth cohort. This project, referred to as National Infant Mortality Surveillance [NIMS], provides neonatal, postneonatal, and infant mortality risks for blacks, whites, and all races in 12 categories of birthweights. Neonatal mortality risk = number of deaths of infants less than 28 days of age/1,000 live births; postneonatal mortality risk = number of deaths of infants ages 28 days up to 1 year/1,000 neonatal survivors; and infant mortality risk—number of deaths of infants less than 1 year of age/1,000 live births.

The language in this legislation is very similar to the 1974 regulations which was promulgated by the Department of Health and Human Services, which outlined the viability of a newborn. It was outlined in the regulations that two conditions have to exist are 20 weeks of gestation and 500 grams of birth weight to survive. There has not been any child born in recorded history that did not have at least these two minimums to support the life of a child. One or both can be greater, such as a child older than 20 weeks or over 500 grams of birthweight, but no child is known to have survived with either of these being less than stated.

I commend the members of the House Judiciary Committee who have spent many hours in debate and discussion on this issue. For this reason, I invite them to join me in support of continued increases in funding to the National Institute of Health's Child Health and Human Development division, which is charged with federal research in the area of infant viability. My greatest concern with this legislation is not that it will not save the life of a child, but that it would have serious implications for the mortality statistics of infants born in our Nation. Should this bill become law it may require that states based on the language of their own statutes regarding births and deaths may be required to collect information on the birth and death of nonviable infants born in the conditions that would be defined as "born alive" under the language of this bill. Finally, I believe that physicians will do the appropriate thing for a new born infant with or without this law.

Mrs. CHENOWETH-HAGE. Mr. Speaker, I rise today in support of the Born-Alive Infant's Protection Act of 2000. H.R. 4292 is a critical step in protecting human life. In the past, I have spoken of the criticality of reversing *Roe v. Wade*. That horrendous decision has given us early abortion on demand, late abortion on demand, partial-birth abortion, and now its precedent has given us outright infanticide.

Why do we need this legislation? It is needed for the simple reasons that live birth abortions are already occurring. It has now become the practice in some cases to induce labor, fully deliver a child, and then provide no medical treatment, thus resulting in its death. This is live birth abortion. This is infanticide. This is sick.

For our nation to heal, we need to recognize that life is a continuum. We won't be able to do this until *Roe v. Wade* is overturned. However, until then, we should at least make absolutely clear that children are protected by the law once they are born. This now seems to be an unfortunate necessity.

Mr. Speaker, our forefathers saw fit to found our government in the form of a constitutional republic. In doing so, our Founders declared in the Declaration of Independence that government existed to secure "life, liberty, and the pursuit of happiness." Furthermore, our Constitution enshrined the principle of equal protection of the laws.

If there is just simply one thing that this Congress should recognize, it is our responsibility to protect the innocent. And, make no mistake about it. These children are innocent. To allow for the cruel execution, by non-treatment of those children who were delivered early by induced labor is to be complicit in infanticide.

Mr. Speaker, when *Roe v. Wade* was made the law of the land eminent theologians, philosophers, and public servants predicted this was the first step on a slippery slope that would affect our concept of the value of human life. We have come to see this prediction realized. Mr. Speaker, we are no longer on a slippery slope. We have stepped off the cliff. Reverse this sickening trend and vote yes on H.R. 4292.

Mr. HALL of Ohio. Mr. Speaker, I rise in strong support of H.R. 4292, the Born-Alive Infants Protection Act. This legislation codifies in federal law that babies born alive are human beings who are legally alive with constitutional protections.

It is important that babies are ensured of this common sense protection. In two different instances in my district last year, two babies were born after surviving preparatory procedures for a partial-birth abortion. In one case, the baby received no medical care and died. In the other case, the baby received medical care and lived.

In both cases, the women were planning on having a partial-birth abortion at the Women's Med Center of Dayton. This medical clinic is one of the few places in the country which preforms this procedure. In order to have a partial-birth abortion, a woman must go to the

clinic about 2 days before the abortion is performed and have her cervix dilated as an outpatient. Pregnant women react differently to these drugs and in these two instances, the women went into labor and delivered their babies prematurely at their local hospitals.

Mr. Speaker, I would ask unanimous consent that the article titled, "Ohio Baby Survives Abortion Procedure" which appeared in *The Washington Times* on August 21, 1999, be printed in the CONGRESSIONAL RECORD. This story highlights the details of these two cases in which one baby survived and the other died.

Finally Mr. Speaker, I would urge my colleagues to support the Born-Alive Infants Protection Act to ensure that babies receive legal protection and medical care once they are born.

#### OHIO BABY SURVIVES ABORTION PROCEDURE

(By Joyce Howard Price)

A premature baby girl is listed in serious but stable condition at an Ohio hospital after surviving preparatory procedures her mother underwent for a late-term abortion—reportedly a partial-birth abortion.

Maureen Britell, government relations director for the National Abortion Federation, yesterday confirmed that a woman gave birth at a Dayton hospital earlier this month after "experiencing premature labor at home following an earlier cervical dilation" she underwent at the Women's Med Center, a Dayton abortion clinic.

The baby in question, born Aug. 4 at Good Samaritan Hospital, was born 25 or 26 weeks into the 40 weeks of a full-term pregnancy, said Mary K. McClelland, spokeswoman for the Montgomery County [Ohio] Children Services Board. The board has temporary custody of the infant.

"Her condition is still very tenuous because of her size. She was born several months early . . . and this can lead to a lot of complications," Miss McClelland said in a telephone interview yesterday. She was unable to provide the baby's weight but said the child is in an incubator and on a respirator.

The county has filed for permanent custody of the baby and will make her available for adoption if no one in the mother's family wants her. Miss McClelland said.

"The recent birth of this very premature baby . . . appears to be the result of a partial-birth abortion gone awry," said Peggy Lehner, executive director of Dayton Right to Life.

"The baby . . . escaped the final, fatal stage of the three-day late-term procedure because the mother started into labor before the third day," the pro-life leader added.

Mrs. Lehner said her organization received an anonymous call about the baby's birth when the mother showed up at Good Samaritan Hospital in labor. Mrs. Lehner said she consequently talked with some hospital officials who privately confirmed that the baby survived what was to have been a partial-birth abortion.

In the two days before such a procedure, a pregnant woman undergoes dilation of her cervix as an outpatient. "The abortionist inserts a drug into the woman's cervix, which causes it to dilate [and expand]. The woman goes home, or in many cases to a local hotel, during this phase of the procedure. Some women apparently react to this drug much more rapidly than others, and premature labor begins," said Mrs. Lehner.

On the third day, a doctor, using forceps, delivers the baby feet-first, except for the head. The physician then punctures the baby in the back of the neck, suction out the brains and collapses the skull, killing it.

This is, at least, the second time in four months a woman about to undergo a late-term abortion at the Women's Med Center of Dayton has experienced premature labor and delivered a live child. But, in the previous case, which involved a 22-week-old female fetus known as "Baby Hope," born in a Cincinnati hospital, the infant lived for only three hours.

"Baby Hope's" mother had been slated to have a partial-birth abortion. And doctors at the hospital elected not to provide her baby with medical care because of her prematurity.

The Women's Med Center of Dayton is actually the home of partial-birth abortion. Its owner, Dr. Martin Haskell, developed the procedure, which he initially called "dilation and extraction."

Dr. Haskell first described it at a National Abortion Federation convention in 1992. The National Right to Life Committee and other pro-life groups learned of his remarks and quickly spread the word to the media.

Public outrage over this procedure—which pro-lifers dubbed "partial-birth abortion" since it involves killing an already partially delivered child—led Congress and at least 28 states to pass legislation banning most such procedures. But the laws have been blocked in 20 of those states as a result of court challenges.

The ban enacted in Ohio in 1995 was the nation's first. But it was later struck down by a federal judge as being too vague. A rewritten version of the legislation is being considered by the Ohio House Criminal Justice Committee.

And while Congress has twice approved a national ban, President Clinton has twice vetoed it. The federal ban measure was reintroduced in Congress in late April and is expected to be considered in the Senate in October.

Dr. Haskell testified as an expert witness in a trial resulting from a legal challenge of a partial-birth abortion ban passed in Wisconsin. He said he has performed approximately 2,000 D&X procedures, which he now calls "intact D&E (dilation and evacuation) abortions."

Traditional D&E abortions, the most common type of pregnancy termination during the second trimester, involve dismembering the fetus. Dr. Haskell said he prefers doing the "intact D&E" or "D&X" procedure after 20 weeks gestation because bones and ligaments become tougher and stronger at that age and are more difficult to pull apart.

Ohio pro-lifers were shocked to learn that the mother of the premature baby girl now recovering at Children's Medical Center in Dayton was into her 25th or 26th week of pregnancy when the child was born. Dr. Haskell has previously testified he does not do abortions after 24 weeks. And he told the court in the Wisconsin trial he does not perform abortions on viable fetuses.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. CANADY) that the House suspend the rules and pass the bill, H.R. 4292.

The question was taken.

Mr. CANADY of Florida. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 380, nays 15,

answered "present" 3, not voting 35, as follows:

[Roll No. 495]

YEAS—380

Abercrombie Diaz-Balart King (NY)  
 Ackerman Dickey Kingston  
 Aderholt Dicks Kleczka  
 Allen Dixon Knollenberg  
 Andrews Doggett Kolbe  
 Archer Dooley Kucinich  
 Army Doolittle Kuykendall  
 Baca Doyle LaFalce  
 Bachus Dreier LaHood  
 Baird Duncan Lampson  
 Baker Dunn Lantos  
 Baldacci Edwards Largent  
 Baldwin Ehlers Larson  
 Ballenger Ehrlich Latham  
 Barcia Emerson LaTourette  
 Barr Engel Leach  
 Barrett (NE) English Levin  
 Barrett (WI) Eshoo Lewis (CA)  
 Bartlett Etheridge Lewis (KY)  
 Barton Evans Linder  
 Bass Everett Lipinski  
 Becerra Farr LoBiondo  
 Bentsen Filner Lofgren  
 Berkeley Fletcher Lucas (KY)  
 Berman Foley Lucas (OK)  
 Berry Forbes Luther  
 Biggert Ford Maloney (CT)  
 Bilbray Fossella Manzullo  
 Bilirakis Fowler Markey  
 Bishop Frelinghuysen Mascara  
 Blagojevich Frost Matsui  
 Biley Gallegly McCarthy (MO)  
 Blumenauer Ganske McCarthy (NY)  
 Blunt Gejdenson McCrery  
 Boehlert Gekas McDermott  
 Bonilla Gephardt McGovern  
 Bonior Gibbons McHugh  
 Bono Gilchrest McInnis  
 Borski Goode McIntyre  
 Boswell Goodlatte McKeon  
 Boucher Goodling McNulty  
 Boyd Gordon Meehan  
 Brady (PA) Goss Meek (FL)  
 Brady (TX) Graham Meeks (NY)  
 Brown (FL) Granger Menendez  
 Bryant Green (TX) Metcalf  
 Burr Green (WI) Mica  
 Burton Greenwood Millender-  
 Buyer Gutierrez McDonald  
 Callahan Gutknecht Miller (FL)  
 Calvert Hall (TX) Miller, Gary  
 Camp Hansen Miller, George  
 Canady Hastings (WA) Minge  
 Cannon Hayes Mink  
 Capps Hayworth Moakley  
 Capuano Hefley Mollohan  
 Cardin Herger Moore  
 Castle Hill (IN) Moran (KS)  
 Chabot Hill (MT) Myrick  
 Chambliss Hilleary Nadler  
 Chenoweth-Hage Hilliard Napolitano  
 Clayton Hinojosa Neal  
 Clement Hobson Nethercutt  
 Clyburn Hoeffel Ney  
 Coble Hoekstra Northup  
 Coburn Holden Norwood  
 Collins Holt Nussle  
 Combust Hooley Oberstar  
 Condit Horn Obey  
 Conyers Hostettler Olver  
 Cook Hoyer Ortiz  
 Cooksey Hulshof Ose  
 Costello Hunter Owens  
 Cox Hutchinson Oxley  
 Coyne Hyde Pallone  
 Cramer Inslee Pascrell  
 Crane Isakson Pastor  
 Crowley Istook Payne  
 Cubin Jackson-Lee Pease  
 Cummings (TX) Pelosi  
 Cunningham Jefferson Peterson (MN)  
 Danner Jenkins Peterson (PA)  
 Davis (FL) John Petri  
 Davis (IL) Johnson, E. B. Phelps  
 Davis (VA) Johnson, Sam Pickering  
 Deal Jones (NC) Pitts  
 DeFazio Kanjorski Pombo  
 DeGette Kaptur Pomeroy  
 DeLahunt Kasich Portman  
 DeLauro Kelly Price (NC)  
 DeLay Kennedy Pryce (OH)  
 DeMint Kildee Radanovich  
 Deutsch Kind (WI) Rahall

Sherwood Tiahrt  
 Shimkus Tierney  
 Shows Toomey  
 Simpson Towns  
 Skeen Traficant  
 Skelton Turner  
 Smith (NJ) Udall (CO)  
 Smith (TX) Udall (NM)  
 Smith (WA) Upton  
 Snyder Visclosky  
 Souder Vitter  
 Spence Walden  
 Spratt Walsh  
 Stabenow Wamp  
 Stearns Watkins  
 Stenholm Watts (OK)  
 Strickland Waxman  
 Stump Weiner  
 Stupak Weldon (FL)  
 Sununu Weldon (PA)  
 Sweeney Weller  
 Sanders Talent Wexler  
 Sanford Tancredo Weygand  
 Sawyer Tanner Whitfield  
 Saxton Tauscher Wicker  
 Scarborough Tauzin Wilson  
 Schaffer Taylor (MS) Wise  
 Scott Taylor (NC) Wolf  
 Sensenbrenner Terry Woolsey  
 Serrano Thomas Wu  
 Sessions Wynn  
 Shadegg Thompson (MS) Young (AK)  
 Shaw Thornberry Young (FL)  
 Shays Thune  
 Sherman Thurman

NAYS—15

Carson Hastings (FL) Maloney (NY)  
 Dingell Jackson (IL) McKinney  
 Fattah Johnson (CT) Velazquez  
 Gilman Lee Waters  
 Gonzalez Lowey Watt (NC)

ANSWERED "PRESENT"—3

Hinchey Schakowsky Slaughter

NOT VOTING—35

Bereuter Kilpatrick Pickett  
 Boehner Klink Porter  
 Brown (OH) Lazio Quinn  
 Campbell Lewis (GA) Rogan  
 Clay Martinez Rush  
 Ewing McCollum Sandlin  
 Frank (MA) McIntosh Shuster  
 Franks (NJ) Moran (VA) Sisisky  
 Gillmor Miller (FL) Morella Smith (MI)  
 Hall (OH) Murtha Stark  
 Houghton Packard Vento  
 Jones (OH) Paul

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Ms. VELAZQUEZ changed her vote from "yea" to "nay."

Mr. OWENS changed his vote from "present" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. DICKEY). Pursuant to clause 8 of rule XX, the Chair announces that he will postpone further proceedings today on the remaining motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Any record votes on postponed questions will be taken tomorrow.