

I support the Durbin amendment because it is consistent with my four principles. These are my principles: It respects the constitutional underpinnings of *Roe v. Wade*. It prohibits all post-viability abortions, regardless of the procedure used. It provides an exception for the life and health of a woman, which is both intellectually rigorous and compassionate. And it leaves medical decisions in the hands of physicians—not politicians.

The Durbin alternative addresses this difficult issue with the intellectual rigor and seriousness of purpose it deserves. We are not being casual. We are not angling for political advantage. We are not looking for cover.

The Durbin amendment offers the Senate a sensible alternative, one that would prohibit post-viability abortions while respecting the Constitution and protecting women's lives. I believe it is an alternative that reflects the views of the American people.

I support the Durbin amendment because it is a stronger, more effective approach to banning late term abortions. The Durbin amendment respects the Constitution and the Supreme Court's ruling in *Roe v. Wade*.

The Santorum bill before us does not. It is unconstitutional.

In fact, the Supreme Court ruled in *Stenberg v. Carhart* just 3 years ago that a Nebraska State law that bans certain abortion procedures is unconstitutional. The Supreme Court ruled it was unconstitutional for two reasons. First, it did not include an exception for a woman's health. Second, it does not clearly define the procedure it aims to prohibit and would ban other procedures, sometimes used early in pregnancy.

The bill before us, the Santorum bill, is nearly identical to the Nebraska law the Supreme Court struck down. The proponents of this legislation say they have made changes to the bill to address the Supreme Court's ruling. They have not. It still does not include an exception to protect the health of the woman. It still does not clearly define the procedure it claims to prohibit. Let me be clear about this. The Santorum bill is unconstitutional.

The Santorum bill violates the key principles of *Roe v. Wade* and other Court decisions. When the Court decided *Roe*, it was faced with the task of defining, "When does life begin?" Theologians and scientists differ on this. People of good will and good conscience differ on this.

So the Supreme Court used viability as its standard. Once a fetus is viable it is presumed to have not only a body, but a mind and spirit. Therefore it has standing under the law as a person.

The *Roe* decision is quite clear. States can prohibit abortion after viability so long as they permit exceptions in cases involving the woman's life or health. Under *Roe*, states can prohibit most late term abortions. And 41 states have done so.

In my own state of Maryland, we have a law that does just that. It was adopted by the Maryland General Assembly. It prohibits post viability abortions. It provides an exception to protect the life or health of the woman, as the Constitution requires. It also provides an exception if the fetus is affected by a genetic defect or a serious abnormality. This law reflects the views of Marylanders. It was approved by the people of Maryland by referendum.

Like the Maryland law, the Durbin alternative is consistent with *Roe*. It is a compassionate, Constitutional approach to prohibiting late term abortions.

It says that after the point of viability no woman should be able to abort a viable fetus. The only exception can be when the woman faces a threat to her life or serious and de-

bilitating risk to her health as required by the Constitution.

The Durbin amendment is stronger than the Santorum bill. It bans all post viability abortions. Unlike the Santorum bill, the Durbin amendment doesn't create loopholes by allowing other procedures to be used.

I believe there is no Senator who thinks a woman should abort a viable fetus for a frivolous, non-medical reason. It does not matter what procedure is used. It is wrong, and we know it. The Durbin alternative bans those abortions. It is a real solution.

On the other hand, Senator SANTORUM's bill does not stop a single abortion. It does not ban all late term abortions. It bans certain procedures and diverts doctors to other procedures. This approach is both hollow and ineffective. It bans procedures that may be the safest for a woman's health. But let me be clear. Under Santorum, late term abortions would still be allowed to happen.

It does not make late term abortions more rare. It makes them more dangerous. And for that reason, the Santorum approach is ineffective.

The Durbin amendment provides a tough and narrow health exception that is both intellectually rigorous and compassionate. It will ensure that women who confront a grave health crisis late in a pregnancy can receive the treatment they need. The Durbin amendment defines such a crisis as a "severely debilitating disease or impairment caused or exacerbated by pregnancy" or "an inability to provide necessary treatment to a life-threatening condition."

And we don't leave it up to her doctor alone. We require that a second, independent physician also certify that the procedure is the most appropriate for the unique circumstances of the woman's life.

I want to be very clear in this. The Durbin amendment does not create a loophole with its health exception. We are not loophole shopping when we insist that an exception be made in the case of serious and debilitating threats to a woman's physical health. This is what the Constitution requires—and the reality of women's lives demands.

Let's face it. Women do sometimes face profound medical crises during pregnancy. Breast cancer, for example, occurs in one in 3,000 pregnancies. In some unfortunate circumstances, pregnant women in their second trimester discover lumps in their breasts and are diagnosed with invasive breast cancer. Continuing the pregnancy—and delaying medical treatment—would put a woman's health in grave danger.

The Durbin amendment recognizes that to deny a woman in a situation like this access to the abortion that could save her life and physical health would be unconscionable. To deny her other children a chance to know a healthy mother would be unconscionable.

When the continuation of the pregnancy is causing profound health problems, a woman's doctor must have every tool available to respond. I readily acknowledge that the procedure described by my colleagues on the other side is a grim one. I do not deny that. But there are times when the realities of women's lives and health dictates that this medical tool be available.

I support the Durbin alternative because it leaves medical decisions up to doctors, not legislators. It relies on medical judgement, not political judgement about what is best for a patient.

Not only does the Santorum bill not let doctors be doctors, it criminalizes them for making the best choice for their patients.

Under this bill, a doctor could be sent to prison for up to two years for doing what he or she thinks is necessary to save a woman's life or health. I say that's wrong.

In fact, those who oppose the Durbin amendment say it is flawed precisely be-

cause it leaves medical judgements up to physicians. Well, who else should decide? Would the other side prefer to have the government make medical decisions?

I disagree with that. I believe we should not substitute political judgement for medical judgement. We need to let doctors be doctors. This is my principle whether we are talking about reproductive choice or any health care matter.

Physicians have the training and expertise to make medical decisions. They are in the best position to recommend what is necessary or appropriate for their patients. Not bureaucrats. Not managed care accountants. And certainly not legislators.

The Durbin amendment provides sound public policy, not a political soundbite. It is our best chance to address the concerns many of us have about late term abortions.

Today we have an opportunity today to do something real. We have an opportunity to let logic and common sense win the day. We have an opportunity to do something that I know reflects the views of the American people. Today, we can pass the Durbin amendment.

We can say that we value life, and that we value our Constitution. We can make clear that a viable fetus should not be aborted. We can say that we want to save women's lives and protect women's health.

The only way to do this is to vote for the Durbin amendment. I urge my colleagues to support it.

WYNONA WARD OF "HAVE JUSTICE—WILL TRAVEL"

Mr. LEAHY. Mr. President, I rise today to speak about a truly remarkable Vermonter who delivers "justice on wheels" to victims of domestic abuse.

Wynona Ward is the founder and director of Have Justice—Will Travel, HJWT, an innovative, mobile, multi-service program that assists rural victims of domestic violence through the legal process. She accomplishes this by combining her present profession as an attorney with her experiences as a truck driver to provide a variety of services—including free legal aid, in-home counseling, and transportation to and from court hearings and other social service appointments to rural families trapped in the generational cycle of abuse.

Based on her pioneering and inspirational work on behalf of domestic violence victims and their families, Wynona has been selected by Lifetime Television to be honored in "Lifetime's Achievement Awards: Women Changing the World," which will air tonight. An independent panel of judges reviewed thousands of nominations before selecting six women for the honor. Wynona received the "Champion Award," presented to a woman who overcame "seemingly insurmountable odds to create a positive change for herself or others."

Wynona was born into a poor family where alcoholism and abuse was routine—her father beat her mother and his 5 children, and sexually assaulted his daughters. Family violence was an accepted way of life then in rural Vermont. Local doctors treated the black-and-blues and other injuries that

frequently appeared on the bodies of Wynona, her mother and her siblings, but they never once asked how those bruises got there. No law required that they be reported, and even if suspected abuse were reported, law officials would hesitate to interfere with goings on in the home. The family had no choice but to suffer in secret.

To escape her abusive father, Wynona married young and then worked 15 years with her husband, Harold, in their own trucking business driving their 18-wheeler tractor-trailer unit cross-country. Years later, she received word from home that the abuse she had known was beginning for the next generation of her family. Wynona decided to take action by revealing the family secret so that her family could no longer deny that abuse existed, and volunteered as the victim's advocate for the child who had been sexually abused. Her experience led her to her current career after realizing how traumatizing and confusing the legal system can be for victims and their families.

After she turned 40, Wynona entered the Adult Degree Program at Vermont College of Norwich University. She and Harold continued to run their trucking business, and as they crossed the U.S., she completed her B.A. on a laptop in the living compartment of their truck. She then entered Vermont Law School, and in April 2000, she passed the bar and was sworn in as a licensed Vermont Attorney.

Drawing on her personal experience as a survivor of childhood domestic abuse, Wynona created a new way to bridge the legal, geographical, psychological, cultural and economic gaps that exist for battered women and their children. She came up with the concept of Have Justice—Will Travel from the knowledge that battered rural women living in isolation often lack education or job skills and access to telephones and transportation. They need comprehensive assistance in achieving self-reliance and independence. HJWT serves about 50 clients a year, and offers assistance to several hundred more women not only in Vermont but those in rural areas throughout the United States.

"Have Justice—Will Travel" has been successful in serving women and children throughout the State of Vermont. It is a shining example for grassroots domestic violence assistance on a national level. I have met this extraordinary woman many times, and I never fail to be inspired and humbled by her dramatic personal story and her venture into a non-traditional career. I salute Wynona Ward today as a true champion.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT THAT DECLARES A NATIONAL EMERGENCY TO DEAL WITH THE UNUSUAL AND EXTRAORDINARY THREAT POSED TO THE NATIONAL SECURITY AND FOREIGN POLICY OF THE UNITED STATES BY THE THREAT OF ATTACHMENT OR OTHER JUDICIAL PROCESS AGAINST THE DEVELOPMENT FUND FOR IRAQ, IRAQI PETROLEUM AND PETROLEUM PRODUCTS, AND INTERESTS THEREIN, AND PROCEEDS, OBLIGATIONS, OR ANY FINANCIAL INSTRUMENTS OF ANY NATURE WHATSOEVER ARISING FROM OR RELATED TO THE SALE OR MARKETING THEREOF, AND INTERESTS THEREIN—PM 36

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

Consistent with section 204(b) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(b) (IEEPA), section 5 of the United Nations Participation Act (22 U.S.C. 287c) (UNPA), and section 301 of the National Emergencies Act, 50 U.S.C. 1631, I hereby report that I have exercised my authority to declare a national emergency to deal with the unusual and extraordinary threat posed to the national security and foreign policy of the United States by the threat of attachment or other judicial process against the Development Fund for Iraq, Iraqi petroleum and petroleum products, and interests therein, and proceeds, obligations, or any financial instruments of any nature whatsoever arising from or related to the sale or marketing thereof, and interests therein.

A major national security and foreign policy goal of the United States is to ensure that the newly established Development Fund for Iraq and other Iraqi resources, including Iraqi petroleum and petroleum products, are dedicated for the well-being of the Iraqi people, for the orderly reconstruction and repair of Iraq's infrastructure, for the continued disarmament of Iraq, for the costs of indigenous civilian administration, and for other purposes benefiting the people of Iraq. The Development Fund for Iraq and other property in which Iraq has an interest may be subject to attachment, judgment, decree, lien, execution, garnishment, or

other judicial process, thereby jeopardizing the full dedication of such assets to purposes benefiting the people of Iraq. To protect these assets, I have ordered that, unless licensed or otherwise authorized pursuant to my order, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process be prohibited, and shall be deemed null and void, with respect to the following:

(a) the Development Fund for Iraq, and

(b) all Iraqi petroleum and petroleum products, and interests therein, and proceeds, obligations, or any financial instruments of any nature whatsoever arising from or related to the sale and marketing thereof, and interests therein, in which any foreign country or a national thereof has any interest, that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of United States persons.

In addition, by my memorandum to the Secretary of State and Secretary of Commerce of May 7, 2003 (Presidential Determination 2003-23), I made inapplicable with respect to Iraq section 620A of the Foreign Assistance Act of 1961, Public Law 87-195, as amended, and any other provision of law that applies to countries that have supported terrorism. Such provisions of law that apply to countries that have supported terrorism include, but are not limited to, 28 U.S.C. 1605(a)(7), 28 U.S.C. 1610, and section 201 of the Terrorism Risk Insurance Act.

I also have ordered that Executive Order 12722 of August 2, 1990, and Executive Order 12724 of August 9, 1990, which blocked property and interests in property of the Government of Iraq, its agencies, instrumentalities and controlled entities and the Central Bank of Iraq that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of United States persons, including their overseas branches, and Executive Order 13290 of March 20, 2003, which confiscated and vested certain Government of Iraq accounts, shall not apply to the Development Fund for Iraq or to Iraqi petroleum or petroleum products, and interests therein, and proceeds, obligations, or any financial instruments of any nature whatsoever arising from or related to the sale and marketing thereof, and interests therein.

I have delegated to the Secretary of the Treasury, in consultation with the Secretary of State and the Secretary of Defense, the authority to take such actions as may be necessary to carry out the purposes of the Executive Order, including the promulgation of rules and regulations. I have also authorized the Secretary of the Treasury to employ all powers granted to the President by IEEPA and UNPA to carry out the purposes of the Executive Order. I